

83

**CUSTOMS RECEIPTS—LOSS OF
REVENUE DUE TO
NON-AVAILABILITY OF A
PROVISION IN THE ACT**

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

**PUBLIC ACCOUNTS
COMMITTEE
1994-95**

TENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

EIGHTY-THIRD REPORT
PUBLIC ACCOUNTS COMMITTEE
(1994-95)

(TENTH LOK SABHA)

**Customs Receipts—Loss of revenue due to
non-availability of a provision in the Act**

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)



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CORRIGENDA TO 83RD REPORT OF THE PUBLIC ACCOUNTS
COMMITTEE (10TH LOK SABHA)

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PART II*

Minutes of the sittings of Public Accounts Committee
held on 12.7.1994 and 20.2.1995.

* Not printed (one cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library).

**PUBLIC ACCOUNTS COMMITTEE
(1994-95)**

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Eighty-Third Report on Paragraph 2.49 of the Report of the Comptroller and Auditor General of India for the year ended 31 March, 1992, No. 4 of 1993, Union Government (Revenue Receipts—Indirect Taxes) relating to Customs Receipts—Loss of revenue due to non-availability of a provision in the Act.

2. The Report of the Comptroller and Auditor General of India for the year ended 31 March, 1992, No. 4 of 1993, Union Government (Revenue Receipts—Indirect Taxes) was laid on the Table of the House on 27 April, 1993.

3. The imported goods after unloading are allowed to be placed in the custody of Port Trust/International Airport Authority or the Custodian in Land Customs Station, as the case may be, before their clearance either for home consumption or for warehousing. The account of such goods and their clearance are required to be monitored both by the custodian of the goods and the Customs Department. There are, however, no provisions in the Customs Act, 1962 for action against the custodians for recovery of Customs duty on goods pilfered while in their custody. Similarly, the laws governing the functioning of custodians of the landed goods are also silent about their liability on the imported goods pilfered or lost while in their custody. The Committee had as far back as in 1967 pointed out in Para 2.83 of their Second Report (Fourth Lok Sabha) that it was a most anomalous position that the goods lost after having landed at a port are not leviable to duty. Expressing their concern over the rise in the value of missing stores, the Committee had recommended that the Port Trust be held responsible atleast partly for the loss of Customs duty on packages pilfered from their custody. In this Report, the Committee have deeply regretted that even after the lapse of more than 27 years since the recommendation was originally made by them, no concrete action has been taken so far to plug them legal loopholes. Consequently, as the Audit Paragraph and the Committee's examination revealed, the imported goods continued to be pilfered and removed surreptitiously from the custodians at the cost of the public exchequer. The Committee have recommended that concrete action should be taken to make suitable amendments in the Customs Act, 1962 making the custodians liable for the loss of goods kept in their custody with a view to checking unauthorised removal of such goods and its adverse impact on the economy and the exchequer.

4. The Committee examined audit paragraph 2.49 at their sitting held on 12.7.1994. The Committee considered and finalised the report at their sitting held on 20.2.1995. Minutes of the sittings form Part-II* of the Report.

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

6. The Committee would like to express their thanks to the Officers of the Ministry of Finance (Department of Revenue) and Ministry of Surface Transport for the co-operation extended by them in giving information to the Committee.

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

NEW DELHI;
24 February, 1995
5 Phalgun, 1916 (Saka)

BHAGWAN SHANKAR RAWAT,
Chairman,
Public Accounts Committee.

REPORT

CUSTOMS RECEIPTS—LOSS OF REVENUE DUE TO NON-AVAILABILITY OF A PROVISION IN THE ACT

Introductory

According to the procedure prescribed, the master of conveyance carrying imported goods into the country is required to file an import manifest giving details of the goods carried by the vessel aircraft etc. All such goods are required to be unloaded only at approved places of unloading. After unloading, those goods are allowed to be placed in the custody of Port Trust/International Airports Authority of India (IAAI) or Custodian in Land Customs station etc. as the case may be before their clearance either for home consumption or for warehousing. The accountal of the imported goods so carried by the vessel/aircraft and its clearance is required to be monitored both by the Custodian of the goods and the Customs Department through the manifest. The imported goods so placed in the custody and control of Port Trust/IAAI etc. cannot be removed or otherwise dealt with without the permission of Customs authorities. The percentage shares of goods imported by sea/air/other customs stations and placed under Custodians during 1993-94 were, 71, 25 and 4 respectively.

2. According to Section 13 of the Customs Act, 1962, if any goods are pilfered after unloading thereof and before the proper officer has made an order for clearance, the importers shall not be liable to pay the duty leviable on such goods.

3. Under Section 116 of the Customs Act, 1962, if the quantity of the goods unloaded from the conveyance is short of the quantity to be unloaded at the destination and the shortage is not satisfactorily accounted for, the person in charge of the conveyance shall be liable to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods as the case may be.

4. There are, however, no provisions in the Customs Act, 1962 for action against the custodians for recovery of customs duty on goods pilfered while in their custody.

5. The Port Trust which is the custodian of the goods imported by sea and lying uncleared, functions under the Major Port Trusts Act, 1963. The Committee have been informed that the Port Trust is the bailee for the goods taken charge of under Sections 151, 152 and 161 of the Indian Contract Act, 1872 and as per regulation framed in this behalf, the Port Trust is responsible only to the shipper and consignee for a period of seven days under the provisions of the Major Port Trusts Act, 1963.

6. Similarly, in terms of the provisions of International Airport Authority of India (Storage and Passage of Goods) Regulation, 1993, issued in exercise of the powers under Section 37 of the International Airport Authority Act, 1971 (43 of 1971), the IAAI is required to safeguard the cargo. As per clause 8 of the said Regulation, the Authority shall take such care of cargo or goods which come in its custody as a man of ordinary prudence would, under similar circumstances, have taken in relation to his own goods and in the absence of any contract to the contrary, the Authority will not be responsible for loss or destruction of cargo or goods if care has been taken as aforesaid.

7. Thus, the laws governing the functioning or the custodians of the landed goods are also silent about their liability to pay duty on the imported goods pilfered or lost while in their custody.

Earlier Recommendation of PAC

8. The issue relating to loss of imported goods from the custodians had engaged the attention of Public Accounts Committee earlier also. The Committee had in Para 2.83 of their Second Report (1967-68-Fourth Lok Sabha) observed as follows:—

“The Committee feel that it is a most anomalous position that the goods lost after landing at a port are not liable to duty. The Customs Law does not provide for the recovery of duty from the Port Trusts from whose custody the goods are lost. The responsibility of the Port Trusts extends to that of a bailee for a period of seven days after the goods are landed at the port. As a bailee the Port Trusts were expected to take reasonable care and caution over the safe custody of property. The Port Trust charge demurrage on the goods, delivery of which is not taken within seven days. The amount of demurrage charged was Rs. 3 to Rs. 4 crores in 1964-65 and nearly Rs. 5 crores in 1965-66 in Bombay Port alone. In these circumstances, the Committee are of the view that the Port Trust cannot be completely absolved of the responsibility for the loss of goods held by them and it is reasonable that the Port Trust is held responsible at least partly for the loss of custom duty on packages pilfered from their (Port Trusts) custody. The Committee feel that this aspect needs further looking into especially in view of the fact that the value of missing stores has gone up in recent years. Moreover, when the loss of goods after landing is assumed to be due to their being directed surreptitiously, the Committee think that the entire position needs to be reviewed. Unless something drastic is done, the Committee are afraid imported goods will continue to be pilfered and surreptitiously removed and the public exchequer would be put to loss.”

9. In their action taken note dated 23.8.1968, the Ministry of Finance (Department of Revenue) stated:—

“The problem of pilferage of goods from the docks has been engaging the attention of the Customs Department and the Port Trust Authorities for some time past. The Customs Study Team which has looked into the matter from all aspects, in their Report have held that—

‘The public revenues should not suffer for unsatisfactory security arrangements in the port. We further think that agency which has custody of goods and which alone is responsible for their security should itself have a stake in the matter and not be immune from the consequences of a failure to ensure their safety. We, therefore, recommend that the Port administration should accept liability for payment of duty on goods landed in its custody and pilfered or lost therefrom.’

10. The Committee were further informed that an Empowered Committee set up by the Ministry of Finance to take decisions on the recommendations of the Customs Study Team considered the above mentioned points and took the following decision thereon:—

“The Transport Ministry and the Department of Revenue should in consultation with the Ministry of Law, examine the existing procedures with a view to rationalising the ‘prescribed period’ for which Ports should accept responsibility for custody, and also take a decision as to the Port’s accepting liability to duty during that period. In respect of pilferages taking place beyond this prescribed period, the liability to duty cannot be put on the Port organisation and if the Customs feel that somebody should be liable, amendment of the present law making the importer liable, might be considered.”

11. The Committee were also informed that the matter was subsequently referred to the Major Ports Commission set up by Government to look into all aspects of the working of the major ports.

Audit Paragraph

12. This Report is based on Paragraph 2.49 of the Report of C&AG for the year ended 31 March, 1992, No. 4 of 1993, Union Government (Revenue Receipts—Indirect Taxes) which highlights two cases alone at a Major Port where revenue loss of Rs. 2.78 lakhs had occurred due to shortage/pilferage of goods under custody. The audit paragraph is reproduced at Appendix-I.

13. According to the information made available to the Committee, in the first case M/s. Nippon Enterprises, New Delhi filed a Bill of Entry with the Madras Customs, on 22.11.1988, for the clearance of a consignment of Konica Colour Films. Duty was assessed on 24.11.1988 but the goods were not cleared. At the request of the importer, the goods were examined on 25.9.1989 and a shortage of 4890 rolls of film was found. Importer was granted a duty remission of Rs. 1.70 lakhs. A Show-cause notice was issued to the Steamer Agent which was finally dropped by the

adjudicating authority based on the destuffing tally taken by independent surveyors and the report of the overseas Shipping Agency showing that the goods have landed with seal intact. The adjudicating authority also relied upon certain decisions of the Bombay High Court. According to the Ministry, as the shortage was not due to short landing, no action was taken against the steamer agents.

14. During evidence, the Committee enquired as to why the consignment of "Konica colour Films" was allowed to remain uncleared for a period of ten months even after assessment of the duty. The Secretary (Revenue) stated that he would go into the depth of it and furnish a report to the Committee. In their post-evidence note, the Ministry of Finance (Department of Revenue) stated that the goods were landed at Madras Port and the importer was Delhi-based. The duty assessment was completed within three days of the filing of the bill of entry. However, the importer had not come forward to pay the duty and clear the goods, the Ministry stated. Since there was no response from the importer even after adequate opportunities, the case was processed for auction of the goods. The Madras Port Trust issued a notice to the importers in May, 1989, before putting up the goods for sale by auction. According to the Ministry, it was after those efforts only that the importer came forward and when a survey was conducted, on the importer's request, the shortage came to light.

15. The Committee pointed out that Section 48 of the Customs Act, 1962 empowered proper authorities to dispose of the goods imported but not cleared by the importers within 45 days (now 30 days only w.e.f. 23.12.1991) after unloading. In the light of the fact that the goods in the instant case were not cleared for 275 days by the importer, they asked as to why no action was initiated under the said provisions to dispose of the goods after the stipulated period. In their note, the Ministry of Finance (Department of Revenue) replied as under:—

"Action under Section 48 is generally taken in cases where bill of entry has not been filed. In cases, where a bill of entry is filed, the party is persuaded to clear the cargo on payment of duty. This is because if the goods are sold in auction, in most of the cases the Department is not in a position to realise the full amount."

16. The Ministry of Finance (Department of Revenue) also informed the Committee that at present Madras Customs House follows the procedure laid down in Standing Order 25/90 for disposal of uncleared Cargo. A perusal of the aforesaid Standing Order, However, revealed that no time limit has been prescribed presently for initiating and completing action under Section 48 of the Customs Act, 1962.

17. Explaining the facts relating the second case highlighted in the audit Paragraph, the Ministry of Finance (Department of Revenue) in a note stated that Hindustan Motors Ltd., Madras filed a Bill of Entry for the clearance of one consignment of CKD/SKD components for loader. The

goods were overcarried to Calcutta during May, 1980 and were sent back to Madras under bond by rail during September, 1980. The goods were received by the Customs Bond Officer and deposited in the Port Trust Warehouse. On a survey conducted during December, 1980 the package was found empty and the importer abandoned the Cargo without any claim against the steamer agent. In the circumstances of the case, the adjudicating officer found that the Steamer Agent was not responsible for the loss and hence no action was taken against the Agent.

18. According to the Audit Paragraph, action had to be initiated against the steamer agent under Section 116 of the Customs Act, 1962, for the short landed goods and the non-realisation of duty in this case was to the tune of Rs. 1,07,920. On being asked why had customs not sought to recover duty from importer or the agent of the shipper in the instant case as pointed out by Audit, the Ministry of Finance (Department of Revenue) stated that "it appears that the theft took place when the goods were in the custody of Port Trust. The importer in this case is not liable to pay duty on pilfered goods."

19. The Committee asked whether the Customs authorities in the cases reported in the Audit Paragraph, inquired if the goods had illegally been delivered to the importer or his agent after the same were reported to have been lost/pilferaged. The Ministry of Finance (Department of Revenue) stated in a note as under:—

"There is not mechanism to exercise check on such illegal delivery of goods. However, Port Trust files the FIR and in the event of recovery of the goods by Police the goods are to be restored to the custody of Port Trust. For disposing these goods through auction or through original importer, the port trust would obtain customs' concurrences. No such information has been filed by the Port Trust; it is therefore, presumed that the goods have not been recovered/delivered to the importer."

20. Enquired about the investigations done actually to locate the missing goods in the two cases highlighted in the Audit Paragraph, the Ministry of Finance (Department of Revenue) in their note, *inter-alia*, stated:—

"Cases of pilferage are criminal offences which are investigated by the Police on complaints filed by the owner/custodian of the goods. Details on the action initiated to trace the goods and the guilty are also not readily available, since these cases pertain to 1987-88 and the Ministry of Surface Transport have reported that the records of the Port Trust have been destroyed, as is the case with all records which are more than 5 years old."

21. Asked whether the Customs Department enquired from Insurance Company or anyone else having paid compensation for lost goods to the importers in the two cases highlighted in Audit Paragraph, the Ministry of Finance in a note replied in negative.

Clearance of imported goods placed with custodian

22. As per the provisions of Section 48 of the Customs Act, 1962, if the goods imported into India are not cleared for home consumption or warehoused or transhipped within 45 days (now 30 days w.e.f. 23.12.1991) from the date of unloading thereof, or within such period as the proper officer (*i.e.* Assistant Collector of Customs) may allow or if the title of any imported goods is relinquished, such goods may, after notice to the importer, be sold by the person having the custody thereof.

23. The Committee desired to know the value of goods lying with Port Trust/IAAI/Custodian in land customs station as on 31.3.1993 uncleared after the prescribed period of 45/30 days and percentage of value in respect of which importers could not be contacted by Customs. The Ministry of Finance, in response, furnished the following information:—

S.No.	Customs House/ Collectorate	Value of Goods lying with the custodian uncleared beyond the permitted period (As on 31.3.93)	%age of value in respect of which importers could not be contacted
1.	Bombay	2,67,479 packages (over 2 months) 1,42,623 packages (under 2 month)	NA
2.	Calcutta	NA	NA
3.	Madras	Rs. 4.40 crores	80%
4.	Nava Sheva Port	580 TEUs	NA
5.	Cochin	NA	NA
6.	Visakhapatnam	Rs. 3.87 crores	NIL
7.	Goa	Rs. 62.06 lakhs	NIL
8.	Chandigarh	NIL	NIL

The data in respect of other formations were not furnished.

24. When asked as to why the requisite data was not fully available, the Ministry in a subsequent note stated that the above data was almost complete except in respect of value of goods lying with the custodians uncleared. Explaining the reasons for the same, the Ministry in their post-evidence note stated:—

“Since the only way value could be quantified is through the Bill of Entry filed or value obtained from sale bids, there are difficulties in quantifying values where there are no Bill of Entry or sale bids. Therefore where importers choose to clear the goods value thereof is not readily available till such time these are taken up for auction (when the process of fixing reserve price etc. starts).”

25. Enquired whether any system existed in the Board to collect the requisite data in this regard periodically to assess the fate of the landed

goods placed under custody of Port Trust/IAAI, the Ministry of Finance stated in a note as follows:

“The Department gets regular, periodical reports from the Ministry of Surface Transport furnishing details of cargo lying uncleared at the major ports. The pendency position is closely monitored in consultation with the Custom Houses necessary follow-up action is taken for expeditions disposal of goods.

As regards the Air-Cargo, though there are no such regular reports, the Department has taken up the matter of disposal of unclaimed/uncleared cargo at air cargo complexes.”

Loss of imported goods under custody

26. The Committee enquired about the status of the imported goods lost while under the custody of Port Trust/IAAI etc. and the action taken in such cases. The Ministry of Finance (Department of Revenue) in a note stated that if cargo which is manifested and handed over to the custody of Port Trust/IAAI was pilfered and removed unauthorizedly, the act of such removal would amount to smuggling and action to seize and confiscate the cargo was initiated by Customs through its preventive wing. They also stated that the Port Trust/IAAI also lodges FIR in respect of the pilfered cargo and the action to recover the goods was launched by the Police. They added that in respect of each consignment landed in sound condition and not made available for delivery to the importer, the Port Trust was required to lodge a complaint irrespective of Whether the importer made a complaint or not which was in fact, required for closing the manifest.

27. The Public Accounts Committee in Para 2.84 of the Second Report (4th Lok Sabha) had recommended as follows:—

“The Committee are sorry to note that the authorities do not possess a complete record of goods lost and their value. There is no system of keeping such a record and for that purpose the figures supplied by the police authorities alone can be relied upon. The Committee feel that a proper account of goods received and lost during and after the seven days period should be maintained by the Port Trusts and also by Customs authorities.”

28. In their relevant Action Taken Note, the Ministry of Finance had stated that the “recommendations of the Public Accounts Committee contained in Para 2.84 of their report has been noted for compliance and suitable instruction to the Customs Houses have issued.”

29. At the instance of the Committee, the Ministry of Finance (Department of Revenue) furnished the following details of the value of goods lost on which Custom Duty was not levied or not realised due to short landing:—

Sl.No.	Custom House/ Collectorate	Value of goods lost (Rs. in lakhs)		
		1990-91 (1990)	1991-92 (1991)	1992-93 (1992)
1.	Bombay	46	127	17
2.	Calcutta	2	15	28
3.	Madras	NA	NA	NA
4.	Nava Sheva	—	—	—
5.	Cochin	13	54	111
6.	Visakhapatnam	—	—	—
7.	Goa	—	—	—
8.	Chandigarh	—	—	—

Data was not furnished to the Committee in respect of other Customs formations.

30. Drawing attention to their earlier recommendation referred to above, the Committee enquired the reasons for non-availability of complete records in certain Custom Houses on this score. The Ministry of Finance (Department of Revenue) in a note furnished after evidence stated that information in respect of value of goods was lacking. According to the Ministry, since the only way value that could be obtained was through the Bills of Entry filed or value obtained from sale bids, there were difficulties in quantifying values, or even duty amounts, where there were no Bills of Entry or sale bids or the goods had been pilfered.

31. In reply to a question whether the Central Board of Excise and Customs tried to assess the extent of loss of duty on goods lost from the custody of Port Trusts etc., the Ministry of Finance (Deptt. of Revenue) further stated:—

“In respect of pilfered goods, while the number of cases and rough estimations of values could be attempted to be maintained, it is very difficult to ascertain the exact duty amounts involved in the absence of the goods and details thereon.”

32. The Committee desired to know the value of imported goods lost due to theft at all-India level while in the custody of Port Trust/IAAI during the preceding five years. The information made available to them revealed the following:—

Value of cargo involved in theft (Rs. in lakhs)

Year	Port Trust	IAAI
1989-90	57.88	NA
1990-91	57.67	0.81
1991-92	122.75	0.89
1992-93	25.35	21.01
1993-94	18.40	16.07

33. The information furnished to the Committee also revealed that the requisite data was not fully available in respect of several port trusts including Bombay, Cochin, Tuticorin etc. Similarly, the data was not at all available in respect of IAAI Delhi and Bombay cargo terminal and not fully available in respect of Calcutta and Madras.

34. The Committee further enquired about the quantum of custom duty refunded or remitted to the various importers in the cases of missing goods while under the custody of the Port Trust/Airport Authorities in each of the years during the preceding five years separately for each Port Trust/Airport Authority. The Ministry of Finance (Deptt. of Revenue) in their note furnished after evidence stated that the Collectorates of Delhi, Calcutta, Sahar and Bombay Port had reported that no separate records were maintained regarding duty remitted/refunded due to pilferage. Twelve Collectorates namely Meerut, Jaipur, Trichi Gundu, Bombay (preventive), Chandigarh, Visakhapatnam, Pune, Goa, Ahmedabad (preventive), Hyderabad and Coimbatore had reported that no cases of pilferage had been reported in their jurisdiction. Only Madras Customs House reported details of remissions/refunds of duty granted by them during the years 1990-91 to 1992-93. No information was furnished in respect of other Collectorates/Customs Houses.

Action Taken on goods lost under custody

35. The Committee wanted to know the number of cases of pilferage/theft of goods from custody of Port Trust/IAAI which had been detected and reported to police authorities and the outcome of prosecution launched against guilty in such cases in the last five years. However, the requisite information as provided by IAAI only has been made available to the Committee. A perusal of this information revealed that 549 cases of pilferage were detected and reported during the years 1989-90 to 1993-94 excluding the number of cases relating to Bombay Cargo terminal for which the requisite information is stated to have been not available. Of the 549 cases, 467 were reported from Delhi only; out of which 247 cases were reported in 1993-94. FIRs were stated to have been lodged in all these cases except in one case where the case was handed over to Customs (Calcutta Airport). However, details of prosecution launched by the police were stated to have been not readily available.

36. As regards Port Trust, the details of the number of cases of pilferage/theft was not made available to the Committee; only the value of goods pilfered was furnished.

37. Asked whether Customs authorities were informed of the theft, IAAI stated that they did it whenever FIR was lodged. With regard to Port Trust, the Ministry stated :—

“In consonance with the instructions of the PAC, all major ports have been instructed to intimate the Customs authorities of any theft of cargo if and when it occurs.”

Disposal of goods not cleared within the prescribed period

38. The Committee enquired about the procedure adopted for disposal of imported goods lying with the custodians beyond the permitted period of 30 days prescribed under Section 48 of the Customs Act, 1962. The Ministry of Finance in a note stated that the prohibited goods declared as sensitive like consumer goods which were prone to theft, motor vehicles etc. were confiscated by the Department and sold to Defence Canteen Stores, Consumer Cooperatives Federations etc. Other goods were sold through auction where the customs collected its revenue and the custodian, his charges.

39. As regards the amounts realised by Public auction *vis-a-vis* their reserve price of unclaimed goods during the last two years at various ports, the Ministry of Finance (Department of Revenue) stated in a note as follows:

		(Rs. in lakhs)					
Collectorates		Reserve Price		Sale Price			
		1991-92	1992-93	1991-92	1992-93		
Bombay		1	—	1	—	1161.09	1694.36
Madaras	SEA	151.47	97.43			120.40	77.40
	AIR	Not available				135.20	53.85
Visakhapatnam		3.85	Nil			2.61	Nil
Ahmedabad		1.20	25.23			1.28	18.85
(Prev.)							
Delhi	ICD	20.42	Nil			17.02	Nil
	CFS	3.49	3.65			4.11	6.12
	AIR	N.A.	N.A.			139.02	147.10
Calcutta		N.A.	N.A.			104.00	36.13
Chandigarh		Nil	1.38			Nil	1.33

Nine Collectorates [Hyderabad, Meerut, Trichy, Jaipur, Guntur, Bombay (Prev.), Coimbatore, Pune and Goa] have reported Nil information.

The Ministry did not furnish information in respect of other Customs House/Collectorates.

40. In reply to a question of the Committee, the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated that Electronic Data Interchange in Customs Operation was being contemplated which would establish a computer link between the custodians of cargo and the customs. According to the Ministry, when such a line is established, it would be possible to monitor the goods which were not cleared within the specified time.

System of customs surveillance

41. The Committee desired to know the system of surveillance prevalent in the Customs department to prevent unauthorised removal of landed goods from the custody of Port Trust/IAAI authorities and the number of such cases detected by the Customs department during last five years. In reply, the Ministry of Finance (Department of Revenue) in a note stated as follows:

“The Custom Houses engage in a general, intelligence-based surveillance through their Preventive Departments to check smuggling of goods.

Number of case of unauthorised removal of goods detected by the Customs Department is as follows:—

Custom House	1989-90	1990-91	1991-92	1992-93	1993-94
Bombay	Nil	Nil	Nil	1	Nil
Sahar	Nil	Nil	Nil	1	—
Calcutta	1	Nil	2	1	—
Kandla	—	1	Nil	2	2
Bombay (Prev)	Nil	Nil	Nil	1	Nil
Trichy	Nil	Nil	2	5	7
Total	1	1	4	11	9

In such cases, generally goods are seized and adjudication proceedings for confiscation of the goods and imposition of fines/penalties on the persons involved are initiated under the Customs Act. Initiation of action against the persons under other laws is made by the custodians.”

System of Co-ordination between the Customs and the Custodian

42. When asked about the system of co-ordination between the customs authorities and Port Trust/IAAI authorities with regard to proper account of imported goods kept under custody and their eventual disposal, the Ministry of Finance in a note stated as under:

“The import Department of Custom House keeps a watch on those goods which are not cleared/Bill of Entry filed within a reasonable time. It issues notices to the importers mentioned in the manifests and if they do not respond, then a list of such goods is prepared and sent to the Asstt. Collector (Docks). Confiscation proceedings are initiated in respect of sensitive goods (consumer goods, goods prone to pilferage etc.) and the Custodian is contacted for disposal of non-sensitive goods that lie uncleared/unclaimed.

The manifest clearance Department of the Custom House also compiles what is known as ship's file for arrival and departure of each ship/aircraft separately. The compilation and scrutiny of the said file alongwith the relevant documents pertaining thereto is done to close the file. An Import General Manifest (IGM) is

closed only when all the cargo imported thereunder has been cleared or otherwise accounted for. The information thus available in the said file provides the necessary data for taking up those cases in which goods have been duly landed but remain unclaimed/uncleared. The Custom Houses keep regular contacts with the Custodians for expeditious disposal of such cargo."

Action Taken on PAC recommendation

43. The Committee desired to know the concrete action taken by the Government on the recommendation of PAC made in their Second Report (Fourth Lok Sabha) referred to earlier wherein they had emphasised the need for making the custodian responsible for the loss of imported goods while in their custody. The representative of the Department of Revenue stated in evidence:—

"I notice that in 1966-67, this Hon'ble Committee had taken up this issue where it mentioned that the impact of the Customs Act which had come into force in 1963 was being examined by a High Powered Committee which was called the Customs Study Team under the then Member of Parliament Pandit D.N. Tiwari and there was a directive from the Committee to convey to them the findings of the Tiwari Committee.

Now, the Tiwari Committee, in due course, on this issue about duty to be charged on pilferage i.e. the goods pilfered from the Custodian said that duty should be recovered from the Custodian. That was their recommendation. Now, their findings were of a recommendatory nature only. The finding was sent to an Empowered Committee in the Department of Revenue who came to two findings; one is about the period during which the Custodian is said to be responsible for the goods. The period in each port differs, like in Madras it is 30 days, etc. So, they said the period should be rationalised; on the question of collecting duty from the custodian, it should be examined, they further said. About the second point the Empowered Committee said that even beyond this period for which the port say that they are not responsible, we should examine as to who is to pay and if necessary we may think of collecting it from the Importer. With these findings we had sent it to the Ministry of Shipping and Transport as it was known then.

They conveyed that a Commission on Major Ports has been established and they will be looking into this matter. I have gone through the findings of the Commission on major ports and on the first point about rationalisation of the days for which the Custodian would be responsible, they have made a pronouncement that it will be uniformly seven days at all ports. On the second point, about collection of duty

during these seven days nothing has been said. But the Commission on major ports has gone on to stress the fact that security should be improved at the ports.

Following this, two draft audit paras on ports were taken up in 1990 and 1992. The Hon'ble Committee had very pertinently pointed out that we have a provision under which if a steamer agent brings goods then he is supposed to pay the duty on the goods found less than the manifested quantity, recover the duty as a form of penalty in the presumption that these goods have come into consumption in India. The principle is that if anything comes into consumption in India, the duty due to the Government must be paid. So, here also it said that in any case where the goods are pilfered, it is presumed to have come into consumption and somebody should be responsible for duty."

44. Elaborating on the precise action taken by the Government on this subject subsequent to the presentation of the Action Taken Report of the Public Accounts Committee in March, 1968 (36th Report—Fourth Lok Sabha), the Ministry of Finance (Department of Revenue) in a note stated as follows:—

"The Ministry of Surface Transport has stated that the recommendation of the Major Ports Commission relates to the period during which the port is responsible for loss, deterioration etc. as a bailee under the provisions of the Indian Contract Act 1892. At the recommendation of the said Commission, the said period has been uniformly fixed by all the major ports in their Regulations as 7 days.

Regarding action taken by the Ministry of Finance it has not been found possible to provide the details, as the original files relating to the earlier recommendation of the PAC are not readily traceable, due to passage of much time since 1967-68. Broadly, the matter was considered by the Customs Study Team and the Empowered Committee and their Recommendation was forwarded to the Ministry of Shipping for further action, since it is on them a new responsibility was proposed to be imposed. That Ministry has indicated that the issues were referred to the Major Ports Commission, who recommended uniformity in the period for which the ports should undertake responsibility for the loss etc. of goods which was implemented."

45. Expressing the views of the Ministry of Finance on the question of amendment of law holding the custodians responsible for the loss of duty on goods lost from their custody, the Secretary (Deptt. of Revenue) stated in evidence:—

"....Compared to the total volume of imports which is running into thousands of crores, the pilferage loss is negligible.... there has been a general preference not to have this amendment but I do agree whatever the loss even of one rupee is a loss and if it is

possible for us to protect it, we should protect it. Therefore, as far as amendment is concerned, we have no objection in carrying it out."

46. However, the Secretary, Ministry of Surface Transport maintained during evidence:—

"This kind of a draconian measure requires to be fully examined."

47. Explaining the position further, the Ministry of Finance (Department of Revenue) in their post evidence note stated as under:—

"The major share of imported goods land up in the custody of Port Trust and though the Ministry of Finance agrees in principle with the suggestion to amend the law in this respect, the Ministry of Surface Transport had expressed certain reservations stating that it would not be proper to make them liable for import duties since they are neither the importer nor the consignee. However, the matter has been discussed between the two Ministries and it has been decided to make further moves in this direction. The International Airports Authority of India is also not in favour of the said proposal and the matter is being taken up with the Ministry of Civil Aviation as well as with other Ministries under whom some other custodians like the Central Warehousing Corporation etc. fall."

48. The imported goods after unloading are allowed to be placed in the custody of Port Trust/International Airport Authority or the Custodian in Land Customs Station, as the case may be, before their clearance either for home consumption or for warehousing. The account of such goods and their clearance is required to be monitored both by the custodian of the goods and the Customs Department. Section 13 of the Customs Act, 1962 provides that if any goods are pilfered after unloading thereof and before the proper officer has made an order for clearance, the importers shall not be liable to pay the duty leviable on such goods. Under Section 116 of the Customs Act, 1962, if the quantity of the goods unloaded from the conveyance is short of the quantity to be unloaded at the destination and the shortages not satisfactorily accounted for, the person incharge of the conveyance shall be liable to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be. There are, however, no provisions in the Customs Act, 1962 for action against the custodians for recovery of Customs duty on goods pilfered while in their custody. Similarly, the Laws governing the functioning of custodians of the landed goods are also silent about their liability on the imported goods pilfered or lost while in their custody.

49. The issue relating to loss of imported goods from the custodians had engaged attention of the Public Accounts Committee earlier also. The Committee had as far back as in 1967 pointed out in Para 2.83 of their Second Report (Fourth Lok Sabha) that it was most anomalous position

that the goods lost after having landed at a Port are not leviable to duty. Expressing their concern over the rise in the value of missing stores, the Committee had recommended that the Port Trust be held responsible atleast partly for the loss of customs duty on packages pilfered from their custody. The Committee were then informed in the Action Taken Note that the matter had been examined initially by a Customs Study Team, subsequently, by an Empowered Committee and later referred to the Major Ports Commission. The Committee deeply regret to note that even after the lapse of more than 27 years since the recommendation was originally made by them, no concrete action has been taken so far to plug the legal loopholes. Consequently, as the Audit Paragraph had the Committee's examination revealed, the imported goods continued to be pilfered and removed, surreptitiously from the custodians at the cost of the public exchequer.

50. The Audit Paragraph highlighted two cases at one Major Port alone where revenue loss of Rs. 2.78 lakhs had occurred due to remission of duty on goods pilfered while in the custody of a Major Port Trust. In the first case, a firm in Delhi filed a Bill of Entry with the Madras Customs House on 22.11.1988, for the clearance of a consignment of colour films. Duty was assessed on 24.11.1988 but the goods were not cleared. At the request of the importer, the goods were examined on 25.9.1989 and a shortage of 4,890 rolls of film was found. Eventually, the importer was granted a duty remission of Rs. 1.70 lakhs. Similarly, in the other case, an importer filed a Bill of Entry with the Madras Customs House for the clearance of a consignment of components for loader. The goods were over carried to Calcutta and were sent back to Madras under bond by rail and deposited in the Port Trust Warehouse. On a survey conducted during December, 1980, the package was found empty and the importer abandoned the cargo. The Committee have been informed that cases of pilferage are criminal offences which are investigated by Police on complaint filed by the Owner/Custodian of the goods. However, the Ministry of Finance were unable to apprise the Committee of the exact fate of these two specific cases as the relevant records were reportedly not available now. The Committee's examination of this subject has, nevertheless, revealed certain shortcomings related to the storage and disposal of imported goods placed with the custodians which are discussed in the succeeding paragraphs.

51. Section 48 of the Customs Act, 1962 provides for the disposal of goods imported but not cleared within 45 days (now 30 day w.e.f. 23.12.1991) from the date of unloading thereof or such period as the proper officer may allow. The Committee are surprised to note that in the first case reported in the Audit paragraph the goods imported were not cleared by the importer for as many as 275 days. The Department also took no concrete action to dispose them of. What has further surprised the Committee is that no consolidate data was available with the Customs Department about the exact quantity/value of goods pending disposal

beyond the prescribed period. When asked by the Committee to furnish the data in respect of value of goods lying with the custodians uncleared beyond the permitted period, as on 31.3.1993, the Ministry of Finance were able to furnish information in respect of a few Custom Houses/Collectorates only which itself was incomplete in certain cases. The available data furnished by the Ministry indicated that while certain Custom Houses had figures of the value of the goods lying uncleared, certain others could make available only the quantity of the goods. The Ministry were unable to offer any convincing explanation for the non-availability of the requisite data uniformly in all Custom Houses/Collectorates. The Ministry also could not indicate the extent to which the importers could be contacted in respect of the goods lying uncleared with the custodians beyond the permitted period as on 31.3.1993. The available data, however, indicated that sizeable quantity of goods were lying with the custodians uncleared beyond the prescribed period. While the Ministry maintained that the Department got periodical Reports from the Ministry of Surface Transport furnishing details of cargo lying uncleared at the Major Ports, they admitted that no such regular reports were obtained in respect of disposal of unclaimed/uncleared cargo at air cargo complexes. From these facts, the Committee can only conclude that the procedure laid down in Section 48 of the Customs Act, 1962 for disposal of imported goods kept with the custodians is not being scrupulously followed by the Department nor are the Ministry aware of the precise extent of goods lying with the custodian uncleared as on a particular date. The Committee are concerned over this unsatisfactory state of affairs. Since absence of proper monitoring of the fate of landed goods deposited with the custodians is likely to lend scope for pilferage and other malpractices, the Committee desire that the Central Board of Excise and Customs should look into the matter and take appropriate steps to ensure that the procedure prescribed in the Law for disposal of such goods is complied with in letter and spirit by all concerned. The Committee would also like to be apprised of the total quantity/value of imported goods lying with the custodians uncleared beyond the permitted period as on 31.3.1994.

52. As regards disposal of uncleared/unclaimed goods, the Committee have been informed that prohibited consumer goods are confiscated by the Customs Department and are sold to Defence canteens, stores, consumer co-operative federations, etc. Other goods are sold through auction where customs collected their revenue and the custodian, his charges. The Committee trust that while effecting proper monitoring of imported goods lying uncleared with the custodians, the authorities concerned should also ensure that efforts are made to realise the legitimate revenues of Government from the goods on their disposal as per the procedures prescribed.

53. In paragraph 2.4 of their Second Report (Fourth Lok Sabha), the Committee had pointed out that the authorities did not possess complete record of imported goods lost from the custody of Port Trust. They had recommended that a proper account of goods received and lost should be

maintained both by the Port Trust and also by the Customs authorities. The Action Taken note furnished to the Committee in response thereof had indicated that the recommendation had been noted for compliance and suitable instructions had been issued. The information furnished by the Ministry of Finance to the Committee in this regard in the course of examination of the instant Audit paragraph, however, revealed that adequate data on the value of cargo involved was not available at several Custom Houses/Port Trusts/Air Cargo Stations. The Ministry of Finance were also not able to furnish the total amount of customs duty remitted/refunded due to pilferage since no separate records were stated to have been maintained of such figures in certain Collectorates/Customs Houses. Evidently, there had been no perceptible improvement in the system of maintaining records regarding loss of goods, value of duty foregone etc. from the position observed by the Committee in the sixties. While expressing their unhappiness over the inadequate implementation of their accepted recommendation, the Committee desire that the Ministry of Finance as well as other concerned authorities should ensure that the system of records with regard to goods lost while in custody be streamlined. The Committee would like to be informed of the precise action taken in the matter.

54. The Committee's attention has particularly been drawn to the increase in the number of cases of pilferages reported from the International Airport Authorities of India warehouse, Delhi wherefrom as many as 247 cases of thefts were reported in 1993-94. The Committee desire that the authorities concerned should look into the circumstances leading to occurrence of pilferages at such a large scale in this case. The Ministry of Finance should also impress upon all the custodians to take adequate measures for improving the security to the goods warehoused with them.

55. The Committee also feel that the Customs authorities should take all possible steps to make customs surveillance more effective in curbing pilferages/unauthorised removal of goods from the custodians which tantamount to smuggling. There is also a need for a more effective co-ordination between the Customs Department and the custodians in the matter.

56. From the facts stated in the above paragraphs it is evident that the system of storage and disposal of imported goods placed with the custodians and their monitoring leaves a lot to be desired. During evidence, the representative of the Central Board of Excise & Customs informed the Committee that the Major Ports Commission to which the recommendation of the Public Accounts Committee made in their Second Report (Fourth Lok Sabha) was referred to, had not made any specific suggestion regarding amendment of Law to provide for making the custodian or others liable for the loss of imported goods from their custody. The Secretary, Ministry of Finance (Deptt. of Revenue) in his deposition before the Committee maintained that the ultimate loss of duty that may have to be recovered in the type of circumstances under discussion would be negligibly small when

compared to the total volume of imports. He, however, stated that the Ministry of Finance had no objection in effecting the amendment making the custodians liable for the losses. Later, the Ministry of Finance have informed the Committee that while they were agreeable in principle for the amendment, the Ministry of Surface Transport, International Airport Authorities of India etc. had some reservations and that the matter was being further discussed with all the administrative Ministries concerned. The Committee desire that the exercise be expeditiously completed and concrete action taken to make suitable amendments in the Customs Act, 1962 making the custodians liable for the loss of goods kept with their custody with a view to checking unauthorised removal of such goods and its adverse impact on the economy and the exchequer. The Committee would also like to be informed of the steps taken to streamline the accounting and monitoring of such imported goods both by the Customs Department as well as the custodians.

NEW DELHI;
24 February, 1995

5 Phalgun, 1916 (Saka)

BHAGWAN SHANKAR RAWAT,
Chairman,
Public Accounts Committee.

APPENDIX I

(Vide Para 12)

Audit Paragraph 2.49 of the Report of the C&AG of India for the year ended 31 March, 1992, No. 4 of 1993, Union Government (Revenue Receipts—Indirect Taxes) relating to Loss of revenue due to non availability of a provision in the Act

Under Section 13 of the Customs Act, 1962, if any goods are pilfered after unloading thereof and before the proper officer has made an order for clearance, the importers shall not be liable to pay the duty leviable on such goods. In terms of Section 48 of the Act, if any goods are not cleared within 45 days from the date of unloading thereof at the customs station, such goods may, after notice to the importer and with the permission of the proper officer, be sold by the person having the custody thereof. As per section 116 of the Act, if the quantity of the goods unloaded from the conveyance is short of the quantity to be unloaded at the destination and the shortage is not satisfactorily accounted for, the person in charge of the conveyance shall be liable to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods as the case may be. In respect of the goods imported by sea any lying uncleared the Port Trust have been appointed as the custodian.

(i) In respect of a consignment of "Konica Colour Films", imported (November 1988) through a major sea port, a bill of entry for customs clearance of the goods was presented on 22 November 1988 and duty assessed on 24 November 1988. But the goods were not cleared till September 1989. At the request of the importer, customs examination of the goods was done on 25 September 1989 and a shortage of 4,890 rolls of films was found. A duty remission of Rs. 1.70 lakhs was, therefore, allowed under section 13 of the Customs Act, 1962.

When audit asked (May 1990) the Customs House to explore the possibility of realising the revenue remitted, the Customs House replied (January 1991 and January 1992) that for the action initiated by the department (August 1990) against the steamer agent under section 116 of the Act for shortages, it was held by the adjudicating authority that the shortages were on account of pilferage at the Port Trust and not because of short landing. The department further stated that there is no provision in the Customs Act, 1962, to take action against the custodian of the goods for negligence resulting in the pilferage of the item in their custody. Thus, the Customs House contended that the grant of remission was in order and there was no loss of revenue.

Another consignment of CKD/SKD components imported by a private importer through a major sea port (May 1980) was over carried to another sea port and brought back in bond, by rail, by the agent of vessel concerned, after proper check by customs authorities in September 1980. The importer had filed a bill of entry with end use certificate for clearance of goods in December 1980. But during the survey the goods were found emptied from the containers. The consignment was, therefore, abandoned (December 1980). The end use bond was also cancelled (November 1985).

It was pointed out (February 1987) in audit that action had to be initiated against the steamer agent under section 116 of the Customs Act, 1962, for the short landed goods. The non realisation of duty in this case was to the tune of Rs. 1,07,920.

The department initially agreed with audit (February 1990), but while replying to the statement of facts, issued in July 1990, stated that the loss of the goods in question was due to the pilferage attracting Section 13 of the Customs Act, 1962, hence no action was taken against the steamer agents. It was also stated that no provision existed in the Customs Act, to take any action against the custodian for pilferage. The fact, however, remains that there is a revenue loss to the tune of Rs. 2.78 lakhs in both the cases for the following reasons:—

- (i) Before allowing the remission in the first case, the Customs House did not insist on the importer to obtain and produce a certificate from the Port Trust that the goods were landed in good condition.
- (ii) The goods in the first case were lying in the Port Trust uncleared for more than 275 days, but no action was taken by the custodian after the expiry of 45 days to dispose of the goods as required in Section 48 of the Customs act, 1962.
- (iii) While there is a provision in the Customs act, 1962, under Section 116, to recover the loss of revenue from the steamer agent in respect of the short landed goods, there is no such provision in the act to recover the loss for shortages occurred under the custody of the Port Trust.
- (iv) Under Section 43 of the Major Port Trust Act, 1963, when the Port Trust issues a receipt under Section 42 of the Act to the shipper for the goods landed then the Port Trust is responsible as a bailee under Section 151, 152 and 161 of the Indian Contract Act, 1872, to the shipper and consignee only (importer). But the act is silent about liability of the Port Trust to pay duty on the pilfered goods.

Thus due to lack of a provision in the Customs Act, 1962, authorising action to be taken against the custodian for the shortage/pilferage of goods occurred under their custody, there accrued a revenue loss of Rs. 2.78 lakhs. Also, there was a delay of three months in conducting the survey in the second case by the clearing/steamer agents and customs.

Ministry of Finance Stated (January 1993) that remission of duty was allowed in both the aforesaid cases under Section 13 of the Customs act, 1962. The Ministry added that no action under Section 116 of the act could be taken against steamer agents as there was no short landing.

The fact remains that the pilferage of goods had taken place while the goods were in the custody of the custodian, i.e. the Port Trust, which is responsible as a bailee to the shipper and consignee under the aforesaid provisions of the Contract Act, 1872. However, there is no provision or liability either in the Customs Act, 1962, or in Major Port Trust Act, 1963, making the custodian responsible/liable for duty on such goods that had been landed but subsequently missing from their custody.

APPENDIX II

Conclusions and Recommendations

Sl. No.	Para No.	Ministry/ Department concerned	Conclusion/Recommendation
1	2	3	4
1	48	Ministry of Finance (Deptt. of Revenue)	The imported goods after unloading are allowed to be placed in the custody of Port Trust/ International Airport Authority or the Custodian in Land Custom Station, as the case may be, before their clearance either for home consumption or for warehousing. The account of such goods and their clearance is required to be monitored both by the custodian of the goods and the Customs Department. Section 13 of the Customs Act, 1962 provides that if any goods are pilfered after unloading thereof and before the proper officer has made an order for clearance, the importers shall not be liable to pay the duty leviable on such goods. Under Section 116 of the Customs Act, 1962, if the quantity of the goods unloaded from the conveyance is short of the quantity to be unloaded at the destination and the shortages not satisfactorily accounted for, the person incharge of the conveyance shall be liable to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be. There are, however, no provisions in the Customs Act, 1962 for action against the custodians for recovery of customs duty on goods pilfered while in their custody. Similarly, the Laws governing the functioning of custodians of the landed goods are also silent about their liability on the imported goods pilfered or lost while in their custody.

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2	49	Ministry of Finance (Deptt. of Revenue)	<p>The issue relating to loss of imported goods from the custodians had engaged attention of the Public Accounts Committee earlier also. The Committee had as far back as in 1967 pointed out in Para 2.83 of their Second Report (Fourth Lok Sabha) that it was a most anomalous position that the goods lost after having landed at a Port are not leviable to duty. Expressing their concern over the rise in the value of missing stores, the Committee had recommended that the Port Trust be held responsible atleast partly for the loss of Customs duty on packages pilfered from their custody. The Committee were than informed in the Action Taken Note that the matter had been examined initially by a Customs Study Team, subsequently, by an Empowered Committee and later referred to the Major Ports Commission. The Committee deeply regret to note that even after the lapse of more than 27 years since the recommendation was originally made by them, no concrete action has been taken so far to plug the legal loopholes. Consequently, as the Audit Paragraph and the Committee's examination revealed, the imported goods continued to be pilfered and removed surreptitiously from the custodians at the cost of the public exchequer.</p>
3	50	-do-	<p>The Audit Paragraph highlighted two cases at one Major Port alone where revenue loss of Rs. 2.78 lakhs had occurred due to remission of duty on goods pilfered while in the custody of a Major Port Trust. In the first case, a firm in Delhi filed a Bill of Entry with the Madras Customs House on 22.11.1988, for the clearance of consignment of colour films. Duty was assessed on 24.11.1988 but the goods were not cleared. At the request of the importer, the goods were examined on 25.9.1989 and a shortage of 4,890 rolls of film was found. Eventually, the importer was granted a duty remission of Rs. 1.70 lakhs. Similarly in the</p>

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other case, an importer filed a Bill of Entry with the Madras Custom House for the Clearance of a consignment of components for loader. The goods were over carried to Calcutta and were sent back to Madras under bond by rail and deposited in the Port Trust Warehouse. On a survey conducted during December, 1980, the package was found empty and the importer abandoned the cargo. The Committee have been informed that cases of pilferage are criminal offences which are investigated by Police on complaint filed by the owner/Custodian of the goods. However, the Ministry of Finance were unable to apprise the Committee of the exact fate of these two specific cases as the relevant record were reportedly not available now. The Committee's examination of this subject has, nevertheless, revealed certain shortcoming related to the storage and disposal of imported goods placed with the custodians which are discussed in the succeeding paragraphs.

4 51 Ministry of
Finance
(Deptt. of
Revenue)

Section 48 of the Customs Act, 1962 provides for the disposal of goods imported but not cleared within 45 days (now 30 day w.e.f. 23.12.1991) from the date of unloading thereof, or such period as the proper officer may allow. The Committee are surprised to note that in the first case reported in the Audit paragraph the goods imported were not cleared by the importer for as many as 275 days. The Department also took no concrete action to dispose them of. What has further surprised the Committee is that no consolidated data was available with the Customs Department about the exact quantity/value of goods pending disposal beyond the prescribed period. When asked by the Committee to furnish the data in respect of value of goods lying with the

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custodians uncleared beyond the permitted period, as on 31.3.1993, the Ministry of Finance were able to furnish information in respect of a few Custom Houses/Collectorates only which itself was incomplete in certain cases. The available data furnished by the Ministry indicate that while certain Custom Houses had figures of the value of the goods lying uncleared, certain others could make available only the quantity of the goods. The Ministry were unable to offer any convincing explanation for the non-availability of the requisite data uniformly in all Custom Houses/Collectorates. The Ministry also could not indicate the extent to which the importers could be contacted in respect of the goods lying uncleared with the custodians beyond the permitted period as on 31.3.1993. The available data, however, indicated that sizeable quantity of goods were lying with the custodians uncleared beyond the prescribed period. While the Ministry maintained that the Department got periodical Reports from the Ministry of Surface Transport furnishing details of cargo lying uncleared at the Major Ports, they admitted that no such regular reports were obtained in respect of disposal of unclaimed/ uncleared cargo at air cargo complexes. From these facts, the Committee can only conclude that the procedure laid down in Section 48 of the Customs Act, 1962 for disposal of imported goods kept with the custodians is not being scrupulously followed by the Department nor are the Ministry aware of the precise extent of goods lying with the custodian uncleared as on a particular date. The Committee are concerned over this unsatisfactory state of affairs. Since absence of proper monitoring of the fate of landed goods deposited with the custodians is likely to lend scope for pilferage and other malpractices, the Committee desire that the Central Board of Excise and Customs should look into the matter and take appropriate steps to ensure that the procedure prescribed in the

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7			Law for disposal of such goods is complied with in letter and spirit by all concerned. The Committee would also like to be apprised of the total quantity/value of imported goods lying with the custodians uncleared beyond the permitted period as on 31.3.1994.
5	52	Ministry of Finance (Deptt. of Revenue)	As regards disposal of uncleared/unclaimed goods, the Committee have been informed that prohibited consumer goods are confiscated by the Customs Department and are sold to Defence canteens, stores, consumer co-operative federations, etc. Other goods are sold through auction where customs collected their revenue and the custodian, his charges. The Committee trust that while effecting proper monitoring of imported goods lying uncleared with the custodians, the authorities concerned should also ensure that efforts are made to realise the legitimate revenues of Government from the goods on their disposal as per the procedures prescribed.
6	53	-do-	In paragraph 2.4 of their Second Report (Fourth Lok Sabha), the Committee had pointed out that the authorities did not possess complete record of imported goods lost from the custody of Port Trust. They had recommended that a proper account of goods received and lost should be maintained both by the Port Trust and also by the Customs authorities. The action taken note furnished to the Committee in response thereof had indicated that the recommendation had been noted for compliance and suitable instructions had been issued. The information furnished by the Ministry of Finance to the Committee in this regard in the course of examination of the instant Audit paragraph, however, revealed that adequate data on the value of cargo involved was not available at several Custom Houses/ Port Trusts/Air Cargo Stations. The Ministry of Finance were also not able to furnish the total amount of customs duty remitted/refunded

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			<p>due to pilferage since no separate records were stated to have been maintained of such figures in certain Collectorates/Customs Houses. Evidently, there had been no perceptible improvement in the system of maintaining records regarding loss of goods, value of duty foregone etc. from the position observed by the Committee in the sixties. While expressing their unhappiness over the inadequate implementation of their accepted recommendation, the Committee desire that the Ministry of Finance as well as other concerned authorities should ensure that the system of records with regard to goods lost while in custody be streamlined. The Committee would like to be informed of the precise action taken in the matter.</p>
7	54	Ministry of Finance (Deptt. of Revenue)	<p>The Committee's attention has particularly been drawn to the increase in the number of cases of pilferages reported from the International Airport Authorities of India warehouse, Delhi wherefrom as many as 247 cases of thefts were reported in 1993-94. The Committee desire that the authorities concerned should look into the circumstances leading to occurrence of pilferages at such a large scale in this case. The Ministry of Finance should also impress upon all the custodians to take adequate measures for improving the security to the goods warehoused with them.</p>
8	55	-do-	<p>The Committee also feel that the Customs authorities should take all possible steps to make customs surveillance more effective in curbing pilferages/unauthorised removal of goods from the custodians which tantamount to smuggling. There is also a need for a more effective co-ordination between the Customs Department and the custodians in the matter.</p>
9	56	-do-	<p>From the facts stated in the above paragraphs it is evident that the system of storage and disposal of imported goods placed with the custodians and their monitoring leaves a lot to</p>

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be desired. During evidence, the representative of the Central Board of Excise & Customs informed the Committee that the Major Ports Commission to which the recommendation of the Public Accounts Committee made in their Second Report (Fourth Lok Sabha) was referred to, had not made any specific suggestion regarding amendment of Law to provide for making the custodian or others liable for the loss of imported goods from their custody. The Secretary, Ministry of Finance (Deptt. of Revenue) in his deposition before the Committee maintained that the ultimate loss of duty that may have to be recovered in the type of circumstances under discussion would be negligibly small when compared to the total volume of imports. He, however, stated that the Ministry of Finance had no objection in effecting the amendment making the custodians liable for the losses. Later, the Ministry of Finance have informed the Committee that while they were agreeable in principle for the amendment, the Ministry of Surface Transport, International Airport Authorities of India etc. had some reservations and that the matter was being further discussed with all the administrative Ministries concerned. The Committee desire that the exercise be expeditiously completed and concrete action taken to make suitable amendments in the Customs Act 1962 making the custodians liable for the loss of goods kept with their custody with a view to checking unauthorised removal of such goods and its adverse impact on the economy and the exchequer. The Committee would also like to be informed of the steps taken to streamline the accounting and monitoring of such imported goods both by the Customs Department as well as the custodians.
