

PUBLIC ACCOUNTS COMMITTEE
(1978-79)

(SIXTH LOK SABHA)

HUNDRED AND TWENTY-SECOND REPORT

CUSTOM RECEIPTS

MINISTRY OF FINANCE
(Department of Revenue)

[Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 15th Report (Sixth Lok Sabha)]

Presented in Lok Sabha on 11-4-1979
Laid in Rajya Sabha on 24-4-1979



LOK SABHA SECRETARIAT
NEW DELHI

March, 1979/Phalguna, 1900 (Saka)

Price : Rs. 3.20

CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE	
INTRODUCTION	
CHAPTER I Report	1
CHAPTER II Recommendations/Observations that have been accepted by Government.	18
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from Government	36
CHAPTER IV Recommendations/Observations replies to which have not been accepted by the Committee and which require reiteration.	52
CHAPTER V Recommendations/Observations in respect of which Governments have furnished interim replies.	62
APPENDIX Conclusions/Recommendations.	68

PUBLIC ACCOUNTS COMMITTEE

(1978-79)

Shri P. V. Narasimha Rao—*Chairman*

MEMBERS

Lok Sabha

2. Shri Halimuddin Ahmed
3. Shri Balak Ram
4. Shri Brij Raj Singh
5. Shri C. K. Chandrappan
6. Shri Asoke Krishna Dutt
7. Shri K. Gopal
8. Shri Kanwar Lal Gupta
9. Shri Vijay Kumar Malhotra
10. Shri B. P. Mandal
11. Shri R. K. Mhalgi
12. Dr. Laxminarayan Pandeya
13. Shri Gauri Shankar Rai
14. Shri M. Satyanarayan Rao
15. Shri Vasant Sathe

Rajya Sabha

16. Shri Devendra Nath Dwivedi
17. Shri M. Kadershah
18. Shri Sita Ram Kesri
19. Dr. Bhai Mahavir
20. Smt. Leela Damodara Menon
21. Shri B. Satyanarayan Reddy
22. Shri Gian Chand Totu.

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary.*
2. Shri D. C. Pande—*Chief Financial Committee Officer.*
3. Shri T. R. Ghai—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Hundred and Twenty Second Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 15th Report (Sixth Lok Sabha) relating to Custom Receipts.

2. On 31 May 1978, an 'Action Taken Sub-Committee' consisting of the following Members was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

1. Shri P. V. Narasimha Rao—*Chairman*
 2. Shri Asoka Krishna Dutt—*Convener*
 3. Shri Vasant Sathe
 4. Shri M. Satyanarayan Rao
 5. Shri Gauri Shankar Rai
 6. Shri Kanwar Lal Gupta
- } MEMBERS

3. The Action Taken Sub-Committee of the Public Accounts Committee (1978-79) considered and adopted the Report at their sitting held on 23 March, 1979. The Report was finally adopted by the Public Accounts Committee (1978-79) on 6.4.1979.

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

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

NEW DELHI;
April 6, 1979
Chaitra 16, 1900 (S)

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

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations/observations contained in their 15th Report (6th Lok Sabha) on paragraphs 11, 12, 16 and 17 of the Report of the Comptroller & Auditor General of India for the year 1974-75—Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes relating to Custom Receipts, which was presented to the Lok Sabha on 24 November, 1977.

1.2. Out of the 51 recommendations/observations contained in the Report, Government have indicated action taken or proposed to be taken by them in respect of 45 recommendations.

1.3. The Action Taken Notes received from Government have been broadly categorised as follows:

(i) *Recommendations|observations which have been accepted by the Government:*

S. Nos. 9, 13-21, 28, 31-33, 37-38, 44-45, 49 and 51.

(ii) *Recommendations|observations which the Committee do not desire to pursue in the light of the replies of Government.*

S. Nos. 1, 2, 6, 7, 27, 29, 30, 35, 39-43 and 46.

(iii) *Recommendations|observations replies to which have not been accepted by the Committee and which require re-iteration:*

S. Nos. 4, 5, 10, 11, 22-25 and 36.

(iv) *Recommendations|observations in respect of which Government have furnished interim replies or replies have not been furnished:*

S. Nos. 3, 8, 12, 26, 34, 47-48 and 50.

1.4. After presentation of 15th Report (6th Lok Sabha) to the Lok Sabha on 24 November, 1977 Government were requested to furnish Action Taken replies on all the recommendations contained in the above mentioned Report by 23 May, 1978.

1.5. **The Committee regret that replies of the Government to four recommendations viz. S. Nos. 8, 26, 48 and 50 contained in Appendix XVIII of the Report have not been furnished to the Committee even**

after nine months of the due date i.e. 23 May, 1978. This is a deplorable state of affairs, particularly when the Committee have been emphasising time and again for furnishing of replies to Committee's recommendations in time. The Committee desire that replies to these recommendations or observations as also final replies to those in respect of which only interim replies have so far been furnished should be submitted to them duly vetted by Audit without further delay.

1.6. The Committee will now deal with the Action Taken by Government on some of their recommendations.

Grant of rebate on export of teas

1.7. In para 1.90 (S. No. 3) of their 15th Report, the Committee had observed:

"The Committee find that the entire argument of the Department justifying the rebate on export of tea is that it acted as an incentive to enlarge our exports. The Department of Revenue & Banking has, however, not furnished any information to show the extent to which enlarged exports took place because of the incentive scheme. Compared to the percentage of exports in 1970-71 which was 48 per cent of production of 1970, the percentage in subsequent years (except 1971-72) have been lower than this level and were only 43 per cent in 1975-76 (over the production of 1975). This leads the Committee to conclude that the rebate scheme has not helped in the enhancement of exports. From the information supplied by the Department there is no other tea producing country where rebate is allowed on exports of tea. On the contrary cesses are levied in addition to export duties. If in spite of such cesses and export duties, other countries have been able to fetch better prices for their goods, it only shows that our Government has not benefited in earning a higher foreign exchange by giving the incentive in the form of rebate. It is pertinent to note that the loss to the Exchequer on account of the rebate alone has been admittedly to the tune of Rs. 50.25 crores during the period from 1969-70 to 1975-76.

It is stranger still that rebate is allowed even on consignment account when the final price fetched at the foreign auction would admittedly remain unknown and unverified. The Audit paragraph has pinpointed this anomaly also and the only way to remedy the situation was to have considered the withdrawal of the rebate system. The Committee are glad to note that after the deliberations of the Committee, the Government have not only withdrawn the rebate on exports of tea but have imposed export duty on this commodity at the rate of Rs. 5 per kilogram w.e.f. 9.4.1977. The Committee would like

to be informed in due course of the impact of this additional impost and withdrawal of rebate on the export of tea from India."

1.8. The Ministry of Finance (Department of Revenue) in their Action Taken Note dated 24th June, 1978 have stated:

"Efforts have been made in the note (reproduced below), with which the Ministry of Commerce agree, to analyse the points arising out of the Committee's recommendations above. The Ministry of Commerce, Civil Supplies and Cooperation who are primarily concerned with exports have been requested to submit an 'Action Taken Note' in regard to the impact of the imposition of export and withdrawal of rebate on tea.

A statement showing the quantity of tea exported from India from 1967-68 onwards is given below:

Year	Qty. (M. Kgs.)	Value (Rs./crores)
1967-68	203.33	180.20
1968-69	200.82	156.51
1969-70	174.11	124.50
1970-71	199.14	148.25
1971-72	214.32	160.93
1972-73	193.23	147.29
1973-74	190.27	144.85
1974-75	225.06	223.54
1975-76	211.41	239.29
1976-77*	242.42	295.26

*Provisional.

It would be seen from this statement that tea exports which were tending to decline up to 1969-70 have improved and went up to 242.42 m. kgs. in 1976-77. It is, however, not possible to quantify the extent to which the exports of tea from India were either maintained or improved on account of the system of rebate on excise duty paid at the point of export which was in force upto 9-4-1977.

Up to 1-3-1970 India had a system of export duty. From this export duty, however, a reduction was always

allowed representing the incidence of domestic excise paid by the tea gardens. It may be added that Sri Lanka also had a scheme of export duty with rebate at the point of export, varying with price.

As has been acknowledged by the Committee, other countries specially in East Africa, have no domestic excise duties. There was, therefore, no question of their granting any rebate in respect of such duties at the point of export.

Taking into consideration the then prevailing tea situation domestic and international a number of measures were considered necessary in order to safeguard the position of Indian tea in the world export markets. These included a steep rise in the domestic excise duty and the abolition of export duty from 1-3-1970. Grant of rebate at the point of export in respect of domestic excise duty paid is the normal practice and is almost a basic principle of commodity taxation. As far as we have been able to ascertain, excise duty is refunded in respect of all excisable goods in case they are exported. The same principle was followed in the case of tea with slight modifications. It would be of interest to know that immediately before March, 1970, the element of excise duty rebate in the export duty then in force was 55 p. As a result of the steep rise in the excise duties the rebate at the point of export was raised to a maximum of 75 p. per kg. depending on the price realised. Teas which realised very low prices, viz. below Rs. 5.25 per kg. were not allowed any rebates. (It may be noted that average price in London auctions in 1971 was only 43 p.) This built-in mechanism was kept to ensure the export of better quality teas, fetching higher prices.

In the matter of grant of rebate on excise duty paid, it is not possible to practise discrimination in relation to teas which are sent for sale at London auctions. Any such discrimination would mean that India would be offering teas cheaper in the world markets if purchased outright in India, but would offer them at dearer rates if purchased in London auctions. As UK is the largest importer of teas including Indian teas, any discriminatory practice of this type would not have served the interest of the country, and would have meant deliberately pricing ourselves out of the UK market for a sizeable portion of our exports sold at the London auctions. Such action in relation to London auctions would have been harmful to India's interest. It has

also to be discussed with other tea producing countries who also sell teas at London auctions. Any decision by India to pass on the incidence of domestic excise on export teas sent to London auctions would have indirectly served the interest of the other tea producing countries who would have been able to take away India's share in the London auctions. A very exceptional situation arose in 1977 when price in London auctions reached the unheard-of levels of almost £ 3 sterling per kg. At that time Government adopted a number of measures including an export duty on tea. It was in this context that the export duty then imposed did not contain any provision for grant of rebate in respect of domestic excise rebate. Government is keeping the situation under review to ensure that the position of Indian tea does not become uncompetitive in the world markets and suitable remedial measures would have to be considered at the appropriate time if the situation in world markets changes including abolition of export duty and/or revival of the rebate system.

It may be respectfully pointed out that the position of India in the world markets should not be judged on the basis of notional figure in the shape of "share" in the world markets. It is obvious that India's percentage share in world markets not only depends on the quantity of tea exported from India but also on the quantity of tea exported by other tea producing countries over which India has no control. For example, if India's share was 50 per cent in a total world export of say 100 m. kgs. and in the following year the total world exports become 150 m. kgs. while India's exports rise from 50 to 60 there would be a "decline" in India's share in the world markets, despite the fact that India's exports had registered an increase. In view of this it is requested that assessment of India's position in the world markets should be made in terms of quantities exported which have risen from 174.11 m. kgs. in 1969-70 to 242.42 m. kgs. in 1976-77".

1.9. The Committee do not agree with the contention of Government that it is not possible to quantify the extent to which the exports of tea from India were either maintained or improved on account of the system of rebate on excise duty paid at the point of export. Since the justification for rebate can be verified only by the extent to which it serves as an incentive in improving the export effort, the Committee regret that in spite of the existence of a full-fledged Directorate of

Commercial Intelligence and Statistics, Government has not been in a position to have the cost benefit exercise done in this case. The system of analysing figures showing the enlarged exports exclusively due to any incentive scheme is not only essential to judge the effectiveness of the scheme but also to gain experience for future. The Committee would, therefore, like to emphasise that some in-built mechanism should be evolved to have the cost benefit exercise done whenever incentive export measures are introduced. In this connection, the Committee would also like to draw the attention of the Ministry of Finance to their earlier recommendation made in their Hundred and First Report (Sixth Lok Sabha) (S. No. 3 para 1.13) in which the Committee had emphasised on introduction of an evaluation system in such matters.

Excess Payments of Provisional Rebate:

1.10. Commenting on the excess payments of provisional rebate, the Committee in paras 1.91 and 1.92 (S. Nos. 4 & 5) of their 15th Report had observed:

"1.91. The Committee find that the amount of provisional rebate granted during the years 1970-71, 1971-72 and 1972-73 exceeded the final payments by Rs. 24,11,321; Rs. 11,67,146 and Rs. 2,38,768 in the case of 16, 13 and 12 tea companies respectively. From the details furnished by Audit, it appears that the percentages of excess provisional rebate over that due finally ranged between 0.12 per cent to 38.44 per cent in the year 1970-71. About the reasons for the excess payments during 1970-71, the Committee have been informed that the rebate was calculated on the basis of the weighted average price for the year 1969-70 and the shipments made in the year 1970-71 were settled on sale in the calendar year 1971 when the prices were lower due to a decline in the price of tea in the foreign market."

"1.92. The Committee find that the range of percentage of excess payment of provisional rebate also ranged from 0.34 to 37.37 per cent during the years 1971-72 and 1972-73 as well. In view of the fact that the Department had already analysed the reasons for the excess payment of provisional rebate in 1970-71, the Committee fail to understand what prompted the Department to repeat such excess payments during the years 1971-72 and 1972-73 as well. The results of the study of excess payments made during 1970-71 should have made the Department wise enough not to repeat the methodology adopted in that year for the computation of rebate relating to subsequent years. The Committee feel that if this has

been done, the excess payment to the tune of about Rs. 11.67 lakhs and Rs. 2.39 lakhs made respectively during the years 1971-72 and 1972-73 could have been avoided."

1.11. In their Action Taken Note dated 23 May, 1978, the Ministry of Finance, Department of Revenue has stated:—

"After the rebate scheme was introduced, 1970-71 was the 1st Financial year when the Provisional rebate was granted on the basis of the declaration submitted by the various firms of the prices fetched in London Auction in the year 1969-70. The same formed the basis for calculation of provisional rebate in 1971-72 also in pursuance of instructions contained in the Government's letter F. No. 608/13/71-DBK, dated 31-7-1971. In so far as the claims relating to 1972-73 are concerned the sale figures for the year 1971-72 obtained from the weekly Bulletins of London Auction lists formed the basis.

It has been observed from the tea statistics of London Auction that in 1969-70 tea was sold at a considerably high price in comparison to sale in 1970-71 and 1971-72. In so far as the year 1972-73 is concerned, the provisional payment of rebate was based on the London Auction sale of the year 1971-72. There has not been over payment on the overall basis. Further, the figures of Rs. 24,11,321/-, Rs. 11,67,146/- and Rs. 2,38,768/- stated in the Public Accounts Committee Report to be excess payment made during the year 1970-71, 1971-72 and 1972-73 do not reflect the overall position of all provisional cases. What is required in such cases is to make an overall assessment of the position, and not merely pick out cases where demands were issued. The figure of provisional payment and the finally settled amount for the years 1970-71, 1971-72 and 1972-73 at Calcutta Custom House are as follows:—

Year	Provisional Amount	Amount settled finally	Difference between finally settled amount and provisional settled amount
	Rs.	Rs.	Rs.
1970-71	97,61,690	80,18,260	(—) 17,42,830
1971-72	51,98,655	49,96,080	(—) 2,02,575
1972-73	71,30,021	94,45,341	(+) 23,15,320

From the above it will be observed that on an overall basis, excess payment for the year 1970-71 was Rs. 17,42,830 and in 1971-72, it was Rs. 2,02,575 which as already stated was due to shortfall in the London Auction prices. It is also pertinent to observe from the above that the total amount of excess payment in 1971-72 is much less than in 1970-71, even though the 1969-70 basis of provisional rebate was adopted. In this connection it may be added that in any system of provisional payment it is inevitable that there may be some cases of excess payment while in certain other cases there could be short payment also. The scheme of rebate on tea is no longer in vogue."

[Ministry of Finance, Department of Revenue No. 603/7/78-DEK
dated 23-5-1978.]

1.12. The Committee do not agree that overall assessment should be the main criterion in determining whether amounts of provisional rebate were calculated properly. The exporters were allowed provisional rebate upto 90 per cent of the average rate (as stated by the Chairman, Central Board of Excise and Customs, vide para 1.24 of the 15th Report of the Committee), and the element of 10 per cent was evidently meant to cover cases in which Indian tea fetched less prices than expected in the London sales. The Committee is therefore of the view that if the provisional rebate had been worked out correctly in the cases pointed out in para 1.91 of their 15th Report, the amount of provisional rebate would have been less than the amount settled finally, and cases of excess payment would not have occurred.

Excess payment of rebate to Foreign Companies

1.13. Dealing with the provisional rebate granted to foreign companies, the Committee in para 1.93 (Sl. No. 6) of their 15th Report had observed:

"The Committee are also distressed to note that the percentage of excess payment in respect of two foreign companies, viz., Duncan Bros. and Co. Ltd., and Williamson Magor & Co. Ltd., consistently ranged from about 17 per cent to 38 per cent over the amount due to them on finalisation of accounts relating to the years 1970-71, 1971-72 and 1972-73. This gives rise to grave suspicions of undue favour being shown to them. The Committee would like the Government to investigate this aspect and inform them about the reason for such excess payment in their case."

1.14. In their Action Taken Note dated 15-5-1978 the Ministry of Finance (Department of Revenue) have stated:

“While there were cases of higher payments ranging from about 17 per cent to 38 per cent as stated by the Committee in the above para, there were also cases of less payment at the provisional stage and the less payments ranged from 21 per cent to 50 per cent to M/s. Williamson Magor & Co. Ltd., and M/s. Duncan Bros. & Co. Ltd., as shown below:

Year	No. of cases of less payments	Amount paid provisionally (in lakhs)	Amount paid finally (in lakhs)	Percentage of less payment compared to final payment
<i>M/s. Williamson Magor & Co. Ltd.</i>				
1970-71	139	2.89	4.16	30%
1971-72	120	4.41	5.69	22%
1972-73	316	15.74	19.90	21%
<i>M/s. Duncan Bros. & Co. Ltd.</i>				
1970-71	132	1.45	2.92	50%
1971-72	141	1.27	2.48	48%
1972-73	141	1.44	2.45	41%

It, therefore, cannot be said that percentage of excess payment in respect of the above two foreign companies consistently ranged from about 17 per cent to 38 per cent in all the cases relating to the years 1970-71, 1971-72 and 1972-73 and no undue favour would appear to have been shown to them.”

1.15. M/s. Duncan Bros. & Co. Ltd. and Macneill & Magor Ltd. submitted representation to the Chairman, Public Accounts Committee in December 1977 and May 1978 respectively stating that they had not been shown any undue favour in the matter of grant of provisional rebate and even though they had received excess payment of provisional rebate in certain years, there had been occasions when they received short payment compared to the final rebates admissible to them.

1.16. In view of above, the Ministry of Finance (Department of Revenue) were asked to furnish factual information. Referring to the

aforesaid Action Taken Note Sent by them they have, in a communication dated 13-3-1979, stated as follows:

“...provisional rebate was being allowed on the basis of average price realised by an individual Estate during the previous year. Since the auction prices cannot be pre-determined, it will be appreciated that there is always the possibility of excess or underpayment which was inherent in the system itself. It would be observed from the Action Taken Note referred to above that there have been instances of under-payment also. In view of the above, it could be said that no undue favour appears to have been shown to them.”

1.17. The Committee had desired Government to investigate why the two concerns, namely, M/s. Duncan Bros. & Co. Ltd. and Williamson Magor and Co. Ltd. had been granted provisional rebate in excess of what was admissible to them on export of tea. The Committee have been informed that the provisional rebate was granted on the basis of the average price realised by an individual Estate during the previous year and “since the auction prices cannot be pre-determined, the possibility of excess or under-payment inherent in the system cannot be ruled out.” From the information now made available by the Government, the Committee find that at times there had also been instances of under-payment of provisional rebate to these two firms. The Committee do not, therefore, wish to pursue their original recommendation.

London Auctions of Indian Tea.

1.18. Suspecting the price rigging of Indian tea at London Auctions to the disadvantage of India through possible links between the big buyers of tea and Indian Exporters and also by multi-national companies having offices in India and also operating in other countries directly or through affiliates, the Committee in para 1.97 (S. No. 10) of their 15th Report had observed:

“The Committee find that both the Chairman, Central Board of Excise and Customs and Chairman, Tea Board have accepted the existence of possibilities of links between the big buyers of tea at London Auctions and Indian Exporters. The role being played by many multi-nationals having offices in India and also operating in other countries, directly or through affiliates, also came up for review and it was conceded that the possibility of their rigging the prices to the disadvantage of India could not be ruled out. The Study Team on Leakage of Foreign Exchange through Invoice Manipulations have observed that there is practically no check on the true realisation of prices of tea at the London Auction. The Department of Revenue and Banking have also expressed their complete ignorance in regard to the highest bid made in the London Auctions. In the context of these circumstances, the

Auctions. In the context of these circumstances, the Committee cannot help emphasise the need of investigation to ascertain the extent of the foreign exchange loss this country has suffered on account of participation in the London Auctions. In the context of the present dilution of foreign interests and the need to get the maximum of the foreign exchange due to this country which is a dominant producer and supplier of tea to the world market, the Committee feel that the best solution lies in allowing auctions of tea only in India. The Committee would like the Government to consider the possibility of imposing a ban on auction of Indian tea at London Auctions."

1.19. In their Action Taken Note dated 27 July, 1978, the Department of Commerce have stated:

"This matter will *inter alia* be examined in all its aspects by the Expert Committee on Tea Marketing set up by Government in February, 1978 under the Chairmanship of Shri P. L. Tandon, Director General, National Council of Applied Economic Research. In fact, one of the specific terms of reference of the committee is "to consider the role of London Auctions in the marketing of Indian Tea and to examine as to whether the best solution would lie in allowing auctions of tea only in India." The Committee is expected to give its report in August, 1978 after which its recommendations will be examined by Government and decisions taken."

1.20. In a recent communication about the action taken by Government on the recommendation of the Committee in the light of Expert Committee's Report, the Ministry of Commerce, Civil Supplies and Cooperation (Department of Commerce) have stated:

"The Ministry has asked the Tea Board for its views on the recommendations made by Tandon Committee in view of the important issues involved affecting Tea Industry.

The Tea Board has now intimated that the recommendations of the Committee will be discussed in the next meeting of the Board in April, 1979."

[Ministry of Commerce, Civil Supplies and Co-operation No. 1-11012(1)77 Plant A dated 23 February, 1979].

1.21. The Department of Revenue, Ministry of Finance, in their Action Taken Note dated 16 March, 1979 have stated:

"Ministry of Commerce had set up an Expert Committee to consider matters relevant to the tea auctions in India and abroad. The terms of reference of the said Committee, *inter alia*, were to suggest arrangements which would eliminate the chances of collusive sales in domestic markets as well as under invoicing in exports, and also 'to consider the role of the London auctions in the marketing of Indian tea and to examine as to whether the best solution would lie in allowing auctions of tea only in India.

These two items in the terms of reference, are relevant to the concern and views expressed by the Public Accounts Committee in the paragraph above.

The report of the Committee is understood to have been received and is being examined by the Ministry of Commerce. The Ministry of Commerce will be taking action on the recommendation of the Committee in pursuance of these two items of its terms of reference."

1.22. The Committee cannot over emphasise the need for guarding against any rigging of prices due to link between the foreign tea companies and the London auctioneers. The possibilities of such rigging of prices to the disadvantage of Indian tea producers have been conceded to by the Board of Customs and Excise. The Committee note that the Expert Committee on Tea Marketing set up by the Government in February 1978 has submitted its Report to the Government and the same is under active consideration. The Committee would like to know early the specific recommendations made by the Expert Committee regarding the role of London Auctions in the marketing of Indian Tea and the conclusive action taken by the Government in pursuance thereof and in the light of their earlier recommendation. They would also like to know the findings of investigations conducted to ascertain the loss of foreign exchange suffered by this country on account of participation in the London Auctions.

Setting up of an International Tea Promotion Association.

1.23. Referring to the setting up of an International Tea Promotion Association by the tea exporting countries to reduce the dominant position of London Auctions of tea, the Committee in para 1.98 (S. No. 11) of their 15th Report had observed:

"The Committee regret to observe that maximum importance is at present assigned to London Auctions of tea. The Committee have been informed that in order to reduce the domination of London Auctions the tea-exporting countries have in a Conference held in Geneva in September, 1976, agreed to the setting up of an International Tea Promotion Association for undertaking global promotion of tea. This Association is expected to be formally launched sometime in October 1977 after ratification of the agreement by member countries. The countries are, however, yet to arrive at a final decision for entering into a formal international agreement. The Committee would like the Government to keep them informed about the progress of this joint effort of the tea producing countries in the International Tea Promotion Association."

1.24. In their Action Taken Note dated 27 July, 1978, the Department of Commerce have stated:—

"According to Article 19 of the Agreement, the agreement will come into force six months after the date on which the Governments of at least seven countries representing at

least two-thirds of the total volume of exports have deposited their instruments of ratification, acceptance or approval with the depository. In a review that was made during the course of the UNCTAD preparatory meeting on tea (in an informal meeting of the tea exporting countries) held at Geneva from 9th to 13th January, 1978, it was observed that till then only three countries viz., India, Sri Lanka and Mauritius had deposited their instruments of ratification with the depository. Similar action by at least four more countries is necessary before the Agreement may come into force. It is reasonable hope that four other countries will also sign the agreement."

1.25. The Committee note that International Tea Promotion Association has not yet been formally set up as only three countries, namely, India, Sri Lanka and Mauritius had deposited their instruments of ratification with the depository till January, 1978. Whereas according to Article 19 of the Agreement, the agreement will come into force six months after the date on which the Governments of at least seven countries representing at least two-thirds of the total volume of exports have deposited their instruments of ratification with the depository. The Committee desire that India being one of the leading tea exporting countries should pursue the matter with other tea exporting countries so that the idea of International Tea Promotion Association becomes a reality at an early date. The matter assumes greater importance in the present day context of low value realisation of tea in the international market.

Clearance of goods at Bombay Custom House

1.26. Commenting on the large accumulation of uncleared packages at Bombay Custom House, the Committee in paragraphs 2.53, 2.54 and 2.55 (Sl. Nos. 22—24) of their 15th Report had observed:

"2.53. Under Section 48 of the Customs Act, 1962 Bombay Port Trust resumes custody of the goods which remain unclaimed or abandoned after a period of more than 2 months and arranges its disposal in consultation with the Bombay Custom House. Basically the ultimate responsibility for the disposal of such goods devolves on the Bombay Port Trust. The Committee note that as many as 1,31,436 packages are lying uncleared at the Bombay Port pertaining to the period from 1971 to 1976. The age-wise pendency of these packages is 1971, 370; 1972, 2051; 1973, 1938; 1974, 8575; 1975, 11,324; and 1976, 1,03,847."

"2.54. As regards the delay in the disposal of confiscated or abandoned goods, the Member (Customs) admitted during evidence: 'There has been delay. I don't mince matters. We have no plausible reasons or explaining it.' In this context, the Chairman, Central Board of Excise and Customs, has also remarked, 'whether it is the Customs

or Port Trust which is responsible, we very much regret that that state of affairs should have been there. Things could have been better.”

“2.55. The Committee must express their unhappiness at the way things were allowed to accumulate in the Bombay Port Trust without any clear-cut directions for their disposal. Even though the number of uncleared items due for sale have been brought down from 3,50,000 in 1973 to about 1,31,436 in December, 1976, the present state of affairs cannot be viewed, as satisfactory. The Committee recommend that serious and concerted efforts should be made to quicken the pace of disposal of these goods. In this context, the Committee suggest that Government may examine the feasibility of introducing a suitable provision in the rules which should make it statutorily obligatory on the concerned authorities to dispose of the goods within a maximum period of six months to one year from the date of their landing at the respective ports.”

1.27. Ministry of Finance (Department of Revenue) vide their Action Taken Note No. 512/2/78-Cus. VI dated 2 May, 1978 have stated as follows:

“With regard to these paragraphs, action lies with Ministry of Shipping & Transport whose comments were invited.

Comments received from the Ministry of Shipping and Transport are reproduced below:

Year	As on 31-12-1977
Upto 1971	175
1972	2,000
1973	357
1974	3,357
1975	4,345
1976	7,918
1977	92,860

The age-wise pendency of the packages under Confiscation, under investigation and under adjudication, as on

31st December, 1977 is as follows:

Year	No. of pkgs. Confiscated	No. of pkgs. under investiga- tion.	No. of pkgs. under adjudication
Upto 1972	30,047	469	1,495
1973	2,230	2,887	30
1974	5,707	2,658	461
1975	1,862	158	
1976	2,285	785	

“It has been observed that in many cases the goods could not be disposed of by public auction or even by tenders because the price fetched was very much below the fair price of the goods. If a time limit is prescribed for disposal of the goods, they will have to be sold for the **maximum price received at the public auction or in the tenders** irrespective of the fair price of the goods.”

1.28. The Committee are not impressed by Government reasoning that ‘if a time-limit is prescribed for disposal of the goods, they will have to be sold for the maximum price received at the public auction or in the tenders irrespective of the fair price of the goods’. In the opinion of the Committee, confiscated goods kept in the ware-houses for years either outlive their utility or become obsolete and do not fetch the expected price besides entailing additional costs on their ware-housing etc. The Committee would, therefore, reiterate that some time-limit should be fixed for the disposal of confiscated goods which need not necessarily be uniform in the case of all the goods. The position should also be reviewed as necessary in the light of the experience gained.

Closure of Import Manifest

1.29. In paragraph 2.56 (Sl. No. 25) of their 15th Report the Committee had observed as follows:

“The Committee note that the Import General Manifest containing the details in regard to the number of imported packages and their description of the goods contained therein is allowed to remain open until such time the cargo is cleared or disposed of in a public auction by the respective Port Trusts. The Committee find that on their

suggestion the Department of Revenue and Banking have now introduced a revised procedure for the closure of manifest after 60 days in four major Custom Houses viz. Bombay, Calcutta, Madras and Cochin and to extend it to other Custom Houses on the basis of the experience gained in its working. The Committee would like to be apprised of the results of the implementation of the new procedure."

1.30. In their Action Taken reply dated 20th May, 1978, the Ministry of Finance (Department of Revenue) have stated as follows:

"The revised procedure for closure of import manifest drawn up by the Directorate of Inspection (Customs and Central Excise) was introduced with effect from 1st April, 1977 (copy enclosed)*. The procedure does not contemplate closure of manifest within 60 days. According to the revised procedure, the cargo copy of the duplicate manifest and the original manifest are required to be sent by the concerned department to the Manifest Clearance Department.

The Collectors of Customs, Bombay, Calcutta, Madras and Cochin have stated that the new procedure is likely to expedite the disposal of uncleared cargo, but some delays in the closure of manifests are likely to continue, due to late receipt of outturn reports from the Port Trusts, time taken by the Steamer Agents to reply to the letters of call issued to them are non-availability of Bills of Entry in respect of which Audit and Revenue Audit objection are raised. The Directorate of Inspection (Customs & Central Excise) is being asked to make a proper assessment of the working of the new procedure. On the basis of the studies by the Directorate a decision on the question of extending the new procedure to other Custom Houses will be taken."

[Department of Revenue O.M. No. 442/21/77-Cus. IV dated 20-5-1978].

1.31. The Committee appreciate that the new procedure for closure of import manifest introduced with effect from 1st April, 1977 at Bombay, Calcutta, Madras and Cochin Custom Houses is expected to expedite disposal of uncleared cargo. However, the Committee feel that some time-limit should be prescribed for the closure of manifest to reduce further delays. The Committee trust that Directorate of Inspection (Customs & Central Excise) would have completed an appraisal of the working of the new procedure by now. They would like to know the findings of the study undertaken by the

*Please see Chapter IV.

Directorate and the decision taken in the light of these studies to extend the new procedure to other Custom Houses as well.

Security by Clearing Agents

1.32. Commenting on the insufficient amounts of security and sureties provided for the Custom House Clearing Agents in the Custom House Agents Regulation, 1965, the Committee in para 3.43 (S. No. 36) of their 15th Report (1977-78) had observed:

“The Committee find that under Regulation 12 of the Custom House Agents Regulation, 1965 a security of Rs. 3,000 in cash or an interest bearing security of the like amount together with a solvent security for a sum of Rs. 2,000 are obtained from the applicants before they are granted a licence to act as Customs House Agents. The Regulation also provides that the amount of security may be increased or decreased by the Collector of Customs having regard to the volume and type of business transacted by the Agent. *Prima facie* the security and surety appear to be too meagre and insufficient in view of the large amounts of duties required to be paid by them.”

1.33. The Ministry of Finance (Department of Revenue) in their Action Taken Note dated 20 July, 1978 have replied as follows:

“The security and surety amount prescribed under Regulation 12 of the Custom House Agents Licensing Regulations, 1965, appears to be adequate. The function of the Clearing Agent is to provide service to importers/exporters so that the work of clearing of the goods through Customs is done with minimum possible delays. The amount is to be paid by the importers/exporters through the clearing agent and the goods are not delivered without payment of duty. Moreover, there are provisions under the Customs Act, 1962 to recover less charge amount, if any, from the importer/exporter.”

[F. No. 512/27/77-Cus. VI]

The Committee find it difficult to appreciate the view of the Department of Revenue that “the security and surety amount prescribed under Regulation 12 of the Customs House Agents Licensing Regulations, 1965 appear to be adequate.” The Regulations already provide that the amount of security may be increased or decreased by the Collector of Customs having regard to the volume and type of business transacted by the Agent. The Committee, therefore, reiterate that the amount of security and surety furnished by an Agent may be critically reviewed with a view to effect necessary change therein and to serve as a deterrent against malpractices by Clearing Agents.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee find that tea is also exported by producers directly to buyers in foreign countries without having been auctioned anywhere in India. There have been cases of under-invoicing in such exports where the exporters were allowed to export after administration of mere warnings or imposition of paltry penalties. The under-invoicing in all possibility takes place in cases where the tea is consigned to a party abroad who has some financial link or interest with the Indian exporter. The Committee recommend that the Customs authorities should devise a foolproof method whereby the price of tea exported is compared with the price of the same quality tea from the same garden exported by other buyers in order to eliminate the chances of under-invoicing in export.

[S. No. 9 (Para 1.96) of 15th Report of the Public Accounts Committee (6th Lok Sabha)]

Action Taken

It has been reported by the Calcutta Custom House which handles the bulk of tea export that the price of garden tea tendered for export is invariably compared by the assessing officers with the price of the same quality tea from the same garden, if there had been such exports earlier. In case of discrepancy, the exporters are called upon to explain and justify the declared price. Shipment is allowed only when the price differential is satisfactorily explained. A Valuation Cell for tea has been functioning at Calcutta Custom House.

It may be however, mentioned that tea being an agricultural produce, marginal variations in quality in the same grade of tea from the same garden is quite possible. The price of tea at different periods of export would also be dependent on the prevalent international market price.

[Department of Revenue (F. No. 512|3|78-Cus. VI dated 29-7-78].

Recommendation

The Committee find that the Sterling Companies are controlling about 40 per cent of the tea production in India while the remaining 60 per cent is controlled by Indian companies. From the figures

furnished to the Committee however it is found that the share of 10 major foreign companies itself accounted for 15 per cent to 16 per cent of the total tea production in India during the years 1973, 1974 and 1975 as compared to about 9 per cent share by 10 major Indian companies during the same period. It is also found that the exports by 20 foreign tea companies had steadily increased from 48 per cent in 1970-71 to 75 per cent in 1975-76. The Committee need hardly stress that national interest demands that the dominance of foreign and sterling companies over tea production should be curbed. The Committee have been given to understand that the Government, in conjunction with other tea-producing countries, is examining this problem with a view to evolve measures to control the activities of such companies. The Committee would like that this matter should be pursued vigorously and concrete measures taken expeditiously to achieve the desired objective.

[S. No. 13 (Para 1.100) of 15th Report of PAC (6th Lok Sabha)]

Action Taken

Government of India have already decided to have all sterling tea companies Indianised under Section 29(2) of FERA 1973 with foreign holding of not more than 74 per cent. It is hoped that the process of Indianisation will be completed shortly.

[Department of Commerce O.M. No. I. 11012(1)|77-Plant (A) dated 27th July, 1978]

Recommendation

The Committee note that against the total exports of tea of 193 million kgs. in the year 1972-73, the export of tea in packets was only 4.89 million kgs. which constituted hardly 2.5 per cent of the total exports. In the year 1975-76, the exports of tea in packets rose to 10.10 million kgs. against the total exports of 211 million kgs. increasing the percentage to about 5 per cent. The Committee understand that Government have adopted a number of measures to increase the exports of tea in tea bags and packets. The building up of the technology in tea bagging and tea packing machinery is being encouraged, the hire purchase scheme has been amended to enable Indian exporters to hire purchase facilities for buying machinery for tea bagging and tea packing besides promotional activities which are being undertaken all over the areas, where package tea is exported. While these measures appear to be in the right direction, the Committee would like Government to explore further avenues for boosting the exports to the desired level.

[S. No. 14 (Para No. 1,101) of 15th Report of P.A.C. (6th Lok Sabha)]

Action Taken

Exports of packet tea and tea bags are showing a steady increase since 1974-75. A considerable improvement in exports of these products took place in 1976-77. It picked up from 6.20 m.kgs. valued at Rs. 8.66 crores in 1974-75 to 12.89 m.kgs. valued at Rs. 20.40 crores in 1976-77. In the year 1977-78 the figures are of the order of 24.30 m.kgs. worth Rs. 53.34 crores. Against the total export of 220 m.kgs. valued at Rs. 556 crores during the year 1977-78, the share of packet tea, tea bags and instant tea in aggregate is 11 per cent as compared to 5.2 per cent in 1975-76. In 1978-79, exports of these value-added items is expected to go over Rs. 60 crores. Improvements in the exports of packet tea and tea bags have been due to the various fiscal incentives at present admissible involving exemption from export duty and entitlement to cash assistance. Promotional support has also been extended by the Board for developing the packet tea markets abroad. Financial assistance is also being extended to Indian packers for marketing Indian packs in foreign countries. Tea Board's offices abroad have also been making considerable efforts in this direction. Inclusion of tea bagging machines under O.G.L. and to bring it within the purview of the Tea Board's Hire Purchase Scheme will, it is hoped, given a considerable fillip to the establishment of tea bagging capacity in the country and increase in the exports of tea bags.

It may be worthwhile to mention here that promoting the export of tea in value-added forms and the likely strategy that could be adopted to accelerate the same also falls within the terms of reference of the Committee of Experts on Tea Marketing whose report is awaited.

[Department of Commerce O.M. No. I. 11012(1)/77-Plant(A)
dated 27th July, 1978]

Recommendation

1.102. The Committee note that the production of instant tea is still a trade secret of the multinationals. There are five or six such companies out of which three have come under Government control. They have been informed that pilot plant for the production of instant tea is under construction in the research establishment of Calcutta University. They also understand that the development and research of instant tea manufacture has been fructified and the patent has been registered. The exports of instant tea were of the value of Rs. 86 lakhs in the year 1974-75 and of Rs. 1.92 crores in the year 1975-76. The Committee would like the Ministry to intensify the efforts to increase the production and export of instant tea so as to break the monopoly of the multinationals in this field.

1.103. Before the Committee conclude, they would like to highlight the importance of exporting tea in the form of packet teas/tea bags as well as in the form of instant tea. It is of importance to note that whereas bulk tea fetches approximately Rs. 10 per kg. in the world

market, tea in the form of packet tea fetches Rs. 13 per kg. in the form of tea bags fetches between Rs. 20 to Rs. 28 per kg. and instant tea fetches about Rs. 45 per kg. One can easily see the relevance of this trusted fact that as much as 95 per cent of the tea exported from India in the form of bulk tea on which we earn only about Rs. 10 per kg. the earnings on foreign exchange could be easily doubled even if a fraction of the total export of about 211 million kg. of tea exported in 1975-76 could have been in the form of packet teas/tea bags pack and could have been increased manifold if we were to go in a big way to export tea in the form of instant tea packs.

[S. Nos. 15 and 16 (Paras 1.102 and 1.103) of 15th Report of the Public Accounts Committee (6th Lok Sabha)]

Action Taken

The exports of instant tea rose from Rs. 36 lakhs in 1974-75 to Rs. 2.51 crores in 1976-77. During the year 1977-78 the export was Rs. 3.01 crores. Tea Board has been financing research for the production of Instant Tea. The projection financed by the Board at Calcutta University has already resulted in the patenting of a manufacturing process for instant tea under laboratory conditions. Research on the commercial feasibility of that process on a pilot plant scale is already underway at Tocklai Experimental Station at Jorhat. Board has also been financing another Scheme at the Central Food Technological Research Institute (CFTRI), Mysore, for the commercial production of instant tea based on a different method. Government are fully aware of the importance of promoting the export of tea in value-added form. The main thrust of our future export will lie in accelerating the shift from the export of primary tea in bulk form to export in value-added forms.

[Department of Commerce O.M. No. I. 11012(1)/77Plant(A) dated 27th July, 1978].

Recommendation

The Committee are gravely concerned about the unconscionable delay in the finalisation of the sales lists for the realisation of custom dues on unclaimed goods from Bombay Port Trust. According to the information furnished to the Committee, there are as many as 128 sales lists for the period 1970-71 to 1974-75 which are awaiting final adjustment of custom dues.

[S. No. 17 (Para 2.48) of 15th Report of the P.A.C. (6th Lok Sabha)].

Action Taken

All the 128 sale lists relating to the period 1970-71 to 1974-75 referred to in the para have been finalised. Customs dues involved in these sale lists have been realised.

[Department of Revenue F. No. 512/2/78-Cus. VI dated 23-5-78].

Recommendation

The Committee were informed during evidence that a new procedure has been evolved whereby the Bombay Port Trust will within 45 days of the completion of the sale, intimate to the Bombay Customs House the auctioner's expenses, establishment expenses etc. This arrangement is designed to finalise apportionment of the dues between the Port Trust and Customs within three to four months of the finalisation of the sale. The Committee would like to know whether the revised procedure is being implemented in letter and spirit and if so, whether it has brought forth improvement in the finalisation of the sale accounts pending for more than 7 years. They would also like to be apprised of the latest position of the sale accounts still pending adjustment between the Bombay Port Trust and the Bombay Custom House **and further steps**, if any taken by the Government in the light of the **experience** gained, to expedite the finalisation of these accounts.

[S. No. 18 (Para 2.49) of 15th Report of the P.A.C. (6th Lok Sabha)].

Action Taken

The revised procedure for finalising the sale accounts is being followed by the Bombay Custom House and the Bombay Port Trust. A separate unit has been created in the Bombay Custom House to attend to the current sales, after introduction of the revised procedure for finalising the sale list within 45 days was introduced under Bombay Custom House Standing Order No. 6570 dated 16-12-1976 (Copy enclosed). As a result of this procedure expeditious action has been possible and demands in respect of current sale lists of the period upto 28-2-1978 excepting the 14 supplementary lists yet to be received from Bombay Port Trust, have been issued on the Bombay Port Trust. Ministry of Shipping & Transport have informed this Ministry that Bombay Port Trust are expected to finalise these sale lists by 30th June, 1978.

Simultaneously, efforts to liquidate the old sale lists which are pending adjustment, have also yielded good results and 128 sale lists for the period 1970-1971 to 1974-75 have been finalised and customs dues relating thereto recovered. Bombay Port Trust have further completed the allocation of sale proceeds in respect of 56 sales held during the period from 1-4-1975 to 31-3-1976 and forwarded the allocation sheets which are under scrutiny in the Bombay Custom House. The Bombay Port Trust has also taken up the work of allocation of the sale proceeds for the sales held during the year 1976-77 on a priority basis.

[Department of Revenue F. No. 512/2/78-Cus. VI dated 23-5-1978].

Copy of Standing Order No. 6570 dated 16-12-1976 issued by the Custom House, Bombay.

In order to expedite the finalisation of sale accounts of current lots of uncleared/unclaimed goods sold by B.P.T. in auction, the following procedure will be followed with immediate effect. This procedure has been cleared in principle by B.P.T. authorities.

An Appraiser will attend the B.P.T. auction as an observer to watch the bidding and to see that no lot will be normally sold below the reserved price. It will also be the responsibility of the Appraiser to note down in respect of each lot sold, the price accepted at the fall of the hammer. At the end of the auction he should compare the price as noted down by him with the price noted down by the B.P.T. Clerk and after finding everything in order, he should calculate in respect of each sold lot, the amount of duty and fine by following the existing procedure. He should complete this within 4 day's time and should arrange to forward with the approval of the A.C./Docks statement of Customs duty and I.T.C. fine to the B.P.T.

On the B.P.T. side immediately after sale in respect of each sale list action will be completed within 45 days to collect information about (a) auctioner's expenses, (b) advertisement charges, (c) establishment expenses and (d) disputed cases, if any. Using this information, allocation of 'expenses of sale' should be done in respect of each individual lot. It shall be the responsibility of the B.P.T. to ensure that the sale list completed together with the Allocation Sheet is forwarded to the Customs within 45 days of the date of sale.

On receipt of this information from the Port Trust, it will be the duty of the Sales Appriaser to complete assessments after taking into accounts the allocation indicated by B.P.T. and to determine the net amount. He will also prepare a final demand memo and arrange to forward it to the Port Trust within 7 days.

On receipt of the demand memo indicating the net amount due to the Customs, the Port Trust will arrange the payment within a week. The actual payment against an auction will thus be made within two months of the date of auction and the sale list finalised.

If the Port Trust comes across any further cases where withdrawal of duties and fines are to be claimed from Customs, they should take up such matters in the form of refund of excess payments made. If Customs find any short payments recourse should be taken to recover the same by issuing formal notices of demand, if such detections are made after the payment by the B.P.T. of the assessed amounts.

Sd/- P. K. Kapoor

Addl. Collector of Customs, Bombay.

(Issued from File No. C-3006/75)

Copy of Corregendum to Standing Order No. 6570 dated 16-12-1976 issued by the Custom House, Bombay on 22-12-76.

SUB:—Finalisation of sale accounts of current lots of uncleared/unclaimed goods sold by B.P.T. in auction.

The sentence in line 2 of para 2 of Standing Order beginning with the word "and" and ending with "price" be deleted. The effect of this amendment is that the Appraiser attending the B.P.T. auction will do so only as an observer and he will not interfere in the auction sale.

Sd/- P. K. Kapoor,

Additional Collector of Customs, Bombay.

(Issued from File No. C-3006/75)

Recommendation

The Committee note that the Bombay Customs House had requested the Bombay Port Trust to make an *ad hoc* payment of Rs. 1,96,07,625 as customs dues for the period from 1 July, 1965 to 31 March, 1975 pending finalisation of the sales lists in respect of imported goods remaining uncleared and abandoned in the port. According to Audit Paragraph the Port Trust made an *ad hoc* payment of about Rs. 29,02,236 in five varying instalments to the Customs. The Committee were informed during evidence that a further sum of Rs. 1.36 lakhs was paid by the Port Trust to the Customs in two instalments of Rs. 74 lakhs and Rs. 62 lakhs.

The Committee have been informed that the payment was delayed in the past as the allocation of customs dues was not finalised till the sale proceeds were known. According to the procedure now evolved after inter-Ministerial consultations, as soon as an account is finalised, customs duty allocated in respect thereof would be paid by the Port Trust without waiting for the finalisation of the accounts for the entire year. The Chairman, Bombay Port Trust, promised during evidence that 'it is our endeavour that after a sale is held, we should finalise its account within about a month to about 6 weeks.' The Committee would like that this procedure should be given a fair trial and reviewed after a year in the light of experience gained. What the Committee would like to stress is that there should not be any let up or hindrance in the prompt realisation of Customs dues, and the Port Trust should continue to make *ad hoc* payments to the Customs if they apprehend any delay in the finalisation of the accounts.

The Committee note that upto January 1950 the Bombay Port Trust had been paying Customs dues from the sale proceeds of imported goods remaining uncleared and abandoned in the port on a priority basis. But subsequently when penalties imposed under the Import should not be treated on par with customs duty for a preferential dues, the Port Trust disputed that the Import Trade Control fines Trade Control Regulation also became payable along with customs

charge on the sale proceeds. This controversy, according to Audit, led to heavy accumulation of arrears due to Government. The Committee had in their 6th and 22nd Reports (3rd Lok Sabha) urged the Ministries of Finance and Transport of "smoothen their differences in a spirit of cooperation". The Committee note with satisfaction that the dispute with regard to the allocation of the sale proceeds between the Bombay Port Trust and Bombay Customs House, which has been going on since, 1950 and delaying the disposal of goods was settled in 1965 and a formula for the allocation of sale proceeds for the abandoned and confiscated goods acceptable both to the Customs and Port Trust was agreed upon.

[S. Nos. 19, 20 and 21 (Paras 2.50, 2.51 and 2.52) of 15th Report of the Public Accounts Committee (6th Lok Sabha)].

Action Taken

As the above three recommendations are complementary, a consolidated Action Taken Note is being sent.

With regard to these paragraphs, action lies with Ministry of Shipping & Transport whose comments were invited.

Comments received from the Ministry of Shipping & Transport are reproduced below:—

"All the Accounts for the sales held between 1949-50 and 1974-75 have been finalized and a sum of Rs. 1,61,33,297.39 has been paid to the customs towards duty payable on the goods sold in the Auctions. In respect of the goods sold after 1st April 1975, a sum of Rs. 76 lakhs has been paid on an *ad hoc* basis as demanded by the Customs pending final settlement of the relative accounts.

From the experience gained in the past one year it has been found that the accounts of a sale can be finalised within 4 to 6 months from the date of receipt of Demand for Duty and I.T.C. fines from the Customs. This position may improve after the entire arrears of work are wiped out."

[Department of Revenue F. No. 512/2/78-Cus. VI dated 23-5-1978].

Recommendation

Again in October, 1964, the Internal Audit Department of a Custom House found a case of short realisation of duty. Further investigations revealed that there were four more cases where lower/no amount of duty was paid by fraudulent alterations of Bills of Entry by manipulating the figures by affixing forged duty stamps. The Committee were informed that a system was being introduced of perforating both in words and figures the amount of duty on all copies of the Bills of Entry with pinpoint typewriter in order to plug the loop holes in the procedure and prevent the Clearing Agents/Importers etc.

from making fraudulent alterations in the Bills of Entry. The Committee in July 1967, in paragraph 2.56 of their Second Report (Fourth Lok Sabha), had expressed the hope that the proposed improvement in the system would eliminate opportunities for fraudulent alterations in the Bill of Entry.

[S. No. 28 (Para 3.35) of 15th Report of the P.A.C. (6th Lok Sabha)].

Action Taken

The observations of the Committee have been noted.

[Department of Revenue O.M. No. 442/24/77-Cus. IV dated 22-5-1978].

Recommendation

They further note that on the recommendations of the Directorate of Inspection (Customs and Central Excise) a new procedure is being introduced with effect from 1st April, 1977 in 4 major Custom Houses on a trial basis for one year, for the expeditious closure of import manifest and better control of goods in respect of Bills of Entry which may have been filed or those where Bills of Entry may not have been filed and also where the Bills of Entry may have been filed but the goods may not have been cleared.

[S. No. 31 (Para 3.38) of 15th Report of P.A.C. (6th Lok Sabha)]

Action Taken

The revised procedure for the closure of Import General Manifest was introduced with effect from 1st April, 1977 in the Custom Houses at Bombay, Madras, Calcutta and Cochin. The Directorate of Inspection, Customs and Central Excise, is being asked to make an assessment as to how far the new procedure has actually resulted in better control of goods in respect of which Bills of Entry may have been filed, or not filed or goods where Bills of Entry may have been filed but goods may not have been cleared.

[Department of Revenue, O.M. No. F. 442/25/77-Cus. IV dated 20-5-1978]

Recommendation

The Committee were informed during evidence that with a view to improve the control of Custom Houses on manifest it was proposed to furnish to the Port Trust Officials who are entrusted with the task of giving delivery of the imported goods specimen signatures of officers of the Custom Houses who are authorised to allow clearance of goods on Bills of Entry. The underlying idea is to facilitate verification of the genuineness of the 'allow order'. The Committee would like

to be informed whether the proposal has actually been implemented and the experience gained of its working so that it could be extended to other ports also.

[S. No. 32 (Para 3.39) of 15th Report of the P.A.C. (6th Lok Sabha)].

Action Taken

The proposal of furnish to the Port Trust Authorities the specimen signatures of the Officers of the Custom Houses who are authorised to allow clearance of goods on bills of entry has actually been implemented. All the four Custom Houses have reported that the system is working satisfactorily. The system has been extended to other ports also. A copy of the instruction issued in this regard is enclosed.

[Department of Revenue O.M. No. 442/27/77-Cus. IV,
dated 20-5-1978]

ANNEXURE

Instruction No. 2/78-F. No. 442/27/78-Cus. IV

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 28th April, 1978

To

All Collectors of Central Excise and Customs,
(except Collector of Customs, Bombay/Calcutta/Madras/
Cochin).

Deputy Collector of Customs, Visakhapatnam.

Deputy Collector of Customs, Panaji, Goa.

Asstt. Collector of Customs, Kandla.

SUB:—P.A.C.—Para 3.39 of the 15th Report of the P.A.C.
(1977-78) (6th Lok Sabha)—Verification of the
genuineness of the allow order regarding—

Sir,

I am directed to say that in order to safeguard against frauds, the system of furnishing to the Port Trust authorities the specimen signatures of Officers of Customs who are authorised to allow clearance of goods on the Bills of Entry, was introduced in the Custom Houses at Bombay, Calcutta, Madras and Cochin, under Board's letter F. No. 442/2/77-Cus. IV, dated 31st March, 1977 (copy enclosed).

2. It has been found that the system has been working satisfactorily in the Custom Houses at Bombay, Calcutta, Madras and Cochin. The Board has, therefore, decided to introduce this system in all other Custom Houses also. It is, therefore, requested that the decision now

763 LS—3.

taken may please be implemented in your Custom House immediately.

3. The receipt of this letter may please be acknowledged.

Yours faithfully,
(A. K. SARKAR),
Under Secretary,
Central Board of Excise and Customs.

ENCL: ONE.

Copy to:—

- (i) The Collector of Customs, Bombay/Calcutta/Madras/
Cochin.
- (ii) Additional Collector of Customs & Central Excise,
Bhubaneswar.

(A. K. SARKAR),
Under Secretary,
Central Board of Excise & Customs.

Copy to:—

- (1) Directorate of Inspection (Customs & Central Excise)/
Directorate of Training (Customs & Central Excise),
Rajendra Place, New Delhi.
- (2) Bulletin & Manual Section in D.I. (C. & C.E.), (with
four spare copies).
- (3) Appellate Collector of Customs, Bombay/Calcutta/
Madras/Delhi.

A. K. SARKAR,
Under Secretary,
Central Board of Excise & Customs.

F. No. 442/2/77-Cus. IV

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 31st March, 1977.

To

The Collector of Customs,
Bombay/Madras/Calcutta/Cochin.

Sir,

In a fraud case recently brought to the notice of the Board, it has been observed that the imported goods were delivered by the Port authorities against presentation of a Bill of Entry on which,

among other things, the cash stamp of the Custom House, the allow order and the concerned officer's signature had been forged. Since in the ultimate, the delivery of the goods is given by the Port Authorities, any arrangement to guard against a forgery of this kind must have the full cooperation of the Port authorities who are the bailees of the goods. It is understood that the specimen signatures of the officer in the Cash Department who grants the allow order after payment of duty, under the first appraisal system, are already being forwarded to the Port authorities for verifying the genuineness of documents presented to them. In the case of second appraisal, however, the allow orders are given by the shed staff. Perhaps, their specimen signatures in adequate members could also be forwarded to the Port authorities. With the help of these signatures, it should be possible for the Port Trust staff to verify the genuineness of the allow order given on the B/E before they deliver the goods. While this may not be entirely a foolproof arrangement, it should considerably reduce the chances of obtaining delivery against forged signatures without payment of duty.

2. It is, therefore, requested that you may kindly take up the matter with the respective Port authorities and send to the Board further suggestions, if any, to implement the above proposal.

3. Receipt of this letter may please be acknowledged.

Yours faithfully,

Sd./-(B. C. Rastogi)
Secretary,

Central Board of Excise and Customs.

Recommendation

The Committee note that quarterly evaluation reports on the working of the new procedure stating the difficulties encountered by the Customs Houses and solutions, if any, found by them, further improvements made and benefits derived therefrom by the Trade/Customs Houses, would be sent at regular intervals by the four Custom Houses to the Central Board of Excise and Customs.

[S. No. 33 Appendix XVIII Para 3.40 of 15th Report of the P.A.C. (6th Lok Sabha)].

Action Taken

The observations of the Committee have been noted.

[Department of Revenue O.M. No. 442/28/77-Cus. IV dated 20-5-78].

Recommendations

The Committee also note that there are as many as 663 licensed Custom House Agents at the four major Custom Houses at Bombay, Calcutta, Madras and Cochin. The authorities verify the applicant's respectability, reliability, financial status and sufficiency of clientele and business before the grant of the licences to them. Their character and antecedents are, however, not got verified by police authorities. Such verification appears to be desirable in the interest of making sure that persons with doubtful antecedents are not able to enrol themselves as agents.

The Committee desire that having regard to the above, the amount of security as well as the manner of verification of antecedents and standing of prospective agents may be critically reviewed so as to effect necessary improvements. The Committee would like to be informed of the action taken in pursuance of this recommendation in the interest of ensuring that only those persons/parties whose conduct and integrity are above board are registered as handling agents.

[S. Nos. 37 and 38 (Paras 3.44 and 3.45) of the 15th Report of the PAC (6th Lok Sabha)]

Action Taken

A consolidated reply is furnished for the above 2 recommendations which are complementary.

A copy of instructions to Collectors of Customs F. No. 512/27/77-Cus. VI dated 28-7-78 regarding verification of antecedents of applicants for Custom House Agents Licence by police authorities, is enclosed.

[Department of Revenue (F. No. 512/27/77-Cus. VI)
dated 8-8-1978].

ANNEXURE

MOST IMMEDIATE

F. No. 512/27/77-Cus. VI

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE**

New Delhi, the 28th July, 1978.

To

All Collectors of Customs,
All Collectors of Central Excise,
Deputy Collectors of Customs,
Visakhapatnam/Goa.
Assistant Collector of Customs New Kandla.

SUBJECT:—*Grant of Custom House Agents' Licence Procedure for verification of Antecedents of prospective Custom House Agents—*

Sir,

In recommendation 3.44 of the Public Accounts Committee (6th Lok Sabha) 15th Report, the Committee have expressed the desirability of exercising sufficient caution while selecting persons for issue of Custom House Agents licence so that persons with doubtful antecedents are not enrolled as Custom House Agents. Extract of Recommendation 3.44 of P.A.C.'s 15th Report is enclosed.

It is felt that having regard to the role which the clearing agents play in clearance of import and export goods, it is desired that before grant of fresh clearing agency licences, character and antecedents of the applicants may be verified from the police authorities. This would be in addition to the other checks which the Custom House undertakes.

Yours faithfully,

A. BORDIA,
Under Secretary to the Government of India.

EXTRACT TAKEN FROM PARA 3.44 OF THE PUBLIC
ACCOUNTS COMMITTEE (1977-78) (SIXTH LOK SABHA)
FIFTEENTH REPORT CUSTOMS RECEIPTS

3.44. The Committee also note that there are as many as 663 licensed Customs House Agents at the four major Customs Houses at Bombay, Calcutta, Madras and Cochin. The authorities verify the applicant's respectability, reliability financial status and sufficiency of clientele and business before the grant of the licences to them. Their character and antecedents are, however, not got verified by police authorities. Such verification appears to be desirable in the interest of making sure that persons with doubtful antecedents are not able to enrol themselves as agents.

Recommendation

The Committee note that the mechanisation of a Sailing Vessel involves change in the registry particulars of the vessel. Under Rule 8 of the Sailing Vessels (Inspection) Rules, 1962 every owner of a Vessel has to get his vessel inspected by a Surveyor before it is fitted with auxiliary engine. This is to ascertain that the hull is of adequate strength for the installation of the engine. Rule 9 of Merchant Shipping (Registration of Sailing Vessels), 1960 requires

that the owner should make an application to the Registrar of Vessels for registering the alterations to the vessels within one month of such alternations. The fact regarding fitment of the engine on M.S.V. 'Fateh Bari' and 'Fateh Rahiman' came to the notice of the officers of the Ministry of Shipping and Transport on their return to Calicut from Basrah on 10th March, 1971 and 25th December, 1972 respectively. **M.S.V. 'Fateh Bari' was inspected on 19th March 1971 and** as the fitment of the engine materially affected the tonnage of the engine and its carrying capacity, she was registered anew on that very date. Likewise, M.S.V. 'Fateh Rahiman' was inspected on 31st January, 1973 and registered anew on 3rd February, 1973. These changes in the registration of these two vessels were not intimated by the Registrar of Vessels to any other authority with the result that the conversion of these vessels into mechanised ones could not be detected by the Customs authorities earlier than December, 1973. A representative of the Ministry of Shipping and Transport has disclosed during evidence that there is no legal provision for the communication of such changes to any other authority. The Committee feel that in the absence of any such provision in the rules, the fact about the conversion of vessels into mechanised ones is not known to any authority other than the Registrar of vessels and hence action for the violation Customs, Foreign Exchange or similar other rules, if involved, cannot be initiated. The Committee recommend that suitable provision may be made in the rules which should render it obligatory for the Registrar of Vessels to communicate immediately the fact about change, if any, in the registry of vessel to the authorities of other departments who are concerned in the matter.

The Committee are amazed at the fact that the Ministry of Transport and Shipping, on their own admission, were aware of unauthorised fitment of engines abroad to the sailing vessels even in the year 1970-71. The Ministry's further reply that, although such fitment of engines involved not only breach of the inspection rules and provisions of the Foreign Exchange Regulations but also had an impact on the indigenous manufacture of engines, the owners of such sailing vessels were let of without any action on the ground they were illiterate and ignorant of the requirements of rules is equally shocking. The Committee are not convinced of the reasoning given by the Ministry and would like prompt action to be taken at least in future in such cases.

4.58. The Committee have been informed that the spare parts and components etc. which do not form part of the vessel, are to be declared in the import manifest provided for under Section 30 of the Customs Act and form prescribed under the Import Manifest (Vessel) Regulations, 1971. The engines etc. actually fitted to vessels are not to be separately declared as they form part and parcel of the vessels used in bringing imported goods in India. Under the existing rules, it is also not incumbent on the vessel to declare its new fixture additions/alterations on return from a foreign voyage.

The Committee feel that the existing provisions cannot prevent cases where the fitments can be brought, removed and sold locally on arrival, giving an encouragement to a simpler form of smuggling. The Committee therefore, recommend that suitable provision may be made in the existing rules/regulations which should make it obligatory for the vessels to declare the new fixtures, additions/alterations to the Registrar of vessels.

[S. Nos. 44 and 45 (Paragraphs 4.57 and 4.58 of the 15th Report of the Public Accounts Committee—(Sixth Lok Sabha)]

Action Taken

The Recommendations made by the Public Accounts Committee have been noted and brought to the notice of the authorities concerned.

Sub-rule (ii) of the Rule 9 of the Sailing Vessels (Inspection) Rules, 1962, has been amended to ensure proper inspection by the Registrars of Sailing Vessels in India of any new fitments made abroad.

A new rule—22(a) has been inserted in the Merchant Shipping (Registration of Sailing Vessels) Rules, 1960 making it obligatory on Registrars of Sailing Vessels to intimate to the Customs Authorities and the Reserve Bank of India, the particulars of new engines etc. fitted abroad to sailing vessels. In SVR Form IV, in Schedule I, suitable provision has been made for eliciting information specifically about the place where the engines were fitted, the date on which this was done, the price paid and particulars of other alterations or fittings, if any, made abroad.

The Director General of Shipping has also issued instructions to all Registrars of Sailing Vessels that information about the fitment of new engines or other fixtures etc. made abroad should be communicated to the Customs Authorities and the Reserve Bank of India. He has also issued instructions that cases of violation of the provisions of the Sailing Vessels (Inspection) Rules, 1962, would be taken serious note of and dealt with according to the Rules.

[Ministry of Shipping and Transport (TW) U.O. No. MSV-36/77-MF, dated 2-1-1979]

Recommendation

The Committee learnt that the permission of the Reserve Bank of India is required by the Shipping Companies to utilise foreign exchange earned abroad for the purchase of the spares authorised by the Director General of Shipping. Where the Shipping Companies do not have sufficient funds abroad, Reserve Bank of India authorities the

remittances from India by issue of permits. In the instant cases, the parties have contended that in the matter of acquisition of the marine diesel engines they are governed by the permission of the Reserve Bank of India. The matter is under investigation by the Directorate of Enforcement. The Committee would like the Department to expedite the investigations and apprise the Committee of the outcome.

[S. No. 49 (Para 4.63) of the 15th Report of PAC (6th Lok Sabha)].

Action Taken

M/s. Haji P. V. Mohamad Baramy & Sons, South Beach Road, Calicut were charged for violation of Section 5(1)(a) of the Foreign Exchange Regulation Act, 1947, for making payments amounting to Rs. 30,000 and for violation of Section 5(1)(b) *ibid* for acknowledging debts amounting to Rs. 1,05,000 to the party resident outside India, from whom the engines fitted in the 2 vessels **Fateh Bari** and **Fateh Rehiman** were purchased. The cases were adjudicated on the 10th August, 1977 and penalties aggregating to Rs. 35,000 were imposed on M/s. Haji P. V. Mohamad Baramy & Sons.

[Department of Revenue F. No. 164/1/78-TC(E) dated 13-10-1978].

Recommendation

The Committee also understand that besides the two vessels, 8 Indian vessels fitted with foreign diesel engines were detected by the Bombay Customs House during the year 1975 and 1976 and 38 vessels by the Collectorate of Central Excise, Ahmedabad during the same period. The Committee apprehend that there can be a large number of vessels with foreign engine departing from and arriving at other ports. The Committee recommend that suitable comprehensive instructions may be issued to all the Customs and Excise Collectorates to intensify their campaign for the search and detection of such engines and take further suitable action in coordination with the Enforcement Directorate against those found guilty of violating any of the rules and regulations.

[S. No. 51 Para 4.65 of 15th Report of the P.A.C. (6th Lok Sabha)].

Action Taken

Diesel engines fitted on foreign going vessels are not chargeable to duty, nor does fitment of such engines or for that matter of any other component on foreign going vessels constitute an act of importation

into India within the meaning of the Imports & Exports (Control) Act, 1947. To find out, list and record cases of such fitments of engines or any other parts/or components on foreign going vessels is, therefore, not necessary for customs purposes.

However, as far as the provisions of the Foreign Exchange Regulation Act, 1973, are concerned, the Directorate of Enforcement are being advised to evolve suitable arrangement with the Registrar of Vessels so as to ensure that the provisions of the Act are complied with.

[Department of Revenue F. No. 561/27/77-LC. II dated
23-5-1978].

CHAPTER III

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

Recommendation

The Committee note that according to Notification No. 81/70-CE issued on 15th April, 1970 rebate of excise duty paid was allowed on tea exported to any country or territory outside India (except Nepal, Bhutan and Sikkim). The rebate on tea sold on out right basis was allowed as soon as it was exported out of the country but in case of tea exported on consignment account, provisional rebate was granted pending production of the sale accounts. The provisional payment of rebate was computed on the basis of consignment sales in the financial year 1969-70. These sales were classified into three categories, viz.,

- (a) Sales at a price upto Rs. 6.50 per kg.;
- (b) Sales at a price exceeding Rs. 6.50 per kg. but not exceeding Rs. 9.00 per kg.; and
- (c) Sales at a price exceeding Rs. 9.00 per kg.

The total amount of rebate admissible on the entire quantity exported in the year 1969-70, garden-wise, was worked out for categories (b) and (c) and the average basis for provisional rebate arrived at garden-wise by dividing the total amount by the quantity covered by all the three categories 80 per cent of this base figure formed the actual payment to be made as provisional rebate on shipments in the financial year 1970-71, subject to the exporter executing a continuity bond for the full amount of rebate arrived at for all the three categories with a bank guarantee for 12½ per cent of the amount (i.e. 25 per cent of the rebate likely to be disbursed during a period of six months).

The basis of calculation of rebate was changed in May, 1972 when it was decided to go by arithmetical average of the London auction prices garden-wise for the previous year from the weekly figures contained in the London Tea Brokers' Association's Bulletin. It was made discretionary for the Collectors to pay upto 90 per cent of the above average rate as "provisional rebate."

The Collectors was required to keep in view the following safeguards in exercising their discretion for the payment of provisional rebate:

- (i) The Collector has to ensure that there is no serious risk of over payment in any particular cases;
- (ii) the average rate is not too widely different from the minimum London auction price during the period;
- (iii) the necessary bond with bank surety for 12½ per cent is filled. The value of continuity bond will be left to the choice of the exporters;
- (iv) the sale accounts are promptly submitted within six months or such other extended period as may be allowed by the Collector;
- (v) in case where Collector is satisfied that there is unnecessary delay in submission of sale account or payment of the differential as ultimately found due, facility of provisional payment of rebate may be withheld and terms of bond enforced.

The Committee are surprised to note that the scheme did not make it obligatory on the party or the exporter to inform the Custom House of any subsequent change in the pattern of sales and did not also provide for any penal provision either in this behalf or in respect of delay in furnishing the reconciliation statements. The Committee find that provisional rebate amounting to Rs. 2,70,197 was paid in 16 cases in Calcutta Custom House during the years 1970 to 1972. The sale accounts in these cases were not furnished by the exporters within the prescribed time of 6 months with the result that amount of rebate remained unadjusted for periods ranging from 6 to 15 months. On final settlement of the accounts it was found that the final rebate admissible was less than the provisional payments already made by Rs. 70,000.

The Committee are perturbed to note that no action was taken against the exporters for the non-submission of sale accounts within the prescribed period of six months and the amount in excess of that due to them was allowed to remain unrealised upto 15 months from the time of shipment. The Collectors had the powers to withhold the facility of provisional rebate for default on the part of the exporters to furnish reconciliation statement in time. The Committee fail to comprehend the reasons which prevented them from resorting to this course which, besides ensuring recovery of Government dues in time, would have also served as a deterrent to the defaulting exporters. The Committee would like to know the detailed reasons and the circumstances under which this facility was extended gratuitously in all cases and also whether while extending this facility the rationale therefore was determined in each case.

[S. No. 1 Para 1.88 of the 15th report of the P.A.C. (Sixth Lok Sabha)].

Action taken

The rebate scheme did not contain any provision for penalising a party for non-submission of reconciliation statement within the stipulated period as a bond with surety is executed and the terms of the surety can be enforced in case of default. There was no provision on the part of the exporter to inform the Custom House regarding change in pattern of sales from consignment account to outright sale as such cases were an exception rather than the rule. There is also nothing to show that the 16 cases in question arose as a result of any deliberate design on the part of the exporters, to warrant any serious action by the Collector.

In respect of these 16 cases covering 47 Shipping Bills, it may be pointed out that initially the provisional rebate was granted as they were shipped on consignment account basis. Later on, the Custom House was informed that teas in these shipments were sold through private negotiations. Therefore, the amount of Rs. 2,70,197|- granted on provisional basis was demanded and realised from the exporters. However it was decided by the Customs authorities to treat these cases as 'consignment cases' and as such the rebate was paid accordingly. In actual fact, these 16 cases were not sold in London Auction and therefore, these were actually outright sales. Had rebate been granted according to the provisions of payment for outright sales, the exporters would have been entitled to a greater amount of rebate than what was finally paid to them. Out of 47 Shipping Bills involved, in respect of 43 Shipping Bills which are available, it is observed that the exporters would have actually been entitled to Rs. 55671|- more than what was actually paid to them at the time of final payment if these cases had been processed as on Outright basis. In respect of **these 43 Shipping Bills it has been found that the amount finally paid** was Rs. 1,87,752 as against an amount of Rs. 2,43,423 due to the exporters. This itself is an indirect penalisation of the exporters. Further, the exporters were also denied the benefit of over Rs. 55,000|- for period ranging from 6 to 15 months which they would have been immediately entitled to, if these shipments had been declared and considered to be as outright sales.

[Department of Revenue No. 603|1|79-DBK dated 23-5-1978]

Recommendation

"The Committee are also perturbed to note that the number of such cases and the amounts of provisional rebate paid in excess in Kandla Customs House were much higher viz. 11.36 lakhs in 1970-71 (527 cases) and 18.28 lakhs in 1971-72 (1211 cases). The Committee would like to know the exporters who operated through this port and the reasons for the excess payments made in such a large number of cases."

[S. No. 2 para 1.89 of the 15th report of P.A.C.—Sixth Lok Sabha].

Action Taken

The Kandla Custom House followed the national rates for payment of Provisional Rebate as determined and intimated by the Calcutta Custom House. The reasons for excess payment have been intimated in action taken note relating to para 1.91 and 1.92 of the 15th report of the Committee.

The names of the exporters who operated through the Kandla port during the year 1970-71, 1971-72 are annexed.

[Department of Revenue F. No. 603|2|78|DBK dated 23-5-1978]

ANNEXURE

Names of the exporters who operated through Kandla Port during the year 1970-71.

1. M|s. Octives Steel Co. Ltd. Calcutta.
2. Ms. Williamson Magor & Co. Ltd. Calcutta.
3. M|s. Assam Frontier Tea Co. Ltd. Calcutta.
4. M|s. Assam Brooks Tea Estate Co. Ltd. Calcutta.
5. M|s. Balmer Lawrie & Co. Calcutta.
6. M|s. Hanes Fianly & Co. Ltd. Calcutta.
7. M|s. Jardine Hendreson & Co. Ltd. Calcutta.
8. M|s. James Warren & Co. Calcutta.
9. M|s. Macneill & Barry Ltd. Calcutta.
10. M|s. Andrew Yule & Co. Ltd. Calcutta.
11. M|s. Duncon Brothers & Co. Ltd. Calcutta.
12. M|s. Doom Dooma Tea Co. Ltd. Calcutta.
13. M|s. Gillanders Arbuthnot & Co. Ltd. Calcutta.
14. M|s. Bhaskas Tea Co. Ltd. Calcutta.
15. M|s. Banaehut Tea Co. Ltd. Calcutta.
16. M|s. Halmira Estate Tea Co. Ltd. Calcutta.
17. M|s. Barenatia Tea Co. Ltd. Calcutta.
18. M|s. Rajgash Tea Co. Ltd. Calcutta.
19. M|s. Moolungaree Tea Co. Ltd. Calcutta.
20. M|s. Andrew Yule & Co. Ltd. Calcutta.
21. M|s. Sockieting Tea Co. Ltd. Calcutta.
22. M|s. Moheenea Tea Co. Ltd. Calcutta.
23. M|s. Jokai Industries Co. Ltd. Calcutta.
24. M|s. Tarajan Tea Co. Ltd. Calcutta.
25. M|s. Lukwach Tea Co. Ltd. Calcutta.
26. M|s. Hindustan Tea & Trading Co. Ltd. Calcutta.

Names of the exporters who operated through Kandla Port during the year 1971-72.

1. M|s. James Finally & Co. Ltd. Calcutta.
2. M|s. Assam Frontier Tea Co. Ltd. Calcutta.
3. M|s. James Warren & Co. Ltd. Calcutta.
4. M|s. Williamson Magor & Co. Ltd. Calcutta.
5. M|s. Balmer Lawrie & Co. Ltd. Calcutta.
6. M|s. Duncan Brothers Ltd. Calcutta.
7. M|s. Assam Brooks Tea Estate Ltd. Calcutta.
8. M|s. Doom Dooma Tea Co. Ltd. Calcutta.
9. M|s. Jarehaut Tea Co. Ltd. Calcutta.
10. M|s. Andrew Yule & Co. Ltd. Calcutta.
11. M|s. Gillenders Arbuthnot & Co. Ltd. Calcutta.
12. M|s. Macneill & Barry Ltd. Calcutta.
13. M|s. Jardine Henderson & Co. Ltd. Calcutta.

Recommendation

The Committee are also distressed to note that the percentage of excess payment in respect of two foreign companies, viz., Duncan Bros. and Co. Ltd., and Williamson Magor & Co. Ltd., consistently ranged from about 17 per cent to 38 per cent over the amount due to them on finalisation of accounts relating to the years 1970-71, 1971-72 and 1972-73. This gives rise to grave suspicions of undue favour being shown to them. The Committee would like the Government to investigate this aspect and inform them about the reasons for such excess payment in their case.

[Sl. No. 6 Para 1.93 of the 15th Report of Public Accounts Committee
(6th Lok Sabha)]

Action Taken

While there were cases of higher payments ranging from about 17 per cent to 38 per cent as stated by the Committee in the above para, there were also cases of less payment at the provisional stage and the less payments ranged from 21 per cent to 50 per cent to M/s.

Williamson Magor & Co. Ltd. and M/s. Duncan Bros. & Co. Ltd., as shown below:

Year	No. of cases of less payments.	Amount paid provisionally (in lakhs)	Amount paid finally (in lakhs)	Percentage of less payment compared to final payment
<i>M/s Williamson Magor & Co. Ltd.</i>				
1970-71	139	2.89	4.16	30%
1971-72	120	4.41	5.69	22%
1972-73	316	15.74	19.90	21%
<i>M/s. Duncan Bros. & Co. Ltd.</i>				
1970-71	132	1.45	2.92	50%
1971-72	141	1.27	2.48	48%
1972-73	141	1.44	2.45	41%

The Committee are also distressed to note that the percentage in respect of the above two foreign companies consistently ranged from about 17 per cent to 38 per cent in all the cases relating to the years 1970-71, 1971-72 and 1972-73 have been shown to them.

[Department of Revenue F. No. 442|29|77-Cus. IV dated 9-3-1979]

Further Action Taken

..... Provisional rebate was being allowed on the basis of **average price realized by an individual Estate during the previous year.** Since the auction prices cannot be pre-determined, it will be appreciated that there is always the possibility of excess or under payment which **was inherent in the system itself.** It would be observed from the Action Taken Note referred to above that there have been instances of under-payment also. In view of the above, it could be said that no undue favour appears to have been shown to them.

[Department of Revenue F. No. 603|4|78—DBK dated 13-3-1979]

Recommendation

The Committee have informed that the tea exported from India on consignment account is normally sold in London Auctions. As and when it fails to fetch the anticipated price it is sold by private negotiations on a better price. The reason attributed by the Department for the excess payment of rebate in respect of 16 cases pointed

out by Audit was that the tea initially exported in these cases on consignment basis for the London Auction was not sold there but was sold on the basis of contract in the U.K. The Committee wanted to have the details of prices actually realised on the basis of the contract as also of the highest bids in London Auction to ascertain that the price fetched on contract were actually higher. The Committee are distressed to note that whereas the Department have furnished the details of the prices realised on contract they have not furnished the particulars about the highest bids for these cases in London auction as these are said to be not available. In the absence of these details it is difficult for the Committee to come to any definite conclusions about the relative merits of open auctions vis-a-vis contract sales. The Committee would like to know the reasons for the non-availability of such details which are of vital importance.

[S. No. 7 (Para 1.94) of 15th Report of P.A.C. (6th Lok Sabha)]

Action Taken

The observations above would be indicative of a possible impression that the tea exported in the subject cases were first put on the London Auction but subsequently sold through private negotiations. This is not the position. The teas exported in the subject 16 cases were not placed on the London Auction but were sold through private negotiations (without being placed on the London Auction). The question of highest bids in the London Auction for these cases would therefore, not arise. Since the rebate on exports was *ad-valorem* 30 per cent of the value in excess of the specified figures, there would normally be no incentive for the exporters to deliberately under-value the exports in these cases.

[Department of Revenue F. No. 512/4/78-Cus. VI dated 29-7-1978]

Recommendation

The Committee note that a case where Government revenues had been defrauded to a large extent by fraudulent alterations in the Bill of Entry was noticed in the Collectorate of Customs, Calcutta in January, 1964. The alterations were made after the Bills of Entry had been appraised but before they were presented to the Cash Department for payment of Customs Duty. The Audit had then suggested that a copy of the Bill of Entry should be sent direct by Appraising Department to the Cash Department so that when the importer presents the original of the Bill of Entry it could be verified by the Cash Department with the copy sent by the Appraising Department before accepting payment. The Audit in that connection drew attention to an earlier suggestion made in 1954 for movement of one copy of the Bill of Entry right from presentation to clearance. The Central Board of Excise and Customs, however, expressed difficulty to accept the suggestion on the plea that it could cause delays in payment and acceptance of duty but they had stated that the question of devising suitable safeguards was under consideration. The Committee in February, 1966, in paragraph 2.85 of their Forty Fourth Report

(Third Lok Sabha), had observed that "the Central Board of Excise and Customs should adopt such a procedure early whereby the chances of perpetrating frauds of the type in this case as also in other cases mentioned in evidence could be eliminated."

[Sl. No. 27 Para 3.34 of 15th Report of the P.A.C. (6th L.S.)]

Action Taken

Reasons for which the suggestion of the Audit for departmental movement of Bills of Entry was not found to be acceptable have been given, once again, in the action taken note with regard to para 3.37.

[Department of Revenue O.M. No. 442|22|77-Cus. IV dated 22-5-1978]

Recommendation

The Committee now find that despite the improvements claimed to have been made in the system, a fraud involving a duty amount of Rs. 91,044 has occurred in Bombay Customs House during the year 1974-75. In this case, the goods had been cleared without payment of duty by removing in an unauthorised manner the Bill of Entry forging the perforation of the duty amount required to be made by pinpoint typewriter, the cash stamp, the allow order and the concerned officer's signatures. These forgeries appear to have been made after the Bill of Entry had been removed in an unauthorised manner from the Licence Audit Section, subsequent to its appraisal but before licence audit, perforation of duty amount and the payment of duty had been made. This is indicative of the fact that the arrangements existing then were not foolproof.

[S. No. 29 Para 3.36 of the 15th Report of P.A.C. (6th L.S.)]

Action Taken

This was a case where the delivery of the goods had been taken from the custody of the Port Trust on the basis of forged documents. The forger could have committed the forgery even without having to present the Bill of Entry in the Custom House. The forger succeeded in this case, because the signatures of the Customs Officer were cleverly forged. Instructions have been issued that the Port Trust should be given and have with them, at all times, specimen signatures of the Custom Officers who give allow order. This should ensure against repetition of this kind of fraud. While no amount of precautions can ensure a cent per cent prevention of forgeries and frauds of the type that occurred in this case, the system should be such as would ensure timely detection. In this case, the fraud was detected by the Custom House itself.

2. Further, in accordance with the Board's instructions contained in letter F. No. 442|2|77-Cus. IV dated 31-3-1977 (Annexure, the

Custom Houses have been directed to furnish the signatures of all such officers of Customs who can, on a bill of entry, allow clearance of goods to the Port Trust officers, who are entrusted with the task of giving delivery of the goods, in order to facilitate the verification of genuineness of the allow order.

[Department of Revenue O.M. No. 442|23|77-Cus. IV dated
20-5-1978].

Annexure

(COPY)

F. No. 442|2|77-Cus. IV

GOVERNMENT OF INDIA

Central Board of Excise & Customs.

NEW DELHI, the 31st March, 1977.

To

The Collector of Customs,
Bombay|Madras|Calcutta|Cochin.

Sir,

[REDACTED]

In a fraud case recently brought to the notice of the Board, it has been observed that the imported goods were delivered by the Port authorities against presentation of a Bill of Entry on which, among other things, the cash stamp of the Custom House, the allow order and the concerned officer's signature had been forged. Since in the ultimate, the delivery of the goods is given by the Port Authorities, any arrangement to guard against a forgery of this kind must have the full cooperation of the Port authorities who are the bailees of the goods. It is understood that the specimen signatures of the officer in the Cash Department who grants the allow order after payment of duty, under the first appraisal system, are already being forwarded to the Port authorities for verifying the genuineness of documents presented to them. In the case of second appraisal, however, the allow orders are given by the shed staff. Perhaps, their specimen signatures in adequate numbers could also be forwarded to the Port authorities. With the help of these signatures, it should be possible for the Port Trust staff to verify the genuineness of the allow order given on the B|E before they deliver the goods. While this may not be entirely a foolproof arrangement, it should considerably reduce the chances of obtaining delivery against forged signatures without payment of duty.

2. It is, therefore, requested that you may kindly take up the matter with the respective Port authorities and send to the Board further suggestions, if any, to implement the above proposal.

3. Receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/- (B. C. RASTOGI)

Secretary,

Central Board of Excise & Customs.

Recommendation

The Committee find that the Audit had suggested that the movement of import documents in the Custom House should be made in locked boxes before payment of duty and clearance of goods but it was not found acceptable by the Central Board of Excise and Customs on the plea of likely delay in clearance of goods. Except the bare assertion that it is wholly unworkable, no reason has been given as to how the Audit suggestion which was endorsed by the Committee would not have prevented the fraud. The Committee cannot help feeling that the issue had been viewed by the Department more on a plane of prestige than with a desire to find a solution. The Committee, however note that the Central Board of Excise and Customs have directed the Collectors in March 1977, after the Committee's deliberation that after completion of appraisal in the Appraising Department, the Bills of Entry are not allowed to fall into the hands of any agent until the license audit has been completed and duty amount perforated thereon through pinpoint typewriter. In particular, the Committee would like the Government to examine the suggestion that the Cash Department may verify on the next day whether all the goods cleared on the previous day have discharged the duty liability, for this purpose the shed appraiser may be required to send a daily list of goods cleared. Though this may not prevent a fraud, it would at least enable its detection on the following day.

[S. No. 30 Appendix XVIII Para 3.37 of 15th Report of the P.A.C. (6th L.S.)]

Action Taken

The detailed reasons as to why it would be impracticable to introduce the system of departmental transit of bills of entry in locked boxes from the Appraising Department after assessment of duty to the Cash and Accounts Department of each Custom House for payment of duty were indicated in this Department's O.M. No. 442|2|77-Cus. IV dated 4-4-77 in reply on Point No. 1 in List No. 4 arising out of para 16 of the Report of the C. & A. G. of India, 1974-75. It is respectfully submitted that this department is not taking a stand on any point of prestige. It has valid and strong reasons for holding that the suggestion of the audit will not only be unworkable but will lead to long delays also. If, after the licence auditing and pin-point-typing the duty amount, the Bills of Entry are sent in batches through Depart-

mental despatch in locked boxes, a large number of such bills will have to accumulate in the Cash/Accounts section because the parties do not come to pay duty immediately after the assessment is completed. The time-lag may be days or even weeks and the Bills for all these days and weeks will pile up in the Cash/Accounts section. Again, when the party comes to pay duty, it will be a real time consuming job to fish out from the pile, the relevant Bill in respect of which the party wants to pay duty. The result will be not only delay but utter confusion. When the duty amount has been pin-pointed on the Bill the chances of alternation of the amount will not be such as to necessitate departmental movement with the consequent delay and confusion referred to above.

Regarding the suggestion that the Cash Department may verify on the next day whether all the goods cleared on the previous day have discharged the duty liability and for this purpose the Shed Appraiser may be required to send a daily list of goods cleared, it may be pointed out that the clearance of the goods is allowed by the Port Trust staff and not by the customs. Since clearances are allowed from different Sheds in the docks, a large staff will be required for collecting everyday the details of the consignments cleared from the docks. The matching of the information received from the Shed Staff with the particulars mentioned in the records of the Cash and Accounts Department would be a voluminous and time consuming job and will necessitate the deployment of a large staff in the Cash and Accounts Department, as well. Considering the fact that several thousands Bills of Entry are filed every month in the major Custom Houses, the effort and expenditure that will be needed in the proposed system will not be commensurate with the result that may be achieved.

It is felt that existing instructions laid down in Board's letter (i) F. No. 442/2/77-Cus. IV dated 31-3-77; (ii) F. No. 442/2/77—Cus. IV dated 31-3-1977 and (iii) F. No. 442/5/76—Cus. IV dated 19-8-76 (copies enclosed) are adequate having regard to the requirements of speedy clearance of goods.

[Department of Revenue O.M. No. 442/26/77-Cus. IV dated 20-5-1978].

Annexure

F. No. 442|2|77-Cus. IV

GOVERNMENT OF INDIA

Central Board of Excise & Customs.

31st March, 1977

NEW DELHI

To

- (1) All Collectors of Customs
- (2) All Collectors of Central Excise

Sir,

In a case of fraud, recently brought to the notice of the Board, it was observed that the goods had been cleared without payment of duty by forging on the Bill of Entry the perforation of the duty amount required to be made by pinpoint typewriter, the cash stamp, the B/E No., the allow order and the concerned officer's signatures. These forgeries were made after the B/E had been removed from the License Audit Section, subsequent to its appraisal but before licence audit, perforation of duty amount and payment of duty had been made. With a view to preventing B/E falling into the hands of clearing agent or importer, after completion of appraisal but before perforation of duty amount thereon with the pinpoint typewriter, it is necessary to ensure that these are moved departmentally from the Appraising Department to the Licence Audit Section and therefrom to the comptroller|pinpoint typewriter operator. Collectors should, therefore, make necessary arrangements to ensure against unauthorised removal of B/E in the manner mentioned above.

2. During the course of investigation in this fraud case, it also appeared that the duplicate copy of the B/E after goods had been delivered, was sent by the Port Trust to the Manifest Clearance Department of the Custom House. However, within a few days of its receipt in the Custom House, the same was requisitioned back by the Port Trust and later it found its way into the hands of the concerned clearing agent through alleged collusion of the Port Trust staff.

3. The Bills of Entry received in the Manifest Clearance Deptt. are required to be entered in the Key Register which provides a useful and dependable arrangement to facilitate detection of instances of clearance of goods without payment of duty. The efficacy of this system, however, depends considerably on the expedition and care with which all the B/E received in the Manifest Clearance Deptt. are entered in the Key Register and instances of bogus B/E Nos. are brought to the notice of superior officers for immediate enquiry. Delays in this regard can have serious implication. It is, therefore, desired that necessary arrangements may be made to ensure that the Bs/E, received in the Manifest Clearance Department are entered in the Key Registers on the same day on which they are received or latest by the next day. In

any case, no B|E after its receipt in the Department should be released to any person without its being entered in the Key Register.

4. Receipt of this letter may please be acknowledged.

Yours faithfully

Sd|-

(B. C. Rastogi)

Secretary

Central Board of Excise & Customs, New Delhi.

COPY

F. No. 442|2|77-Cus. IV

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

NEW DELHI, the 31st March, 1977.

To

The Collector of Customs,
Bombay|Madras|Calcutta|Cochin.

Sir,

In a fraud case recently brought to the notice of the Board, it has been observed that the imported goods were delivered by the Port authorities against presentation of a Bill of Entry on which, among other things, the cash stamp of the Custom House, the allow order and the concerned officer's signature had been forged. Since in the ultimate, the delivery of the goods is given by the Port Authorities, any arrangement to guard against a forgery of this kind must have the full cooperation of the Port authorities who are the bailees of the goods. It is understood that the specimen signatures of the officer in the Cash Department who grants the allow order after payment of duty, under the first appraisal system, are already being forwarded to the Port authorities for verifying the genuineness of documents presented to them. In the case of second appraisal, however, the allow orders are given by the shed staff. Perhaps, their specimen signatures in adequate numbers could also be forwarded to the Port authorities. With the help of these signatures, it should be possible for the Port Trust staff to verify the genuineness of the allow order given on the B|E before they deliver the goods. While this may not be entirely a foolproof arrangement, it should considerably reduce the chances of obtaining delivery against forged signatures without payment of duty.

2. It is, therefore, requested that you may kindly take up the matter with the respective Port authorities and send to the Board further suggestions, if any, to implement the above proposal.

3. Receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/-

(B. C. RASTOGI)

Secretary,

Central Board of Excise & Customs.

F. No. 442|5|76-Cus. IV
 GOVERNMENT OF INDIA
 CENTRAL BOARD OF EXCISE AND CUSTOMS
 NEW DELHI, the 19th Aug., 1976.

To

The Collector of Customs,
 Bombay/Calcutta/Madras/Cochin.

SUB:—Fraudulent alterations in the Bills of Entry with a view to defraud the Government of its revenue—Prevention of—Instructions reg.

Sir,

I am directed to refer to your letter noted in the margin and to invite your attention to DI (C&OE)'s letter C.No. 1210|60|64 dated the 28th December, 1965 on the above subject and to say that it has been noticed that while comptists in the Appraising Departments Calcutta the duty assessed on the Bills of Entry, perforate the same on the Bills of Entry in both figures, words, initial the same and then release the Bills of Entry for being handed over to the Importers|Clearing Agents, they do not indicate on the Bills of Entry the duty amount in both words and figures after calculations under their dated initials before the same is perforated on the Bills of Entry.

2. The Board desires that the comptists should not only calculate the duty assessed on the Bills of Entry, but should also indicate the duty amount thereon in both words and figures under their dated initials before the same is perforated on the Bills of Entry. Besides, in all cases of duty collection, the calculations, should be carefully checked in the accounts branch and wherever default is detected deterrent action should be taken against the erring officials.

3. These instructions may please be strictly adhered to.

4. The receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/-

(A. K. SARKAR)

Under Secretary

Central Board of Excise & Customs.

(i) C—003076/76
 dt. 19.7.76 (ii) 045/18/76
 Ap dt. 5/6.7.76 (iii) ci/
 174/76-cus dt. 5.7.76
 (iv) SUE (Misc) 167/
 76A (N) dt. 5.7.76

Recommendation

The Committee have been informed that the duty amount of Rs. 91,044 has been recovered from the importer and a charge-sheet has been filed in a court of law against three accused involved in the case. The Committee desire that the Government should pursue the case vigorously in the court of law and inform the Committee of the outcome in due course of time.

[S. No. 35 para 3.42 of the 15th Report of the P.A.C. (6th L.S.)]

Action Taken

The Collector of Customs, Bombay has reported that the local police have launched prosecution in the court against the Clearing Agents and one more person who was actively involved in the forgery case. Hearings in the case are in progress.

(Department of Revenue O.M. No. 442|5|78-Cus. IV dated 20-5-1978).

Recommendations

The Committee find that according to Notification No. 252 dated 11.10.1958 all the ocean going vessels imported into India or the State of Pondicherry, other than vessels imported to be broken up, are exempted from the whole of the duty of Customs leviable thereon. The Bombay High Court in their judgement of the 25th February, 1975 in case of M/s. Synthetic and Chemicals Limited V/s. S. C. Coutinho and Others has held that in term of section 2(23) and 2(27) of the Customs Act, 1962 the combined effect of "import" and "India" is that import takes place when goods are brought into the territorial waters of India from a place outside India.

The Central Board of Excise and Customs are of the view that no duty is leviable in respect of the two vessels found fitted with imported diesel engines on return from abroad under the Customs Act, 1962. They have also held that the import of diesel engines in the instant cases is also not subject to the Import and Export Control Act, 1947 as the case falls under Section 3(i) (b) which provides that the Act will not apply if anything is brought in a ship and without being unloaded, is taken out of India again.

According to Audit, the sailing vessels which go abroad and bring an imported diesel engine must possess a valid import licence. The non-possession of such a licence amounts to violation of the Import and Export Control Act, 1947. They are also of the view that the exemption notification of 11.10.1958 can cover the import of ocean going vessels but would not cover the present cases in as much as the vessels were sailing vessels; then went out and came back fitted with an imported motor engine.

The Chairman, Central Board of Excise and Customs replying to the point by Audit stated:

"It may be that it was not covered by an exemption notification; but my view is that the Law Ministry can hold a joint meeting and decide."

The Committee feel that in view of the conflicting opinions held by Audit and the Central Board of Excise and Customs, in this regard, the matter should have been more appropriately resolved earlier by mutual consultation. The Committee understand that the Ministry of Law are now seized of the matter. The Committee desire that the Board should pursue the case vigorously and ensure that conclusive decision is arrived at expeditiously.

[S. Nos. 39—43 (Paras 4.52—4.56) of 15th Report of P.A.C. 6th L.S.)]

The Ministry of Law have already communicated their opinion on the issue involved, directly to the Comptroller and Auditor General of India. **The opinion expressed by the Law Ministry supports the stand taken by this Department.**

[Department of Revenue F. No. 561|18|77-LS, II dated 23.5.1979]

The duties of the rummaging officers of the Customs Department at the time of arrival and departure of a vessel are to find out whether there is anything dutiable or not under the Import Trade Control Act and to ensure that the same have been declared, when so necessary. The Committee have been informed that the fitment of marine engines in the case of two vessels was not detected by the rummaging staff. On the basis of intelligence received by the Headquarters Preventive Party, investigations were carried out in the year 1973 and these two vessels were found fitted with foreign diesel engines. The two vessels had arrived and despatched from Calicut Port 7 and 3 times respectively up to December, 1973. It is surprising that the rummaging staff was unable to detect the presence of foreign diesel engines on any of these occasions. This goes to show the rummaging operations are not sound and effective. The Committee recommend that rummaging operations should be tightened and reinforced to ensure that there is foolproof check on all the vessels at the time of their arrival and departure from the various ports. The Committee also desire that suitable detailed and comprehensive instructions in **this regard may be issued to all the concerned authorities for compliance.**

[S. No. 46 Para No. 4.59 of 15th Report of the P.A.C. (6th L.S.)]

Action Taken

Diesel engines fitted on foreign going vessels are not chargeable to duty under the Customs Act, nor does fitment of such engines or for that matter of any other component on foreign going vessels constitute an act of importation into India within the meaning of the Imports and Exports (Control) Act, 1947. Detection by rummaging officers of engines or any other parts or components so fitted on foreign going vessels would therefore, not be within their functions. Customs preventive or rummaging staff would come into the picture only if there is an attempt to dismantle and smuggle the engine etc. fitted to the vessels. There is indication that there was any such attempt.

The Ministry of Transport are being asked to send action taken note as regards role of the Registrar of vessels in ensuring that Registration papers of the vessel and/or the relevant log books provide an indication of the vessel having become a mechanised one.

[Department of Revenue F. No. 561|24|77-LC. II dated 23.5.1979]

CHAPTER IV

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

Recommendation

The Committee find that the amount of provisional rebate granted during the years 1970-71, 1971-72 and 1972-73 exceeded the final payment by Rs. 24,11,321, Rs. 11,67,146 and Rs. 2,38,768 in the case of 16, 13 and 12 tea companies respectively. From the details furnished by Audit, it appears that the percentages of excess provisional rebate over that due finally ranged between 0.12 per cent to 38.44 per cent in the year 1970-71. About the reasons for the excess payments during 1970-71, the Committee have been informed that rebate was calculated on the basis of the weighed average price for the year 1969-70 and the shipments made in the year 1970-71 were settled on sale in the calendar year 1971 when the prices were lower due to a decline in the price of tea in the foreign market."

The Committee find that the range of percentage of excess payment of provisional rebate also ranged from 0.34 to 37.37 per cent during the years 1971-72 and 1972-73 as well. In view of the fact that the Department had already analysed the reasons for the excess payment of provisional rebate in 1970-71 the Committee fail to understand what prompted the Department to repeat such excess payments during the year 1971-72 and 1972-73 as well. The results of the study of the excess payments made during 1970-71 should have made the Department-wise enough not to repeat the methodology adopted in that year for the computation of rebate relating to subsequent years. The Committee feel that if this has been done, the excess payment to the tune of about 11.67 lakhs and Rs. 2.39 lakhs made respectively during the years 1971-72 and 1972-73 could have been avoided."

[S. Nos. 4 & 5 (Paras 1.91 and 1.92) of the 15th Report of P.A.C. Sixth Lok Sabha]

Action Taken

After the rebate scheme was introduced, 1970-71 was the 1st Financial year when the Provisional rebate was granted on the basis of the declaration submitted by the various firms of the prices fetched in London auction in the year 1969-70. The same formed the basis for calculation of provisional rebate in 1971-72 also in pursuance of instructions contained in the Government's letter F. No. 608/13/71-DBK dated 31.7.1971. In so far as the claims relating to 1972-73 are concerned the sale figures for the year 1971-72 obtained from the weekly Bulletins of London auction lists formed the basis.

It has been observed from the tea statistics of London auction that in 1969-70 tea was sold at a considerably high price in comparison to sale in 1970-71 and 1971-72. In so far as the year 1972-73 is concerned, the provisional payment of rebate was based on the London auction sale of the year 1971-72, there has not been over payment on the overall basis. Further, the figures of Rs. 24,11,321, Rs. 11,67,146 and Rs. 2,38,768 stated in the Public Accounts Committee Report to be excess payment made during the year 1970-71, 1971-72 and 1972-73 do not reflect the overall position of all provisional cases. What is required in such cases is to make an overall assessment of the position, and not merely pick out cases where demands were issued. The figure of provisional payment and the finally settled amount for the years 1970-71, 1971-72 and 1972-73 at Calcutta Custom House are as follows:—

Year	Provisional amount	Amount settled finally	Difference between finally settled amount and provisional settled amount
	Rs.	Rs.	Rs.
1970-71	97,61,090	80,18,260	(—) 17,42,830
1971-72	51,98,655	49,96,080	(—) 2,02,575
1972-73	71,30,021	94,45,341	(+) 23,15,320

From the above it will be observed that on an overall basis, excess payment for the year 1970-71 was Rs. 17,42,830 and in 1971-72, it was Rs. 2,02,615 which as already stated was due to shortfall in the London auction prices. It is also pertinent to observe from the above that the total amount of excess payment in 1971-72 is much less than in 1970-71, even though the 1969-70 basis of provisional rebate was adopted. In this connection it may be added that in any system of provisional payment it is inevitable that there may be some cases of excess payment while in certain other cases there could be short payment also. The scheme of rebate on tea is no longer in vogue.

[Department of Revenue F. No. 603/7/78-DBK dated 23.5.1978]

Recommendation

The Committee find that both the Chairman, Central Board of Excise and Customs and Chairman, Tea Board have accepted the existence of possibilities of links between the big buyers of tea at London Auctions and Indian Exporters. The role being played by many multinationals having offices in India and also operating in other countries, directly or through affiliates, also came up for review and it was conceded that the possibility of their rigging the prices to the disadvantage of India could not be ruled out. The Study Team on Leakage of Foreign Exchange through Invoice Manipulations have observed that there is practically no check on the true realisation of prices of tea at the London Auction. The Department of Revenue

and Banking have also expressed their complete ignorance in regard to the highest bid made in the London Auctions. In the context of these circumstances, the Committee cannot help emphasise the need of investigation to ascertain the extent of the foreign Exchange loss this country has suffered on account of participation in the London Auctions. In the context of the present dilution of foreign interests and the need to get the maximum of the foreign exchange due to this country which is a dominant producer and supplier of tea to the world market, the Committee feel that the best solution lies in allowing auctions of tea only in India. The Committee would like the Government to consider the possibility of imposing a ban on auction of Indian tea at London Auctions.

[S. No. 10 (Para 1.97) of 15th Report of PAC (6th L.S.)]

Action Taken

Ministry of Commerce had set up an Expert Committee to consider matters relevant to the tea auctions in India and abroad. The terms of reference of the said Committee, *inter alia*, were "to suggest arrangements which would eliminate the chances of collusive sales in domestic markets as well as under invoicing in exports," and also "to consider the role of the London auctions in the Marketing of Indian tea and to examine as to whether the best solution would lie in allowing auctions of tea only in India." These two items in the terms of reference, are relevant to the concern and views expressed by the Public Accounts Committee, in the paragraph above.

The Report of the Committee is understood to have been received, and is being examined, by the Ministry of Commerce. The Ministry of Commerce will be taking action on the recommendation of the Committee in pursuance of these two items of its terms of reference.

(F. No. 512|28|77-CUS. VI)

Action Taken by the Department of Commerce

This matter will *inter alia* be examined in all its aspects by the Expert Committee on Tea Marketing set up by Government in February, 1978 under the Chairmanship of Shri P. L. Tandon, Director General, National Council of Applied Economic Research. In fact, one of the specific terms of reference of the committee is "to consider the role of London Auctions in the marketing of Indian Tea and to examine as to whether the best solution would lie in allowing auctions of tea only in India". The Committee is expected to give its report in August 1978, after which its recommendations will be examined by Government and decisions taken.

[O.M. No. I-11012(1)|77-Plant (A) dated 27th July, 1978]

Recommendation

The Committee regret to observe that maximum importance is at present assigned to London Auctions of tea. The Committee have been informed that in order to reduce the domination of London Auctions the tea-exporting countries have, in a Conference held in Geneva in September, 1976, agreed to the setting up of an International Tea

Promotion Association for undertaking global promotion of tea. This Association is expected to be formally launched sometime in October, 1977 after ratification of the agreement by member countries. The countries are, however, yet to arrive at a final decision for entering into a formal international agreement. The Committee would like the Government to keep them informed about the progress of this joint effort of the tea producing countries in the International Tea Promotion Association.

[Sl. No. 11 (Para 1.98) of 15th Report of PAC (6th L.S.)]

Action Taken

According to Article 19 of the Agreement, the agreement will come into force six months after the date on which the Governments of at least seven countries representing at least two-thirds of the total volume of exports have deposited their instruments of ratification, acceptance or approval with the depository. In a review that was made during the course of the UNCTAD preparatory meeting on tea (in an informal meeting of the tea exporting countries) held at Geneva from 9th to 13th January, 1978, it was observed that till then only three countries viz., India, Sri Lanka and Mauritius had deposited their instruments of ratification with the depository. **Similar action by at least four more countries is necessary before the Agreement may come into force.** It is reasonably hoped that four other countries will also sign the agreement.

[O.M. No. I-11012(1)|77-Plant dated 27th July, 1978]

2.53. Under Section 48 of the Customs Act, 1962 **Bombay Port Trust** resumes custody of the goods which remain unclaimed or abandoned after a period of more than 2 months and arranges its disposal in consultation with the Bombay Custom House. Basically the ultimate responsibility for the disposal of such goods devolves on the Bombay Port Trust. The Committee note that as many as 1,31,436 packages are lying uncleared at the Bombay Port pertaining to the period from 1971 to 1976. The age-wise pendency of these packages is 1971, 370; 1972, 2051; 1973, 1938; 1974, 8575; 1975, 11,324; and 1976, 1,03,847.

2.54. As regards the delay in the disposal of confiscated or abandoned goods, the Member (Customs), admitted during evidence: "There has been delay. I don't mince matters. We have no plausible reasons for explaining it." In this context, the Chairman, Central Board of Excise and Customs, has also remarked "whether it is the Customs or Port Trust which is responsible, we very much regret that state of affairs should have been there. Things could have been better."

2.55. The Committee must express their unhappiness at the way things were allowed to accumulate in the Bombay Port Trust without any clear-cut directions for their disposal. Even though the number of uncleared items due for sale have been brought down from 3,50,000 in 1973 to about 1,31,436 in December, 1976, the present state of affairs cannot be viewed as satisfactory. The Committee recommend that serious and concerted efforts should be made to quicken the pace

of disposal of these goods. In this context, the Committee suggest that Government may examine the feasibility of introducing a suitable provision in the rules which should make it statutorily obligatory on the concerned authorities to dispose of the goods within a maximum period of six months to one year from the date of their landing at the respective ports.

[S. Nos. 22—24 (Paras 2.53—2.55) of 15th Report of the PAC (16th L.S.)].

Action Taken

As the above three recommendations are complementary, a consolidated Action Taken Note is being sent.

With regard to these paragraphs, action lies with Ministry of Shipping & Transport whose comments were invited.

Comments received from the Ministry of Shipping and Transport are reproduced below:—

“The age-wise pendency of the packages ripe for sale as reported on 31-12-1977 is given below:—

Year	As on 31-12-1977
Upto 1971 ^A	175
1972	2,000
1973	357
1974	3,357
1975	4,345
1976	7,918
1977	92,860

The age-wise pendency of the packages under Confiscation, under investigation and under adjudication as on 31-12-1977 is as follows:—

Year	No. of pkgs. confiscated	No. of pkgs. under investigation	No. of pkgs. under adjudication
Upto 1972	30,047	469	1,495
1973	2,230	2,887	30
1974	5,707	2,658	461
1975	1,162	158	..
1976	2,285	785	..

It has been observed that in many cases the goods could not be disposed of by public auction or even by tenders because the price fetched was very much below the fair price of the goods. If a time limit is prescribed for disposal of the goods, they will have to be sold for the maximum price received at the public auction or in the tenders irrespective of the fair price of the goods."

[Department of Revenue F. No. 512/2/78-Cus. VI dated 23-5-1978].

Recommendation

2.56. The Committee note that the Import General Manifest containing the details in regard to the number of imported packages and their description of the goods contained therein is allowed to remain open until such time the cargo is cleared or disposed of in a public auction by the respective Port Trusts. The Committee find that on their suggestion the Department of Revenue and Banking have now introduced a revised procedure for the closure of manifest after 60 days in four major Customs Houses viz. Bombay, Calcutta, Madras and Cochin and to extend it to other Custom Houses on the basis of the experience gained in its working. The Committee would like to be apprised of the results of the implementation of the new procedure.

[S. No. 25 (Para 2.56) of 15th Report of the P.A.C. (6th L.S.)].

Action Taken

The revised procedure for closure of import manifest drawn up by the Directorate of Inspection (Customs & Central Excise) was introduced with effect from 1st April, 1977 (copy enclosed). The procedure does not contemplate closure of manifest within 60 days. According to the revised procedure, the cargo copy of the duplicate manifest and the original manifest are required to be sent by the concerned department to the Manifest Clearance Department.

The Collectors of Customs, Bombay, Calcutta, Madras and Cochin have stated that the new procedure is likely to expedite the disposal of uncleared cargo, but some delays in the closure of manifests are likely to continue, due to late receipt of outturn reports from the Port Trusts, time taken by the Steamer Agents to reply to the letters of call issued to them and non-availability of Bills of Entry in respect of which Audit and Revenue Audit objection are raised. The Directorate of Inspection (Customs & Central Excise) is being asked to make a proper assessment of the working of the new procedure. On the basis of the studies by the Directorate a decision on the question of extending the new procedure to other Custom Houses will be taken.

[Department of Revenue O.M. No. 442/21/77-Cus. IV dated 20-5-1978].

F. No. 450|35|76-Cus. IV

GOVERNMENT OF INDIA
CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, 15th March, 1977

The Collector of Customs,
Bombay|Calcutta|Madras|Cochin.

SUB:—Revised procedure for closing import manifest—Regarding.
Sir,

I am directed to refer to Board's letter of even number dated the 6th September, 1976 on the above subject and also to the comments thereon received from the respective Custom Houses which have been duly considered by the Board.

2. The Board generally approves of the procedure outlined by the Directorate of Inspection (Customs & Central Excise) and sent to you with the letter of 6th Sept., 1976. It is desired that you may kindly introduce the same in your Custom House on a trial basis for one year. The arrangements envisaged thereunder, however, would need to be manned within your existing sanctioned strength and no request for additional staff as a result of the introduction of the new procedure would meet with Board's approval. It is also requested that a quarterly evaluation report on the working of the new procedure, difficulties that Custom House may have faced, solutions found by you, further improvements envisaged by you and the benefits that the trade|Customs House may have derived therefrom may kindly be sent at regular intervals.

3. With a view to fixing the uniform date for all Custom Houses, it is also suggested that the new procedure may be introduced w.e.f. the 1st April, 1977. Receipt of this letter may please be acknowledged.

Yours faithfully,

Sd|-

(B. C. RASTOGI)

Secretary.

Central Board of Excise & Customs.

Copy to Director of Inspection (Customs and Central Excise), New Delhi with reference to his D.O. No. 1210|25|76, dated the 13th July, 1976. It is requested that he may kindly monitor the progress made in the introduction of the said procedure and also to watch its working. He may also kindly send separately an evaluation report in respect of this procedure for each one of the major Custom Houses.

Yours faithfully,

Sd|-

(B. C. RASTOGI)

Secretary,

Central Board of Excise & Customs.

Revised Working Procedure for Closure of Import Manifests

- I. *New Unit in Cash and Accounts Department to endorse import manifests with particulars of duty payments, etc.* The Import Department will forward the cargo portion of the duplicate copy of the import manifest to a new Unit attached to the Accounts Department for the purpose of endorsing the manifest with particulars of duty payment from original copies of Bills of Entry in respect of consignments covered by the line Nos. in the manifest.
- II. *Forwarding of original Bills of Entry (duty-able, into-bond and free) to the new Unit.*
- (a) All the dutiable original Bills of Entry will, after treasury audit, be passed on to the new Unit by the Cash and Accounts Department.
 - (b) Immediately after the Bond Registers are entered with assessment data relating to classified into-bond Bills of Entry, all original copies thereof will be forwarded by the Bond Department to the new Unit.
 - (c) All 'free' original Bills of Entry will similarly be received in the new Unit direct from the Appraising Department immediately the free Nos. are assigned to the classified Bills of Entry.
- (With a view to facilitating the new Unit in ensuring that all the above categories of Bills of Entry are duly received every day, a daily statement would be prepared by the respective departments viz. Accounts Department in respect of dutiable Bills of Entry, Bond Department in respect of into-bond Bills of Entry and Appraising Department in respect of free Bills of Entry and forwarded to the new Unit by the end of each day).
- III. *Postings of manifests* The new Unit will post against the respective line Nos. in the duplicate manifest particulars of duty payment etc. from the original Bills of Entry.
- IV. *Listing of vacant lines numbers for further follow-up action.*
- (a) After 45 days from the date of entry of the vessel covered by each manifest, the new Unit will prepare a list of vacant line Nos. manifest wise and forward the same to the Import Department for processing under Section 48 of the Customs Act, 1962, wherever found necessary.
 - (b) After checking the list of vacant line Nos. with the original copy of the manifest, the Import Department will—
 - (i) forward a list of such of those line Nos. for which Bills of Entry had been noted, to the Appraising Deptt. for expediting those cases, and

- (ii) forward a list of remaining line Nos. to a Special Disposal Cell (consisting of Appraisers and Prev. Officers) for further action relating to disposal of goods etc.

V. *Listing of unmanifest/uncleared cargo in the docks.* The jurisdictional Shed Appraiser will see that all consignments remaining un-cleared, vessel-wise, are listed according to the prescribed time limits by the Shed Office of the Port Trust. The time limit presently obtaining for retention of imported consignments in transit sheds will be the time limit on expiry of which this list will be prepared by the Shed Staff. The Shed Appraiser should ensure that such a list goes to the Disposal Cell for taking action under Sec. 48 of the Customs Act, 1962 in respect of unmanifest/un-cleared cargo.

VI. *Action by the Special Disposal Cell.* The Preventive Officer attached to the Special Disposal Cell will, with the help of the Shed Superintendent of the Port Trust, locate the consignments relating to each line number included in the lists received by them, assign separate reference numbers and arrange for their separate storage and safe custody. The Cell will furnish to the Manifest Clearance Department, on a monthly basis, a list of all the consignments to be disposed of by them, indicating against each separate reference numbers assigned to them. The Appraiser attached to the Cell will, after such checks and verifications as may be necessary, indicate in respect of each consignment whether or not immediate sale by the Port Trust could be allowed and wherever considered necessary initiate adjudication proceedings by issue of suitable show-cause notices.

As soon as goods are disposed of or their confiscation adjudged, the Special Cell will furnish relevant particulars in respect of each consignment to the Manifest Clearance Department.

VII. *Closure of Manifest.*

(i) On completion of 60 days from the date of final entry of the vessel covered by each manifest, the cargo copy of the duplicate manifest will be forwarded by the new Unit to the main Manifest Clearance Department for further action for closure of the manifest.

(ii) The cargo portion of the duplicate copy of the manifest will on receipt in the Manifest Clearance Department, be matched with the copy of the original manifest separately received from the Import Department. After comparison of the two copies of the manifests a list of all the outstanding line numbers will be prepared. Liquidation of the line

numbers so listed, by way of duty payment, disposal or confiscation or with reference to the monthly reports from the Special Disposal Cell will be watched for a period of one month. During this period such action as may be necessary with reference to Port Trust out-turn statement including that relating to the unmanifested cargo, and any discrepancies thrown up in the comparison of Original Bill of Entry with duplicate Bill of Entry will also be taken. At the end of this period, line numbers still remaining outstanding will be transferred to the 'pending register' for further follow up action till each one of them is finally accounted for. On transfer of the outstanding line numbers to the 'pending register', the manifest will be treated as closed and the same then audited.

VIII. *Storage of closed manifest and storage of Bills of Entry.*

Closed manifest together with the original and duplicate copies of the Bills of Entry, will, after matching and comparing be put into pouches and properly stacked.

Recommendation

The Committee find that under Regulation 12 of the Custom House Agents Regulation, 1965 a security of Rs. 3,000 in cash or an interest bearing security of the like amount together with a solvent security for a sum of Rs. 2,000 are obtained from the applicants before they are granted a licence to act as Customs House Agents. The Regulation also provides that the amount of security may be increased or decreased by the Collector of Customs, having regard to the volume and type of business transacted by the Agent. *Prima facie* the security and surety appear to be too meagre and insufficient in view of the large amounts of duties required to be paid by them.

[S. No. 36 (Para 3.43) of 15th Report of P.A.C. (6th L.S.)].

Action Taken

The security and surety amount prescribed under Regulation 12 of the Custom House Agents Licensing Regulations, 1965, appears to be adequate. The function of the Clearing Agent is to provide service to importers/exporters so that the work of clearing of the goods through Customs is done with minimum possible delays. The amount is to be paid by the importers/exporters through the clearing agent and the goods are not delivered without payment of duty. Moreover, there are provisions under the Customs Act, 1962 to recover less charge amount, if any, from the importer/exporter.

[Department of Revenue F. No. 512/27/77-Cus. VI) dated 21-7-1978].

CHAPTER V

RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES OR REPLIES HAVE NOT BEEN FURNISHED

Recommendation

“The Committee find that the entire argument of the Department justifying the rebate on export of tea is that it acted as an incentive to enlarge our exports. The Department of Revenue & Banking has, however, not furnished any information to show the extent to which enlarged exports took place because of the incentive scheme. Compared to the percentage of exports in 1970-71 which was 48% of production of 1970, the percentage in subsequent years (except 1971-72) have been lower than this level and were only 43% in 1975-76 (over the production of 1975). This leads the Committee to conclude that the rebate scheme has not helped in the enhancement of exports. From the information supplied by the Department there is in no other tea producing country where rebate is allowed on exports of tea. On the contrary cesses are levied in addition to export duties. If in spite of such cesses and export duties, other countries have been able to fetch better prices for their goods, it only shows that our Government has not benefited in earning a higher foreign exchange by giving the incentive in the form of rebate. It is pertinent to note that the loss to the Exchequer on account of the rebate alone has been admittedly to the tune of Rs. 50.25 crores during the period from 1969-70 to 1975-76.

It is stranger still that rebate is allowed even on consignment account when the final price fetched at the foreign auction would admittedly remain unknown and unverified. The Audit paragraph has pinpointed this anomaly also and the only way to remedy the situation was to have considered the withdrawal of the rebate system. The Committee are glad to note that after the deliberations of the Committee, the Government have not only withdrawn the rebate on exports of tea but have imposed export duty on this commodity at the rate of Rs. 5/- per kilogram w.e.f. 9th April, 1977. The Committee would like to be informed in due course of the impact of this additional import and withdrawal of rebate on the export of tea from India.”

[S. No. 3 para 1.90 of the 15th Report of P.A.C.—(Sixth Lok Sabha)].

Action taken by the Government

Efforts have been made in the note enclosed herewith (with which the Ministry of Commerce agree) to analyse the points arising out of the Committee's recommendations above.

2. The Ministry of Commerce, Civil Supplies and Cooperation who are primarily concerned with exports have been requested to submit an 'Action taken note' in regard to the impact of the imposition of export and withdrawal of rebate on tea.

[Department of Revenue F. No. 603/3/78-DBK dated 24-6-1978].

ANNEXURE.

COPY

Immediate.

S. MAHADEVA IYER
DEPUTY DIRECTOR

D.O. NO. I-11012(1)/77-Plant(A)

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE, CIVIL SUPPLIES & COOPERATION
(DEPTT. OF COMMERCE)

NEW DELHI, the 1st June, 1978.

Dear Shri Rangachari,

Please refer to your D.O. letter No. 603/3/78-DBK dated the 8th May, 1978 regarding para 1.90 of the 15th Report of the PAC on "Customs Receipts."

I enclose herewith material furnished by the Tea Board in reply to the recommendation contained in para 1.90 of the Report which, it is hoped, will meet the requirements of the Department of Revenue. This Ministry agrees with the views expressed therein. A copy of the action taken note, when finalised as regards this para may please be endorsed to this Ministry.

With regards,

Yours sincerely,

Sd/- (S. MAHADEVA IYER).

Shri C. D. Rangachari,
Deputy Secretary,
Department of Revenue,
Ministry of Finance,
New Delhi.

**TEA BOARD'S COMMENTS ON PARA 1.90 OF
PAC'S 15TH REPORT ON "CUSTOMS RECEIPTS"**

PARA 1.90

A statement showing the quantity of tea exported from India from 1967-68 onwards is given below:—

Year	Qty. (M. Kgs.)	Value (Rs./crores)
1967-68	203·33	180·20
1968-69	200·82	156·51
1969-70	<u>174·11</u>	<u>124·50</u>
1970-71	199·14	148·25
1971-72	214·32	160·93
1972-73	193·23	147·29
1973-74	190·27	144·85
1974-75	225·06	223·54
1975-76	211·41	238·29
*1976-77	242·42	295·26

*Provisional.

It would be seen from this statement that tea exports which were tending to decline up to 69-70 have improved and went up to 242.42 m. kgs. in 1976-77. It is however, not possible to quantify the extent to which the exports of tea from India were either maintained or improved on account of the system of rebate on excise duty paid at the point of export which was in force up to 9th April, 1977.

Upto 1st March, 1970 India had a system of export duty. From this export duty, however a reduction was always allowed representing the incidence of domestic excise paid by the tea gardens. It may be added that Sri Lanka also had a scheme of export duty with rebate at the point of export, varying with price.

As has been acknowledged by the Committee, other countries specially in East Africa, have no domestic excise duties. There was therefore no question of their granting any rebate in respect of such duties at the point of export.

Taking into consideration the then prevailing tea situation domestic and international a number of measures were considered necessary in order to safeguard the position of Indian tea in the world export markets. These included a steep rise in the domestic excise duty and the abolition of export duty from 1st March, 1970. Grant of rebate at the point of export in respect of domestic excise duty paid

is the normal practice and is almost a basic principle of commodity taxation. As far as we have been able to ascertain, excise duty is refunded in respect of all exciseable goods in case they are exported. The same principle was followed in the case of tea with slight modifications. It would be of interest to know that immediately before March, 1970, the element of excise duty rebate in the export duty then in force was 55 p. As a result of the steep rise in the excise duties the rebate at the point of export was raised to a maximum of 75 p. per kg. depending on the price realised. Teas which realised very low prices, viz. below Rs. 5.25 per kg. were not allowed any rebates. (It may be noted that average price in London auctions in 1971 was only 43 p.) This built-in mechanism was kept to ensure the export of better quality teas, fetching higher prices.

In the matter of grant of rebate on excise duty paid, it is not possible to practise discrimination in relation to teas which are sent for sale at London auctions. Any such discrimination would mean that India would be offering teas cheaper in the world markets if purchased outright in India, but would offer them at dearer rates if purchased in London auctions. As UK is the largest importer of teas including Indian teas, any discriminatory practice of this type would not have served the interest of the country, and would have meant deliberately pricing ourselves out of the UK market for a sizeable portion of our exports sold at the London auctions. Such action in relation to London auctions would have been harmful to India's interest. It has also to be discussed with other tea producing countries who also sell teas at London auctions. Any decision by India to pass on the incidence of domestic excise on export teas sent to London auctions would have indirectly served the interest of the other tea producing countries who would have been able to take away India's share in the London auctions. A very exceptional situation arose in 1977 when prices in London auctions reached the unheard-of levels of almost £3 sterling per kg. At that time Government adopted a number of measures including an export duty on tea. It was in this context that the export duty then imposed did not contain any provision for grant of rebate in respect of domestic excise rebate. Government is keeping the situation under review to ensure that the position of Indian tea does not become uncompetitive in the world markets and suitable remedial measures would have to be considered at the appropriate time if the situation in world markets changes including abolition of export duty and/or revival of the rebate system.

It may be respectfully pointed out that the position of India in the world markets should not be judged on the basis of notional figure in the shape of "share" in the world markets. It is obvious that India's percentage share in world markets not only depends on the quantity of tea exported from India but also on the quantity of tea exported by other tea producing countries over which India has no control. For

example, if India's share was 50% in a total world export of say 100 m. kgs. and in the following year the total world exports become 150 m. kgs. while India's exports rise from 50 to 60 there would be a "decline" in India's share in the world markets, despite the fact that India's exports had registered an increase. In view of this, it is requested that assessment of India's position in the world markets should be made in terms of the quantities exported which have risen from 174.11 m. kgs. in 1969-70 to 242.42 m. kgs. in 1976-77.

Recommendation

The Committee have been further informed that in order to counteract the present dominating influence of London auctions, the system of sales of tea through auctions in India is being increased. For this purpose, a new centre has been started at Siliguri besides the other centres which are functioning at Calcutta, Gauhati and Cochin etc. These centres are located near the producing areas and make it easy for the growers of the tea gardens to bring tea to the auction to fetch fair selling price in open auction arrangement. The Committee desire that the functioning of these centres should be kept under constant review to improve their efficiency to the optimum level. They would also like the Ministry to explore the possibility of opening more such centres so that the number of cases of ex-garden export of tea for sale at London auctions is reduced to the minimum.

[Sl. No. 12, Para 1.99 of 15th Report of PAC (6th L.S.)]

Action Taken

The recommendation has been noted. This matter also falls within the purview of the Expert Committee appointed by Government of India whose report is awaited.

[Department of Commerce O.M. No. I-11012(1)/77-Plant (A) dated 27th July, 1978].

Recommendation

The Committee would like to point out that during the course of evidence the official witnesses had agreed to a comprehensive review of the existing procedure being undertaken in consultation with statutory Audit, so as to effect necessary improvements and plug loopholes. The Committee desire that the Board of Excise and Customs and senior representatives of Statutory Audit should conjointly review the position with particular reference to the revised procedure for closing of import manifesto which has been introduced with effect from 1st April, 1977 on trial basis for one year in 4 Custom Houses to see how far the institutional arrangements now made subserve the objective of plugging the loopholes and that there is no scope for indulging in forgeries or other

malpractices to cheat the Government of Customs revenue. The Committee would like to be informed of the result of the review and the improvements effected.

[S. No. 34, Para 3.41 of 15th Report of the P.A.C. (6th L.S.).

Action Taken

The C.&A.G. has been requested to nominate his officers for the purpose. The Committee will be informed of the result of the review when completed.

[Department of Revenue O.M. No. 442/29/77-Cus. IV dated 23-5-78].

Recommendation

The Customs Officer can detect the conversion of a sailing vessel into a mechanised one if he boards the vessel or sees the registration of the vessel which shows the change. It is distressing to note that no record is available to show that the registration books of the two vessels in question were seen every time the vessels called on the port.

The Committee desire that such record should be maintained.

[S. No. 47, Para No. 4.60 of 15th Report of PAC (6th L.S.).

Action Taken

Diesel engines fitted on foreign going vessels are not chargeable to duty under the Customs Act, nor does fitment of such engines or for that matter of any other component on foreign going vessels constitute an act of importation into India within the meaning of the Imports and Exports (Control) Act, 1947. Detection by rummaging officers of engines or any other parts or components so fitted on foreign going vessels would therefore, not be within their functions. Customs preventive or rummaging staff would come into the picture only if there is an attempt to dismantle and smuggle the engine etc. fitted to the vessels. There is no indication that there was any such attempt.

The Ministry of Transport are being asked to send action taken note as regards role of the Registrar of vessels in ensuring that Registration papers of the vessel and/or the relevant log books provide an indication of the vessel having become a mechanised one.

[Department of Revenue F. N. 561/24/77-LC II dated 23-5-1978].

APPENDIX

Main Conclusions/Recommendations

Sl. No.	Para No.	Ministry/Department concerned	Recommendations
1	2	3	4
1	15	Department of Revenue	<p>The Committee regret that replies of the Government to four recommendations viz. S. Nos. 8, 26, 48 and 50 contained in Appendix XVIII of the Report have not been furnished to the Committee even after nine months of the due date <i>i.e.</i> 23rd May, 1978. This is a deplorable state of affairs, particularly when the Committee have been emphasising time and again for furnishing of replies to Committee's recommendations in time. The Committee desire that replies to these recommendations or observations as also final replies to those in respect of which only interim replies have so far been furnished should be submitted to them duly vetted by Audit without further delay.</p>
2	1.9	Do.	<p>The Committee do not agree with the contention of Government that it is not possible to quantify the extent to which the exports of tea from India were either maintained or improved on account of the system of rebate on excise duty paid at the point of export. Since the justification for rebate can be verified only by the extent to which it serves as an incentive in improving the export effort, the Committee regret that in spite of the existence of a full-fledged Directorate of</p>

Commercial Intelligence and Statistics, Government has not been in a position to have the cost benefit exercise done in this case. The system of analysing figures showing the enlarged exports exclusively due to any incentive scheme is not only essential to judge the effectiveness of the scheme but also gain experience for future. The Committee would, therefore, like to emphasise that some in-built mechanism should be evolved to have the cost benefit exercise done whenever incentive export measures are introduced. In this connection, the Committee would also like to draw the attention of the Ministry of Finance to their earlier recommendation made in their Hundred and First Report (Sixth Lok Sabha) (S. No. 3 para 1.13) in which the Committee had emphasised on introduction of an evaluation systems in such matters.

Do.

1. 12

3

The Committee do not agree that overall assessment should be the main criterion in determining whether amounts of provisional rebate were calculated properly. The exporters were allowed provisional rebate up to 90 per cent of the average rate (as stated by the Chairman, Central Board of Excise and Customs, *vide* para 1.24 of the 15th Report of the Committee), and the element of 10 per cent was evidently meant to cover cases in which Indian tea fetched less prices than expected in the London sales. The Committee is therefore of the view that if the provisional rebate had been worked out correctly in the cases pointed out in para 1.91 of their 15th Report, the amount of provisional rebate would have been less than the amount settled finally, and cases of excess payment would not have occurred.

Do.

1. 17

4

The Committee had desired Government to investigate why the two concerns, namely, M/s. Duncan Bros. & Co. Ltd. and Williamson Magor and Co. Ltd. had been granted provisional rebate in excess

(4)

of tea. The Committee have been informed that the provisional rebate was granted on the basis of the average price realised by an individual Estate during the previous year and "since the auction prices cannot be pre-determined, the possibility of excess or under-payment inherent in the system cannot be ruled out." From the information now made available by the Government, the Committee find that at times there had also been instances of under-payment of provisional rebate to these two firms. The Committee do not, therefore, wish to pursue their original recommendation.

The Committee cannot over emphasise the need for guarding against any rigging of prices due to link between the foreign tea companies and the London auctioneers. The possibilities of such rigging of prices to the disadvantage of Indian tea producers have been conceded to by the Board of Customs and Excise. The Committee note that the Expert Committee on Tea Marketing set up by the Government in February 1978 has submitted its Report to the Government and the same is under active consideration. The Committee would like to know early the specific recommendations made by the Expert Committee regarding the role of London Auctions in the marketing of Indian Tea and the conclusive action taken by the Government in pursuance thereof and in the light of their earlier recommendations. They would also like to know the findings of investigations conducted to ascertain the loss of foreign exchange suffered by this country on account of participation in the London Auctions.

The Committee note that International Tea Promotion Association has not yet been formally set up as only three countries, namely,

(3)

(2)

(1)

5 1.22 Department of Commerce/
Department of Revenue

Do.

6 1.25

India, Sri Lanka and Mauritius had deposited their instruments of ratification with the depository till January, 1978, whereas according to article 19 of the Agreement, the agreement will come into force six months after the date on which the Governments of at least seven countries representing at least two-thirds of the total volume of exports have deposited their instruments of ratification with the depository. The Committee desire that India being one of the leading tea exporting countries should pursue the matter with other tea exporting countries so that the idea of International Tea Promotion Association becomes a reality at an early date. The matter assumes greater importance in the present day context of low value realisation of tea in the inter-national market.

7 1-28 Department of Revenue

The Committee are not impressed by Government reasoning that 'if a time-limit is prescribed for disposal of the goods, they will have to be sold for the maximum price received at the public auction or in the tenders irrespective of the fair price of the goods'. In the opinion of the Committee, confiscated goods kept in the ware-houses for years either outlive their utility or become obsolete and do not fetch the expected price besides entailing additional costs on their warehousing etc. The Committee would, therefore, reiterate that some time-limit should be fixed for the disposal of confiscated goods, which need not necessarily be uniform in the case of all the goods. The position should also be reviewed as necessary in the light of the experience gained.

8 1-31

Do.

The Committee appreciate that the new procedure for closure of import manifest introduced with effect from 1st April, 1977 at Bombay, Calcutta, Madras and Cochin Custom Houses is expected to expedite disposal of uncleared cargo. However, the Committee feel

(4)

that some time-limit should be prescribed for the closure of manifest to reduce further delays. The Committee trust that Directorate of Inspection (Customs & Central Excise) would have completed an appraisal of the working of the new procedure by now. They would like to know the findings of the study undertaken by the Directorate and the decision taken in the light of these studies to extend the new procedure to other Custom Houses as well.

The Committee find it difficult to appreciate the views of the Department of Revenue that "the security and surety amount prescribed under Regulation 12 of the Custom House Agents Licensing Regulations, 1965 appear to be adequate." The Regulations already provide that the amount of security may be increased or decreased by the Collector of Customs having regard to the volume and type of business transacted by the Agent. The Committee, therefore, reiterate that the amount of security and surety furnished by an Agent may be critically reviewed with a view to effect necessary change therein and to serve as a deterrent against malpractices by Clearing Agents.

(3)

Department of Revenue

(2)

(1)

1.34

9