

PUBLIC ACCOUNTS COMMITTEE
(1974-75)

(FIFTH LOK SABHA)

HUNDRED AND THIRTY-FIFTH REPORT

[Chapter I of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil)—Revenue Receipts, Volume I Indirect Taxes.]



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<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
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PART II*

Minutes of the sittings of the Public Accounts Committee held on :

17-9-1973 (FN)

24-2-1975 (AN)

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PUBLIC ACCOUNTS COMMITTEE

(1974-75)

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SECRETARIAT

Shri Avtar Singh Rikhy—*Additional Secretary.*

Shri B. K. Mukherjee—*Chief Legislative Committee Officer.*

Shri N. Sunder Rajan—*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 Thirty-fifth Report of the Public Accounts Committee (Fifth Lok Sabha) on Chapter I of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil)—Revenue Receipts, Volume I—Indirect Taxes, relating to Customs.

2. The Report of the Comptroller & Auditor General of India for the year 1971-72, Union Government (Civil)—Revenue Receipts, Volume I, Indirect Taxes was laid on the Table of the House on the 25th April, 1973. The Committee (1973-74) examined the paragraphs relating to Customs at their sitting held on 17th September, 1973 (F.N.). The Committee (1974-75) considered and finalised this Report at their sitting held on 24th February, 1975 based on the evidence taken and further information furnished by the Ministries of Finance and Commerce. Minutes of these sittings form part II* of the Report.

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

4. The Committee place on record their appreciation of the commendable work done by the Public Accounts Committee (1973-74) in taking evidence and obtaining information for this Report.

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

6. The Committee would like to express their thanks to the officers of the Ministries of Finance and Commerce for the co-operation extended by them in giving information to the Committee.

NEW DELHI;
February 3, 1975.
Phalgun 12, 1896 (Saka).

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

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

Audit Paragraph

Variation between budget estimates and the actuals

1.1. During the year 1971-72, the budget estimate under the Major Head I—Customs was Rs. 534 crores, against which the actual realisation was Rs. 695.67 crores, registering an increase of Rs. 161.67 crores. This, in terms of percentage, comes to 30.28 which is the highest registered during the past ten years. The figures for the past ten years are given below:—

(In crores of rupees)

Year	Budget Estimates	Actuals	Variation	Percentage
1961-62	189.64	212.25	(+22.61	11.9
1962-63	207.82	245.96	(+38.14	18.3
1963-64	301.20	334.75	(+33.55	11.14
1964-65	336.37	397.50	(+61.13	18.17
1965-66	419.50	538.97	(+119.47	28.48
1966-67	560.20	585.37	(+25.17	4.49
1967-68	640.13	513.35	(-)126.78	(-)19.81
1968-69	539.27	446.50	(-)92.77	(-)17.20
1969-70	435.20	423.31	(-)11.89	(-)2.73
1970-71	465.00	524.02	(+59.02	12.69
1971-72	534.00	695.67	(+161.67	30.28

Explaining reasons for this increase, the Ministry of Finance have stated that it was:—

- (i) partly due to the introduction of levy of regulatory duty of customs on imports with effect from 13th December, 1971;
- (ii) due to increase in the export duty on carpet backing and other hessians from the same date; and
- (iii) unanticipated imports of high-speed diesel oil, increased imports of kerosene oil, motor-spirit, lubricating oil, industrial fuel oils, chemicals, drugs and medicines, motor vehicle

parts, machinery, iron, steel and other raw materials arising from increased demand and shortage in indigenous supply.

When imports of most of the articles mentioned in item (iii) above are regulated by licences or canalised through Government or quasi-Government agencies, the question arises whether the Ministry could not have a better appreciation of the estimate of imports likely to be made during the year and the duty leviable thereon. In motor vehicle parts, the duty realised in 1971-72 (Rs. 22.88 crores) was nearly double of that realised in 1970-71 (Rs. 11.67 crores). In kerosene oil the duty realised in 1971-72 is Rs. 20.78 crores, against Rs. 9.87 crores of the preceding year. In Iron & Steel, the duty realised is Rs. 117.98 crores in 1971-72 against Rs. 56 crores in the preceding year. In respect of each of these three items, a better forecast of the quantities to be imported should have been possible. The Public Accounts Committee has repeatedly drawn the attention of Government to the need for narrowing the variation between the budget estimates and the actuals *vide* para 1 of Twenty-First Report and paras 2 to 4, 10 and 11 of Twenty-Seventh Report of the Public Accounts Committee (Third Lok Sabha).

[Paragraph 2 of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts—Vol. I—Indirect Taxes].

1.2. In a written reply, the Ministry of Finance furnished the following break up of the budget estimates and actuals for the year 1971-72:

Particulars	(Rs. in lakhs)		
	Budget Estimates	Act	Variation
Import duties (gross)*	498,21	641,04	(+)142,83
Export duties (gross)@	63,79	75,44	(+)11,65
Miscellaneous (gross)	8,00	12,61	(+)4,61
Total Customs revenue (gross)	570,00	729,09	(+)159,09
Deduct Refunds & Drawback	36,00	33,41	(+)2,59
Total Customs revenue (net)	534,00	695,68	(+)161,68

*Includes receipts from Additional Duties.

@Includes receipts from Cesses on Exports.

1.3. In their written reply the Ministry of Finance explained the exact details causing increase in the actuals as follows:—

“I. IMPORT DUTIES:

- (i) The increase in collections was partly due to the introduction of levy of regulatory duty of customs on imports with effect from the 13th December, 1971. This was a post-budget levy and the likely revenue from this levy could not have been included in the Budget Estimates for 1971-72. Actual receipts on this account during 1971-72 were Rs. 14 crores (approximately).
- (ii) The rest of the increase was largely on account of higher realisations, than budgeted, under some of the sub-heads under Import Duties as shown below:

(Rupees in lakhs.)

S.No.	Sub-head	S.B.F.	Actuals	Increase
(1)	(2)	(3)	(4)	(5)
1.	Kerosene Oil	15,50	20,79	5,29
2.	Motor Spirit	5,44	8,28	2,84
3.	Batching, lubricating and other mineral oils	11,30	13,42	2,12
4.	H.S.D. Oil and vaporising oil	3	5,73	5,70
5.	Industrial fuel oil	5,40	13,78	8,38
6.	Motor vehicle parts	18,58	22,88	4,30
7.	Machinery	99,00	118,89	19,89
8.	Iron and Steel	70,90	117,99	47,09
9.	Chemicals, drugs and medicines	36,50	49,54	13,04
10.	All other articles	159,65	204,75	45,10

1.4. The detailed reasons for increase are explained below:—

(1) **Petroleum Products:** The Ministry of Petroleum and Chemicals has been consulted in the matter and the reasons for larger imports, than estimated, are as under:

- (a) in 1971-72 crude throughout estimates for refineries in the country were 19.98 million tonnes. Actual throughout was, however, only 19.66 million tonnes. The loss in

throughout of nearly 320,000 tonnes had, therefore, to be met by increased imports;

- (b) actual sales of petroleum products, particularly high speed diesel oil, light diesel oil, furnace oil and bitumen (whose production is possible at the cost of less production of furnace oil) were more than original estimates. This necessitated additional imports of high speed diesel oil, light diesel oil and furnace oil;
- (c) India had to supply some petroleum products to Bangladesh which could not be anticipated earlier. Total export during 1971-72 including supplies to Bangladesh were as under:—

(In '000 Tonnes)	
Product	Quantity
Mogas	54
Naphtha	50
Kerosene	11
H. S. D.	14
L. D. O.	3
Furnace oil	1
Other products	2
Total	135

and (d) increased import of aviation gases and a higher level of product inventories was also necessitated during the year (1971-72) due to the prospect of war on Bangladesh issue.

(2) Iron and Steel: In the case of iron and steel, anticipated imports indicated by the Department of Iron and Steel and relied upon for estimation of likely revenue during 1971-72, were Rs. 140 crores. Actual imports were, however, of the order of Rs. 245 crores. The Department of Iron and Steel has been consulted and the reasons for higher imports are as under:—

- (a) Shortfall in indigenous production due to a major breakdown of coke oven batteries of the Bhilai Steel Plant in May, 1971, and roof collapse in the steel melting shop in Rourkela Steel Plant in July, 1971;
- (b) Additional import facilities granted towards the end of 1970 to meet the needs of industries;

- (c) Substantial increase in demand due to post-recession revival activities; and
- (d) Higher utilisation of back period import facilities through valid import licences.

(3) Other Commodities: The other commodities which mainly accounted for higher realisation than estimates, were machinery, motor vehicle parts, chemicals and other industrial raw materials and fertilisers. The reasons for the increase in imports leading to higher realisation are as under:—

- (a) The policy of liberal allocation of imported raw materials and components to priority industries was continued during 1971-72;
- (b) More liberal licensing facilities were accorded to newly established units in the priority sectors if fixed investment needed to set them up did not exceed Re. 1 crore;
- (c) There was a significant increase in the value of import licences issued to small scale units and actual users in 1971-72;
- (d) Equipment imports significantly rose with growing internal demand for investment goods, mainly for electrical equipment;
- (e) Because of the unsatisfactory working of fertiliser plants in the country, the demand had to be met by larger imports; and
- (f) There was a fall in the indigenous output of oil-seeds which resulted in significant increase in the value of import of oils and fats.

II. EXPORT DUTIES:

The increase in collections (Rs. 11.65 crores) was mainly due to increase in the export duty on carpet backing and other hessians by Rs. 400 per tonne with effect from 13-12-1971. This also being a post-budgetary change, likely additional revenue on this account could not have been included in the budget estimates. As against the budget estimate of Rs. 12 crores for jute manufactures, the actual receipts were Rs. 22.18 crores during 1971-72. Apart from duty increase, exports of jute manufactures recorded a significant increase because of disruption of supplies to the world market from Bangladesh. Value of exports hit the high level of Rs. 365.3 crores com-

pared to Rs. 190.4 crores during the preceding year (1970-71). Tobacco exports at Rs. 42.3 crores were also exceptionally high, owing largely to heavy purchases of Indian Tobacco by the U.S.S.R. Exports of hides and skins attained an unusually high level of Rs. 90.8 crores as compared to Rs. 76 crores during 1970-71 because of better overseas demand."

1.5. In regard to regulatory duty, the Ministry of Finance stated in a note as follows:

"An enabling provision for the levy of regulatory duty of customs was first made in the Finance Bill, 1963 and a similar provision continued to be made in the subsequent Finance Bills on a year to year basis. The main objective of introducing the regulatory duty of customs has been to regulate the quantity of goods imported from abroad and to exercise restraint on imports. The provision was first invoked on 17-2-1965 to levy regulatory duty at a flat rate of 10 per cent of the value on all imports with the exception of foodgrains, fertilizers, pesticides, books etc. The levy was, however, withdrawn with effect from 6-6-1966. The levy was again imposed on 13-12-1971 at a general rate of 2.5 per cent of the value of all imports with the exception of foodgrains, books and few other special categories. A few specified items were also subjected to a higher levy at the rate of 10 per cent of the value."

1.6. The Committee desired to know the anticipated receipts and actual realisations from the regulatory duty commoditywise during the period 13-12-1971 to 31-9-1972. The Ministry stated in a written reply:

"A commoditywise estimate of revenue from regulatory duty was not attempted. Such an exercise was not considered necessary as the bulk of the imports were to be subjected to a flat rate of 2-1/2 per cent of the value. The total revenue estimated from regulatory duty was Rs. 40 crores per annum. This worked out *pro-rata* to about Rs. 12 crores for the period from 13-12-1971 to 31-3-1972. The actual realisation for this period amounted to about Rs. 14 crores."

1.7. The Committee desired to know (i) the aims and objects of the provision for levy of regulatory duty of Customs (ii) reasons for

not enforcing the provision till February, 1965 (iii) reasons for its withdrawal after devaluation in June, 1966. In a note, the Ministry of Finance stated:

"The summer of 1962 witnessed a short deterioration in the country's foreign exchange resources. The foreign assets of the Reserve Bank, which had already been drawn upon heavily during the earlier years, declined further from Rs. 129.7 crores at the end of March, 1962 to Rs. 97 crores by the end of June 1962. To the already stringent measures existing for restricting the quantum of imports, it was found necessary to add more decisive restraints of a fiscal nature. Accordingly, in the 1963 budget additional customs levies were imposed on a number of items designed to ease the pressure on the balance of payments and to encourage domestic production of the import substitutes. Simultaneously, in order to be able to adjust fiscal policy promptly in response to changing circumstances, a provision was made in the Finance Bill empowering the Government to impose or enhance customs duty within specified limits in the course of the year. The Finance Minister, while introducing the provision relating to regulatory duty for the first time in the Finance Bill, 1963, stated in para 44 of this Budget Speech of 28-2-1963 as follows:—

"44. In our present position, it is essential to have also the authority to be able to act at short notice in order to check profiteering and to regulate resources and demand. Government has already powers to reduce Customs or Excise Duty. In the Finance Bill, it is also proposed to take power to enhance these duties or to impose a Customs Duty within specified limits in the course of the year. The limits proposed are 10 per cent ad valorem for goods subject to Excise Duty and that rate or 25 per cent of the existing statutory rate whichever is higher for import duty. Given powers to vary Excise and Customs Duties within limits, it should be possible to adjust fiscal policy promptly in response to changing circumstances."

"The provision relating to the regulatory duty continued to be made in the Finance Bills of subsequent years in order to enable Government to act at short notice to meet unforeseen circumstances, as and when necessary.

"Though the provision for levy of regulatory duty of customs was made in the Finance Bill, 1963, it was not found necessary to invoke it till February, 1965. During 1964-65, however, there was a steady decline in the foreign exchange reserves of the country as a result of various factors. (On 12th February, 1965, Rs. 79 crores as against the minimum requirement of Rs. 200 crores of reserves in the form of gold and foreign securities). In such a situation, every possible measure had to be taken to bring about the utmost economy in imports and one of them was the imposition of a regulatory customs duty of 10 per cent of the value of imports...."

1.8. As regards withdrawal of regulatory duty after devaluation the Ministry stated:

"The incidence of regulatory duty of customs was only 10 per cent of the value. The effect of devaluation on imports was to increase their rupee cost by about 57½ per cent. Therefore, it would be obvious that the devaluation by itself would act as a greater restraint on imports than the incidence of regulatory duty and hence the regulatory duty was withdrawn."

1.9. The Committee asked for the reasons for imposition of regulatory duty in December, 1971, the Finance Secretary stated during evidence: "That was because the prices had gone up, the situation was worsening.... After 1969-70 the imports started rising. It is not a stationary sort of economy; it changes from year to year.... What happens in a war situation is this. You have to import a great deal of equipment for defence. For that you have to find foreign exchange. Therefore, in a war, it is necessary to put a restraint on Civilian demand for foreign exchange."

1.10. The Committee asked whether the re-introduction of this duty in December, 1971 achieved the objective and if so, how the realisation for regulatory duty for the period 13-12-1971 to 31-3-1971 amounted to Rs. 14 crores against the budget estimates of Rs. 12 crores. In a written reply, the Ministry of Finance stated: "The regulatory duty was imposed during the Indo-Pakistan conflict of 1971. The value of imports is influenced by various factors. The 2.5 per cent regulatory duty was intended to exercise a general restraint on the demand for imports. In any case, as there is a time lag between the placing of orders and the arrival of goods, the levy had its limitations during the months immediately following it."

1.11. The Ministry furnished the following figures of imports for the period 1963-64:—

Period	Value (Rs. Crores)
1963-64	1229
1964-65	1349
1965-66	1409
1966-67	2078*
1967-68	2008*
1968-69	1909*
1969-70	1582*
1970-71	1634*
1971-72	1825*
1972-73	1797*

*In post devaluation rupees.

1.12. The Committee desired to know the rates of export duty on carpet backing and other hessians prevailing prior to 13-12-1971 and after 13-12-1971. In a note, the Ministry of Finance stated, the rate of export duty fixed in respect of hessians (including carpet backing) prior to as well as after December, 1971 has been Rs. 1476.30 per tonne. However, effective rate fixed by notification had been as follows:—

Name of commodity	Rate of duty	
	Prior to 13.12.71 Rs. Per tonne	From 13.12.71 Rs. Per tonne
(a) Carpet backing	300	700
(b) Other hessian cloth and bags excluding jute specialities	200	600

1.13. Explaining the reasons for raising the duty, the Ministry of Finance stated in their written reply: "the duty was raised on 13-12-1971 with a view to siphon off the excess profit accruing to the jute industry consequent on the buoyancy in the international markets for jute products at that time." Asked when the buoyancy in the market was detected by Government, the Ministry in their written reply sated "the buoyancy in the international market for jute products was a result of the difficulties experienced by the Bangladesh Jute Industry and impact of the shortages was felt by about the last quarter of 1971, more or less at the time of the duty was raised by Government."

1.14. In a note, the Ministry of Commerce stated that "the floor prices of Carpet backing (basic construction) were raised from Rs. 3933 to Rs. 4133|- per ton from 13-12-1971. The price was revised to Rs. 4550|- per ton with effect from 24-5-1972 which is still in force. No floor price of hessian were fixed during the aforesaid periods."

1.15. The Ministry of Commerce stated in their written reply, 'the minimum selling price of 'Carpet backing' was first fixed in June, 1964 at Rs. 2924 per tonne for basic construction (152" x 9 ozs—15x13). No floor price was fixed for hessian in view of the fact that it has a variety of uses, it is daily quoted in the market, its export is mainly in the hands of shippers, the price of hessian cannot be delinked from prices of sacking and there is a sizeable domestic market for hessian."

1.16. The Committee asked in how many cases the exporter showed a value higher than the floor price fixed by Government, the Ministry of Commerce furnished the following reply:

"The exact number of cases in which carpet backing was sold at prices above the minimum is not available. However, according to sample study undertaken in 1971 and 1972 it has been estimated that in May, 1971, 58.45 per cent of contracts were registered above the floor prices. The figures for August, 1971 is 67.18 per cent that for September, 1971, 79.64 per cent that for January, 1972, 97.22 per cent, February, 1972, 91.50 per cent, March, 1972, 90.40 per cent and April, 1972, 100 per cent."

1.17. The Committee enquired about the steps taken to reduce the variation between the budget estimates and actuals. The Finance Secretary explained: "At the time of the budget preparation we try to get as much information as possible from various sources to see that our budget estimates are realistic. Now, the Collectors of Customs watch the trend of imports and the collections of import duties throughout the year and specifically six-monthly and nine-monthly estimates are prepared. Then the Appraisers in the Customs Houses keep in touch with the major importers and they try to get information from them as to what are going to be likely imports by them during the next year. The Collector calls a meeting of the Appraisers etc., to finalise the proposals about B.E. (Budget Estimates). The Board of Excise and Customs gets in touch with other Ministries concerned. They ask for their demands for imports for next year. They get into touch with the Commerce Ministry to find

out about their import policy and with the Economic Division of the Finance Ministry. This is the usual procedure. Sometimes this usual procedure gets upset because of certain extrenous considerations. There were these considerations earlier, as I explained, because of the war. In the earlier years it was because of industrial recession. Now, one thing which I would say is that we have accepted the recommendation of the Public Accounts Committee that we should set up an Expert Group to see what kind of procedure we should follow to make budget preparation a realistic one."

1.18. The Finance Secretary added: "We have been taking very great care to see that the budget estimates are as realistic as possible. But, for one reason or another, there is a great deal of difference between the budget estimates which we have framed and the actual realisations. The Public Accounts Committee had suggested that we should appoint an Expert Group to go into this question and make recommendations. Government has accepted this recommendation and it is proposed to set up an Expert Committee consisting of not only the tax administrators but an economist who is also well-versed in imports and exports matters as well as a statistician to look-into this question. We shall be setting up this Committee very soon."

1.19. As regards the other recommendation of the Committee that in the event of any unforeseen variations in the estimates, Parliament should be apprised of it, giving the reasons therefor, the witness stated: "this question will have to be considered in great detail. The Government has not taken a decision on this. I would get the Government's decision as soon as possible and communicate it to the Public Accounts Committee."

1.20. An Expert Committee to suggest ways and means of achieving a more accurate and scientific forecasting of Customs Revenue was appointed by Government on 7th January, 1974. The Expert Committee submitted their report in June, 1974. In their Report the Expert Committee observed:

"Para 3.29. It therefore, seems to us that a system which seeks to take as its quantitative base the past import levels of a large number of commodities, which do not display any reliable trend, and build on it qualitative judgment which again depends on "hunches" and informed guess-work at various levels of estimation, is not calculated to yield satisfactory results. However much we may try to refine the present system, these basic and inherent limitations of the present system have to be borne in mind."

"Para 3.30—We have, therefore, considered an entirely new approach to the problem of estimation, based on well-known and well-tried statistical methods, which might be used to supplement the present method. We believe that such a statistical method for forecasting customs revenue can be used to provide a more accurate forecast of the likely level of total imports in the budget year as well as the likely level of customs revenue. When supplemented with informed judgment and information regarding programmed composition of imports in major categories, the statistical method would constitute a considerable improvement over the present system."

"Para 4.8.—We would, therefore, recommend that the Central Board of Excise and Customs should give urgent thought to further examination of the possible statistical and econometric models for forecasting customs revenue. We must stress that statistical formulae mentioned by us do not provide ready answers to the problems but are indicative of the direction in which further work can be instituted. It is our suggestion that, for the further prosecution of this work, the Central Board of Excise & Customs should have an Analytical Statistical Budget Forecasting Cell (as distinct from the present type of Statistical Compilation Cell) where similar techniques could be tried and improved upon. The Central Board of Excise and Customs should also consider approaching a body like the Indian Statistical Institute and/or the Central Statistical Organisation for assistance in working out more refined statistical forecasting techniques. Although we have refrained from recommending a specific formula for forecasting of customs revenue, we believe that, given adequate technical assistance, a workable model can be devised for this purpose."

1.21. The Committee are concerned to find that during the year 1971-72 the variation between the budget estimates (Rs. 534 crores) and actuals (Rs. 695.67 crores) of the Customs Receipts amounted to Rs. 161.67 crores which work out to 30.28 per cent. In fact the percentage of variation is the highest recorded during the last 10 years. The two post budget levies i.e. regulatory duty of customs imports and increase in export duty on carpet backing and other hessians accounted for variation only to the extent of about Rs. 24 crores. The bulk of the variation was due to larger imports than expected

in respect of petroleum products, iron and steel and some other commodities, viz. machinery, motor vehicle parts, chemicals and other industrial raw materials and fertilizers. Such a wide gap between the budget estimates and actuals points to the conclusion that the present system of estimating receipts of customs duty is seriously defective and undependable and that this has not even been realised shows lack of efficiency at the top.

1.22. In pursuance of the recommendation made by the Committee in paragraph 6.1(c) of their 89th Report (5th Lok Sabha), Government appointed an Expert Committee in January, 1974 to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue. The Expert Committee in the report submitted in June, 1974 have expressed the view that a system which seek to take as its quantitative base the past import levels of a large number of commodities which do not display any reliable trend and build on it qualitative judgment which again depends on hunches and informed guess work at various levels of estimation is not calculated to yield satisfactory results. The Expert Committee have suggested the use of a statistical method for forecasting customs revenue to provide a more accurate forecast of likely level of total imports in the budget year as well as the likely level of customs revenue. The Expert Committee have suggested that the Central Board of Excise and Customs should give urgent thought to further examination of possible statistical and econometric models for forecasting customs revenue. The Committee desire that the necessary follow up action on the recommendations of the Expert Committee should be expedited and the progress reported to them.

1.23. A significant factor which came to the notice of the Committee was that with a view to regulating the quantity of goods imported from abroad and for exercising restraint on imports, the Government took powers from Parliament to impose regulatory duty of customs first in the Finance Bill, 1963 and a similar provision has continued to be made in subsequent finance Bills on year to year basis. The provision was invoked only on 17th February, 1965, when regulatory duty at a flat rate of 10 per cent of the value of all imports with the exception of foodgrains, fertilizers, pesticides, books, etc. was imposed. It was withdrawn with effect from 6-6-1966 consequent on devaluation as it was considered that devaluation itself would restrain imports which was not correct. The levy was again imposed on 13th December, 1971 because of the need to put a restraint on imports in the context of war with Pakistan. The Committee, however, note that the actual realisation of regulatory duty was to

the extent of Rs. 14 crores as against the anticipated revenue of Rs. 12 crores during the year 1971-72. If the enabling provisions were intended to impose a restraint on imports, the realisation should show a lower figure than anticipated and not an increase. In this connection the Committee notice that the value of imports which was Rs. 1582 crores in 1969-70 and Rs. 1634 crores in 1970-71 went up to Rs. 1825 crores in 1971-72. The Committee feel that the power of the executive to enhance the levy authorised by Parliament is somewhat extraordinary and the exercise of the power so granted can be justified only if the intention is fulfilled. This does not appear to have happened. In order that Parliament may come to a proper appreciation of the position an evaluation of the imposition of regulatory duties on imports in the past should be given in every case.

Audit Paragraph

Under-assessment due to adoption of incorrect value.

1.24. In a major Custom House, the assessable value of a consignment of 10.895 metric tonnes of cross rails, imported in July, 1963 by a public sector undertaking and a consignment of surface measuring instruments imported in December, 1963 by the same public sector undertaking was assessed to duty on assessable values of Rs. 1,257 per metric tonne in the case of former goods and Rs. 2,801 per metric tonne in the case of latter consignment. Similar other consignment covered by the same contract were valued at far higher figures viz., 7,150 in the case of cross rails and Rs. 41,520 in the case of surface measuring instruments. As these were provisional assessments, it was expected that adequate action would be taken within a reasonable time for finalising the assessments on the basis of correct assessable values. Since it was not done for a period of over eight years, Audit pointed out the discrepancy in the valuation and the under-assessment arising therefrom. On receipt of the audit note, necessary rectificatory action was taken and a short levy of Rs. 33,845 was recovered by book adjustment.

1.23. The Ministry, in reply have stated that these were provisional assessments, and the c.i.f. value adopted at the time of provisional assessment was to have been revised at the time of finalising the assessments. The fact, however, remains that the assessments were finalised only after a period of nearly eight years after Audit pointed out the discrepancies and such delays have inherent in them the risk of loss of relevant documents necessary for finalising the assessments.

[Paragraph 4 of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) Revenue Receipts-Vol. I—Indirect Taxes]

1.26. The Committee wanted to know how different valuations happened to be adopted for the same machinery imported by the same party at two different times. In a note, the Ministry explained:

“Audit pointed out that a consignment of steel cross rails for double column vertical mill for boring and twining was valued at Rs. 1,257/- per metric ton whereas the correct value should have been Rs. 7,150/- per metric ton as applicable to machine tools on the analogy of another bill of entry in which drilling machine was imported. The Appraiser had applied the value for ‘steel structurals’ mistakenly. Apparently, he thought that since the goods were Cross Rails, they were to be given the value for ‘steel structurals’. The goods in the two bills of entry were not the same although the value relating to machine tools was applicable to both the bills of entry.

“In the second bill of entry, audit pointed out that the appraiser had valued a consignment of surface measuring instruments at Rs. 2,801/- per metric ton, whereas the correct value should have been Rs. 41,520/- per metric tonne applicable to instruments as seen from the bills of entry covered by another C.R.A objection. The description of goods in the other bills of entry was various types of instruments. The Appraiser had valued the consignment of ‘surface measuring instruments’ at Rs. 2,801/- per metric ton applicable to ‘miscellaneous non-standard equipments’, whereas the correct value should have been Rs. 41,520/- per metric ton applicable to ‘laboratory equipment, control and measuring instruments’. Apparently, the Appraiser adopted the value applicable to a wrong group head through mistake.”

1.27. The Committee desired to know the reason for delay of 8 years in finalising the assessments. In a written reply, the Ministry of Finance stated:

“Assessment in these cases is not yet finalised. As regards the time-lag, however, it has been reported by the Custom House that in such cases plant site authorities, after matching all documents with the relevant bills of entry, requisition the services of the assessing officer for assessment of the goods at the plant site. The importation in the instant case was made in the year 1963 and on getting

the requisition from the Plant Authority, an Assessing Officer took 171 bills of entry including bill of entry No. DI 781 dated 6.1.63 in respect of importation of cross rails to the plant site in October 1964 for plant site assessment, which was done in the same month. Again, another requisition came from the Plant site authority and another Assessing Officer took 151 bills of entry which included bill of entry No. DI 3306 dated 28-12-63 in respect of importation of Surface assessment, which was done between the period from 18.1.66 to 4.2.66.

“All the bills of entry had to be audited in Internal Audit Department before realisation of extra duties|refund action as a result of assessment at the Plant site. Internal Audit Department raised some objections. These were duly considered and refund and extra-duty action taken. Thereafter, post-auditing the paid vouchers was completed. All these actions took considerable time before the Special Proceedings files were forwarded to the C.R.A.D. on 9.1.70 and 14-9-70 respectively.”

1.28. Asked when Audit raised objections in these cases and when they were replied, the Ministry stated in their written reply:

“In respect of Cross Rails the Audit raised the objection on 8.6.70 and in respect of Surface measuring instruments on 3.3.71. These were replied by the Custom House on 9.6.71 and 7.6.71 respectively.”

1.29. The Committee enquired when the contracts in this case were registered and whether they have been completed and if so, under|over assessments noticed in these contracts. The Ministry furnished the following reply:

“The imports were made under contract Nos. (i) S37C-26|6|61A and (ii) S37C-27|6|61A which were registered on 1.12.61. The imports against these contracts have been completed, but the contracts have not yet been finalised as the party has not submitted final reconciliation statements along with the payment certificates and other relevant documents. In view of this, the total under|over assessments noticed under these two contracts cannot be stated now.”

1.30. The Committee wanted to know the number of contracts registered annually under the special contract procedure and how

many of them were still current. From the information furnished by the Ministry, the following position emerges:

Madras Custom House

Of the 19 contracts registered with the Madras Custom House during the years 1969 to 1973, 12 are still current as shown below:

Year	No. of contracts registered	No. of contracts Current
1969	6	2
1970	6	3
1971	3	3
1972	3	3
1973	1	1

Bombay Custom House

7 contracts were registered with Bombay Custom House prior to 1972 (between 29-12-1962 and 29-3-1965). No such contract has been registered during the last two years. Out of the 7 contracts, in respect of 2 contracts consignments continue to be imported. Two contracts are the process of finalisation and the remaining cases are pending for want of documents from the importer.

Visakhapatnam Custom House

The number of contracts registered with the Custom House, Visakhapatnam and those that are current are as below:

Year	No. of contracts registered	No. of contracts current
1961	63	32
1962	94	66
1963	83	45
1964	113	54
1965	212	144
1966	110	67
1967	36	33
1968	26	17
1969	16	11
1970	34	28
1971	32	28
1972	26	25
1973	22	22

Calcutta Cutom House

The position regarding the special procedure contracts registered with the Calcutta Custom House is as follows:

Year	No. of contracts registered	No. of contracts, current
1961	7	
1962	15	
1963	5	
1964	18	No importation now against any of these contracts
1965	1	
1966	2	
1967	1	
1968	Nil	
1969	Nil	
1970	1	
1971	Nil	
1972	Nil	
1973	Nil	

Cochin Custom House

No case of assessment of plant and machinery under the special Contract Procedure has been noticed.

1.31. Asked about the difficulties encountered in the quick finalisation of the contracts and assessments and the remedial action taken in this regard, the Ministry explained:

"The main difficulty in this regard is that the Govt. Undertakings do not furnish reconciliation statements immediately after all the imports under a contract are effected. Imports covered by a contract is generally spread over a number of years and this complicates the task because the older documents do not become readily available at the time of finalisation. For instance, against the contract relating to Cross Rails, as many as 4205 consignments were imported spread over 8 years till 1969. In the case of contract for Surface Measuring Instruments also, the imports were spread over 7 years involving as many as 4662 consignments. Preparation of reconciliation statements for such huge projects by the Project Authorities takes a long time. In case of items which have to be assessed on merit, it becomes difficult to ascertain values of individual items for the following reasons:—

- (i) Being specialised items of import, there are no comparable goods;

- (ii) Since the goods come from the rupee-payment areas, enquiry regarding value also becomes difficult.

"The difficulties regarding assessment of plants have been sought to be remedied by introducing in September, 1965 a new tariff item for project imports under which all imports for a project are assessed at the uniform flat rate generally applicable to machinery. With this new item, the classification of the goods under different tariff items is avoided. Even in regard to value, so long as the imports for a project take place within a period during which the rate of duty on project imports had remained the same, less value of one article and correspondingly higher value of the other does not make any difference. Ultimately, there is a reconciliation statement for the entire value of the project. Secondly, in July, 1968, the Board clarified that machinery contracts registered prior to August, 1965 may be re-registered under the Project Imports Regulations to facilitate assessment and clearance. It was again reiterated in February, 1971 that it is not necessary that the registration of a project under the Project Imports Regulations should precede the first importation under the contract and such registration could be done at any time during the currency of the contract. Thirdly, it has also been impressed upon the Collectors in April, 1973 that every effort should be made to finalise the contract cases within one year of the date of import of the last consignment covered by a contract. Fourthly, the Custom House, Calcutta has augmented the executive staff posted in the Machinery Contract Unit of the Custom House. The cases are now followed up closely with the Government undertakings who have been directed to submit the reconciliation statements."

1.32. The Committee wanted to know whether in all cases where contracts have been finalised the importers furnished the full reconciliation statements, in how many cases discrepancy was noticed by the Custom House and whether the discrepancies were reconciled. The Ministry replied:

"The Collector of Customs, Calcutta has reported that in all cases where contracts have been finalised, reconciliation statements were submitted by the importers. Thousand of consignments are imported under the machinery con-

ract procedures. In big contracts by Government Undertakings the discrepancies are very common. It is, however, not possible to say in how many cases discrepancies were noticed and how they were reconciled. The relative closed contract files may if necessary, be seen by Audit. However, whenever any discrepancy is noticed in the particulars furnished in the reconciliation statements, the importers are asked to provide necessary clarification with documentary evidence and the cases are processed on the basis of further information given by them. The Collector of Customs, Calcutta has reported that finalisation of contracts results in realisation of extra duties in some cases and granting refunds in others. Where the contracts are very small and there is no provision for price variation clause, normally there could be no scope for discrepancy in reconciliation as regards value."

1.33. The Committee asked about the procedure for endorsing assessment on contract Bills of Entry and how the final assessment was endorsed. In a written reply, the Ministry stated:

"The Collector of Customs, Calcutta has reported that while assessing at the initial stage before clearance of the goods on the basis of the party's declaration (in the absence of adequate documents) the bill of entry is endorsed to show that provisional assessment on the declared value and quantity has been done and the Accounts Department is instructed to take deposit of provisional duty. The relevant contract file number is also endorsed on the bill of entry. After assessment at plant site on the basis of inspection of documents and goods, the bill of entry is endorsed to show that the assessment is finalised and endorsement of extra duty or refund is made on the Bill of entry. The assessment at plant site is subject to change at the time of finalisation of the entire contract. The endorsement made in the bill of entry after plant site assessment is, therefore not correct since the assessment continued to be provisional till the contract case is finalised on receipt of reconciliation statement and the duty is finally adjusted after all the consignments against the contract have been imported...."

1.34. The Committee are unhappy that in this case assessable value of a consignment of cross rails imported in July, 1963 and surface

measuring instruments imported in December, 1963 by a public undertaking under special project import procedure was assessed to duty on assessable value of Rs. 1,257 per metric tonnes and Rs. 2,801 per metric tonne respectively, although similar consignment covered by the same contract were valued at far higher figures i.e. Rs. 7,150 in case of cross rails and Rs. 41,520 in case of surface measuring instruments. Admittedly the Appraiser concerned was not careful while assessing the goods initially. It is surprising that he could not distinguish between rails and structurals. This raises the basic question of adequacy of training of appraising staff in order that they may be effective and efficient. The Committee desire that this aspect should be considered by the Central Board of Excise and Customs with the seriousness that it deserves and the committee informed about the outcome.

1.35. The Committee are at a loss to understand how the mistakes could not be detected both at the time of checking the bills at the project site in October, 1964 and January-February, 1955 and in the course of Internal Audit when Revenue Audit could detect them which confirms the usefulness of Revenue Audit. Further, they see no reason why it should have taken a year to reply to the Audit objection in the first case which was raised in June, 1970. In this connection the Committee would remind the Government that they have time and again impressed upon the Board the need to take prompt action on Audit objections. They would, therefore, require suitable action against the delinquent officers for all the above aspects after fixing the responsibility particularly in the higher cadres under advice to the Committee.

1.36. Another unsatisfactory feature of this case is that there was undue delay in finalising the provisional assessment made under special project procedure. The contracts were registered on 1st December, 1961 and the imports against the contracts were spread over a period of 8 years in case of cross rails and 7 years in case of surface measuring instruments. The assessments have not yet been finalised as the final reconciliation statements have not been submitted by the importer. The Committee are not satisfied with the delay of 5-6 years in finalisation of the assessments after the last importation. The Committee desire that this matter should be vigorously pursued with the State Undertaking concerned and the Committee apprised of the progress. A general review in this regard in all the Customs Houses also appears called for. For instance in Calcutta Customs House, out of 50 contracts registered during the period 1961-73, none is current at present and it is not at all clear whether all the provisional assessments relating to them have been finalised.

The Committee would, await the results of the review as well as the action taken to stop repetitions.

1.37. From the figures furnished to the Committee they find that while the number of contracts still current in the major Custom Houses of the country is of a negligible order (12 in Madras Custom House, none in Calcutta Custom House and 7 in Bombay Custom House), the pendency of contracts in Visakhapatnam Custom House is abnormally high and out of 867 contracts registered during the period 1961—1973, the number of contracts which are still current is 572. Out of these, as many as 143 contracts relate to the period 1961-63. In the opinion of the Committee it would not be in the public interest to allow the contracts to continue for an indefinite length of time as it is always fraught with the risk of loss of documents and of goods becoming unidentifiable. The Committee, therefore, desire that a suitable time-limit, say 3 years, should be prescribed for the currency of such contracts under the special procedure.

Short assessment due to application of wrong rates of exchange

Audit Paragraph

1.38. In a major Custom House, two bills of entry were presented on 8th September, 1971 and 3rd December, 1971 for goods valued at 43,00,000 Belgian franc and £2,92,487 respectively. While converting this into Indian rupees for the purpose of assessment, the Custom House applied incorrect rates of exchange, resulting in a short assessment of Rs. 38,888 in both the cases. The Ministry have replied that in both the cases the bills of entry were given prior to the grant of "entry-inwards" to the ship, and "since day-to-day fluctuations in the rates of exchange of various foreign currencies are very minor and since the difference between the rates of exchange ruling on the day the bills of entry were presented and the day on which the entry-inward was granted were so insignificant that the Custom House overlooked the need for re-assessment." Even though the variations in exchange value may be minor, in the rupee valuation of large or heavily priced consignments of goods, the total amount of extra duty realisable—where the rates of exchange have gone up—could be substantial as in this case.

[Paragraph 5 of the Report of Comptroller and Auditor General for the year 1971-72, Union Government (Civil) Revenue Receipts—Volume I—Indirect Taxes]

1.39. The Committee desired to know the system in vogue when the two bills of entry were presented for review and when entry

inwards was granted. The Ministry stated in a written reply: "The Collector of Customs, Bombay has stated that prior to 12-4-1972 the practice in the Custom House was to apply the exchange rate prevailing on the date of presentation of the Bill of Entry in order to facilitate expeditious finalisation of the assessments and there was no system of review because of day to day fluctuations in rates of exchange."

1.40. The Committee drew attention to the Ministry's reply to Audit that the Custom House did not issue demand on the ground that the fluctuations in the rates of exchange were insignificant and asked how the Custom House came to this conclusion when they did not calculate the differential duty amounts. In reply, the Ministry stated as under:

"Under Section 15 of the Customs Act, 1962, the rate of exchange has to be determined taking the rate prevailing on the date the bill of entry filed for the date of entry inwards of the vessel, whichever is later. Prior to second half of 1971, day to day fluctuations in the rate of exchange of various foreign currencies were very minor, the rate of exchange was almost the same on both the date i.e. the date on which the bill of entry was filed and the date adopted under Section 15 of the Customs Act, 1962, or the difference was so insignificant that there was no necessity for the Custom House to issue a demand. This was the reason for the absence of a procedure in the Custom House for review of the Bills of Entry filed under the prior entry system, when entry inwards was granted. This practice was prevalent during the second half of 1971 when the Bills of Entry in question were filed. Hence, no calculation of the differential duty involved was made by the concerned assessing officers."

To a query whether there were similar cases in other Customs Houses, the Minister replied: "Other Custom Houses were asked to intimate if they had similar cases. The Collector of Customs, Calcutta, Madras and Cochin have intimated that during the period in question no such case of application of wrong rates of exchange occurred at their ports."

1.41. To a question as to the levels at which these bills of entry were audited and reviewed and the responsibility of the Internal Audit in these cases, the Ministry replied:

"The Bills of Entry in question were audited and reviewed by computists, audit clerks and audit appraisers."

"The Internal Audit Department is required to check all aspects relating to valuation and assessment including the rates of exchange. The Collector of Customs, Bombay has stated that in his Custom House during the period in question, the Custom House including the Internal Audit Department used to follow the earlier practice of holding the date of noting presentation of the Bill of Entry as the crucial date, and hence, the error could not be detected.

"In this regard the Collectors of Customs, Calcutta and Madras have stated that in their Custom Houses the Internal Audit Departments were ensuring that no short levies occurred because of application of wrong rates of exchange."

1.42. The Committee enquired whether any remedial measures were taken to ensure that in respect of imports by a vessel all entry bills were reviewed for correct conversions. In a note, the Ministry stated:

"In order to take care of day to day fluctuations in the rates of exchange, from July, 1969 onwards, the Govt. have been periodically issuing notifications under section 15 of the Customs Act, 1962 prescribing the rates of exchange for various foreign currencies for the purposes of valuation of goods under section 14 of the Customs Act, 1962.

"In accordance with Board's letter F. No. 15/11/67-Cus-VI dated 26-9-69 except in cases where the exchange rate is the same on both the dates when the bill of entry is filed and the date adopted under section 15 of the Customs Act, 1962, or the difference is so negligible that the normal practice would not permit issue of a demand for duty, the correct rate of exchange is required to be applied. In order to prevent short levy due to incorrect application of exchange rates..... a procedure for re-assessment of bill of entry filed under prior entry system has been prescribed. According to this procedure when the exchange rates prescribed by the Govt. are rescinded or revised or when exchange rates are prescribed, all affected bills of entry filed under the prior entry system on which duty has been assessed but not yet paid are required to be returned by Cash and Accounts Department for presentation to a Centralised Cell, earmarked for this purpose for re-assessment of the value and duty. Further, Bills of Entry for consignments on which duty has been paid but the goods have not been cleared are required to be referred for re-assessment by the Shed Appraisers to the Centralised Cell. In all cases:

referred by the Shed Appraisers to the Centralised Cell for recovery of extra duty, instead of the usual procedure a simplified procedure for recovery of extra duty, against a post original bill of entry is required to be followed."

1.43. The Committee note that in both the cases the bills of entry were presented under the prior entry system, that is, presentation of documents before arrival of the vessel. Under Section 15 of the Customs Act, the rate of exchange applicable is the one prevalent on the date of presentation of the bill of entry or date of entry of the rates of exchanges had changed by the time of grant of entry inward, goods should have been revalued and differential amounts should have been realised. The Committee regret that the correct procedure was not followed in these cases. The Ministry have explained that the omission was due to the fact that the Customs House treated the difference as insignificant and therefore did not issue the demand. The Committee would observe that this assumption is unwarranted. The exact quantum of duty depends on the value and rate. Where these are high or even one of the factors is high, the difference would be appreciable. The Committee understand that the normal practice is not to demand duty for a sum less than Rs. 25. In the present cases, the difference of duty amounted to Rs. 38,888 which is not at all an insignificant amount.

1.44. The Committee feel that the existing system for review of all bills of entry presented under prior entry needs examination. They have been informed that in the cases mentioned in the foregoing paragraph the bills of entry were audited and reviewed by comptants, audit clerks and audit appraisers. According to the Audit the duty paid was Rs. 3,65,916. Having regard to the amount involved there is definitely a case for check at higher levels as well. In order to avoid recurrence of such cases of under-assessment, the Committee require that the Department should lay down rigid guidelines in this behalf.

Audit Paragraph

Short collection of duty due to incorrect addition of freight

1.45. A consignment of wire ropes and mooring buoys valued at Rs. 1,71,120.83 and imported by a Port Trust at a major Custom House in February, 1966 was assessed to duty under items 63(24) and 63(28) Indian Customs Tariff at the rate of 60 per cent plus 10 per cent *ad valorem*. Customs duty amounting to Rs. 1,19,785 was collected on 18th July, 1966. The freight declared by the importer in the bill of entry and accepted by the Custom House for purpose of assessment

was Rs. 30,392 whereas the freight actually payable by the Port Trust on the consignment was U.S. dollars 30,392 equivalent to Rs. 1,44,587 which amount was adjusted by book transfer, in the accounts of the Port Trust for March, 1967. The incorrect declaration of freight in the bill of entry resulted in short collection of duty to the extent of Rs. 80,256. When this was pointed out in audit, the Custom House issued a demand letter for the short levy on 2nd December, 1969. An amount of Rs. 26,695 was recovered in cash in August, 1970 and the balance was set off against sum held to be due to the importer on a revision application filed by the Port Trust.

The Ministry have replied that the Port Trust declared the freight as Rs. 30,392, instead of U.S. dollars 30,392 in the bill of entry, and as the amount of freight appeared to be fair, it was accepted as correct. It has further been stated that the Port Trust did not inform the Custom House even after they had come to know about it.

[Paragraph 6 of the Report of Comptroller and Auditor General for the year 1971-72, Union Government (Civil) Revenue Receipts—Volume I—Indirect Taxes].

1.46. The Committee desired to know the freight shown on the bills of entry and whether it was supported by a bill of lading or other documents. In a written reply the Ministry of Finance stated: "It is seen from the bill of entry that the freight was originally shown as \$ 6,398.35 which was later scored out and the freight amount was shown as Rs. 30,392.15. The Collector of Customs has reported that the freight note submitted at the time of assessment is not available in the Custom House file at this stage. From the copy of the freight invoice now obtained from C.R.A. it is seen that the freight was indicated as 30,392.15 without indicating the currency."

1.47. The Committee asked how, in the circumstances the Custom House admitted freight charges as correct. In a written reply, the Ministry of Finance stated: "The Collector of Customs has stated that since the amount declared appeared to be fair being about 20 per cent of the cost of the goods imported, it was accepted as correct."

1.48. To a question whether the Custom House had called for invoice and supply order before assessment, the Ministry replied: "According to the endorsement on the reverse of the original Bill of entry, it is noticed that Freight Note & Invoice were produced at the time of assessment. The Collector of Customs, Cochin has stated that as the Customs signed Invoice and Freight Note are not readily available, it is not possible to state as to what was mentioned therein

about freight.....From a copy of the freight invoice now obtained from C.R.A. it is seen that freight invoice indicated the freight as 30,392.15 without indicating the currency."

1.49. The Committee asked when the Port Trust came to know that the freight charges were not the same as declared in the bill of entry. The Ministry replied: "The Port Trust have informed that the error was noticed only when the Accountant General, Kerala, wrote to the Financial Adviser and Chief Accounts Officers, Cochin Port Trust on 16-12-67 that although the Bill for freight showed the freight paid as Rs. 30,392.15, an amount of Rs. 1,144,509.65 was paid to the Pay and Accounts Officer, D.G.S. & D. in 7/66 towards freight. The matter was at that stage taken up by the Port Trust with the Pay & Accounts Officer, Ministry of Works, Housing and Supply, Bombay, who explained that the freight charges were correctly recalled in dollars."

1.50. To a query why the Port Trust did not declare the actual freight to the Customs, the Ministry replied: "The Ministry did not make any enquiry with the Port Trust as to why the actual freight was not declared to the Customs since enquiries in individual cases of assessment etc. are not made by the Ministry. The Custom House have now made enquiries from the Port Trust who have stated that the declaration of freight in the Bill of Entry in rupees was made by them on the basis of freight invoice from which Dyson Shipping Co., New York, which showed the amount of freight as Rs. 30,392.15."

1.51. The Committee desired to know the normal practice for addition of freight to the invoice value. In a note, the Ministry explained: "In cases where the invoice gives only f.o.b. or c. & i. value, actual freight charges incurred as seen from the Bill of Lading and Freight notes are added to the invoice value. If the actual freight charges are not available, the Custom Houses attempt to verify the freight from documents such as freight memo or certificates from Steamer Agents. If documents indicating the actual freight charges are not available addition of 20 per cent for freight charges is accepted provided the goods are such that this addition appears reasonable. In case, it is felt that even 20 per cent would not be adequate to cover the freight charges, a higher addition may be made and provisional assessment resorted to."

1.52. According to Audit, invoice price of the goods in this case was Rs. 1,37,985. As against this, the freight amounted to Rs. 1,44,587. The Committee wanted to know the reasons for such high freight. In a note, the Ministry stated: "Freight amount

normally depends on weight or measurement and also upon the nature of goods. In this case the goods were very heavy weighing about 118 tonnes, hence the freight amount was very high."

1.53. To a question whether Government have analysed the types of goods that could have such high incidence of freight, the Ministry replied: "In order to ensure that there was no short levy due to the flat rate addition of 20 per cent on account of freight and insurance it has been prescribed that a record of any class of goods in respect of which 20 per cent addition is found inadequate should be maintained. A list of articles was also drawn in respect of which the addition of 20 per cent for freight and insurance charges was found to be insufficient."

1.54. The Committee asked what action could be taken against an importer if he did not report the actual freight or withheld any other relevant information and what action was taken against the Port Trust in the present case. The Ministry stated in a written reply: "In cases where an importer deliberately misdeclares the actual freight or withholds any other relevant information which comes to light subsequent to the filing of the declaration, in addition to the recovery of short levy which can be made upto 5 years from the relevant date under proviso to section 28(1), action can be taken against the importer in terms of sections 111(m) and 112 of the Customs Act, 1962, which provide for confiscation of goods and for imposition of penalty on the importer. No action was taken against the Port Trust because being a quasi-government body, it was not suspected to have misdeclared the freight deliberately."

1.55. The Committee take a serious view of the Port Trust not declaring actual freight to the Customs in this case. The freight declared by the importer in the bill of entry and accepted by the Customs House for the purpose of assessment was Rs. 30,392, whereas the freight actually paid by the Port Trust on the consignment was U.S. dollars 3,392 amounting to Rs. 144,587. After the Port Trust came to know in December, 1967 that the actual freight was Rs. 144,587 no action was taken by them to apprise the Custom House of the actual position. Under-assessment came to notice when it was pointed out by Audit in December, 1969 whereafter action was taken to recover short collection of duty to the extent of Rs. 80,256. The Committee suggest that necessary action should be taken to fix responsibility of the officers of the Port Trust for not giving necessary information to the Custom House.

1.56. The Committee are surprised how the Collector of Customs accepted the freight declared to be fair being 20 per cent of the

cost of goods imported when in this case the goods were very heavy weighing about 118 tonnes. The Committee note that in order to ensure that there is no short levy due to flat addition of 20 per cent on account of freight and insurance, it has been prescribed that a record should be maintained of any class of goods in respect of which 20 per cent addition is inadequate. The Committee desire that the Board should ensure that such a list is maintained by all Custom Houses and that it is kept up-to-date.

Audit Paragraph

Short levy of additional duty

1.57. In two Customs ports, bulk imports of rock phosphates were charged to additional duty on the basis of invoices produced. The values on the invoices were for 95 per cent of the weight of goods shipped. That the assessment on this basis was not correct was pointed out in Audit in January, 1970 in one port and in October, 1970 in another port. The Custom Houses thereafter called for contracts and scrutinised, when it transpired that the payment of 95 per cent of weight of goods was provisional and the balance of 5 per cent was payable on importation. A short recovery of Rs. 19,757 was realised.

The Ministry have stated that the Custom House charged countervailing duty under the impression that the invoices produced by the party were final.

[Paragraph 8 of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Vol. I—Indirect Taxes].

1.58. In a note furnished to the Committee, the Ministry stated: "The reason for the under assessment was that the importers did not declare that the invoices were provisional. Another factor which led to under assessment was that even though the nature of the deduction was not indicated in the relevant invoices, the concerned Appraisers and the Auditors in the Internal Audit Department did not question the importers regarding the reasons for the invoice value being only for 95 per cent of the bill of lading quantity."

1.59. The Committee enquired how the value of goods was normally checked and whether the procedure was followed in this case. In their reply the Ministry stated: "The value of the goods is normally checked by the assessing officer with reference to the invoice and the price at which similar goods are imported by other importers. In case of doubt other documents like contracts, price lists

and correspondence are examined. Since the nature of the deduction in the invoice was not indicated, the Appraiser should have questioned the Party about the reasons for the deduction. To this extent the procedure was not followed."

1.60. The Committee wanted to know what the responsibility of the importers was in this case. In a note, the Ministry stated: "It was the responsibility of the Importers to bring to the notice of the Custom House that the invoices were provisional, since the importers subscribe the following declaration on the Bill of Entry:—

I|We declare that I|We have not received any other document or information showing a different price, value, quantity or description of the said goods and that if any time hereafter I|We receive documents from the importer showing different facts, I|We will immediately made the same known to the Collector of Customs."

1.61. To a query where any action was taken against the importers, the Ministry replied: "No action was taken by the concerned Custom Houses against the importers since they were a Public Undertaking and the Custom Houses did not treat these as deliberate attempts to evade duty. The amount of short levy was paid by importers."

1.62. The Committee desired to know whether the fact that the invoice value was only 95 per cent of the total was noticed by Internal Audit and they were informed that "the mistake in assessment on the invoice value of only 95 per cent of the total was not noticed by the Internal Audit Department until Customs Revenue Audit Department pointed it."

1.63. The Committee regret to observe that in this case failure of the Custom House to scrutinize the contract resulted in under assessment of custom duty to the extent of Rs. 19,757. The Customs had assessed the goods on the basis of invoices in which the values were for 95 per cent of the weight of goods shipped. The under-assessment was detected on the scrutiny of the contracts at the instance of Audit. The Committee are unhappy that Internal Audit Department could not detect the mistake.

1.64. It was the duty of the importer to bring to the notice of the Custom House that invoices were provisional. The Committee note that the importer in this case is a public undertaking, and therefore no action was taken against them. The Committee desire that correct procedure should be followed by all Public Undertakings. It is the normal practice that goods should be cleared by an

authorised agent. If that is so, then the Committee would suggest that action should be taken against him for his failure in not producing the original contract and invoices on his own accord under advice to the Committee.

Audit Paragraph

Non levy of additional duty

1.65. Collar stays are made from Polyester or P.V.C. sheets and therefore they fall under the category 'plastic articles'. These were assessed to duty under item 87 of Indian Custom Tariff without levy of countervailing duty till 28th February, 1970, but from 1st March, 1970 a new item viz., 82(3) was introduced in the customs tariff to cover items of plastic materials. With effect from the same date a major Custom House changed the practice of assessment and classified them under item 82(3)(b); however, additional duty under the corresponding Central Excise Tariff item 15(A)(2) was not levied.

It was pointed out in Audit that having classified the articles under item 82(3)(b), countervailing duty was also leviable on such articles under item 15(A)(2) of the Central Excise Tariff. On this basis there was an under-assessment in three cases pertaining to imports in February, 1971 amounting to Rs. 22,914. On receipt of audit objection demand notices were issued for recovery of this sum. At the same time the Custom House made a reference to the Board in November, 1970 seeking guidance as to the classification and levy. As no decision was communicated, an audit paragraph was issued to the Board in July, 1972 pointing out non levy of duty amounting to Rs. 54,209 in six cases. After issuing a tariff advice on 18th August, 1972 to the effect that collar stays were assessable under item 87 of the Indian Customs Tariff without levy of additional duty under item 15(A) of the Central Excise Tariff and not under tariff item 82(3), the Ministry stated that the Custom House did not charge countervailing duty as they were of the view that a notification issued in March, 1964 authorised non-levy of additional duty under Section 2-A of the Indian Tariff Act. They have added that since a tariff advice has been issued classifying the goods under item 87, no additional duty is leviable. In the view of audit the notification of March, 1964 did not authorise non levy of additional duty, when the product was classified under item 82(3) of the custom tariff. The tariff advice issued has no retrospective effect nor has it any statutory basis.

[Paragraph 9 of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Vol. I—Indirect Taxes].

1.66. The Committee asked about the basis on which the Collector of Customs concerned classified Collar Stays under tariff item 82(3)(b). In a written reply, the Ministry of Finance stated: "Collar stays are fully finished products of plastic. At the time of introduction of new item 82(3) its scope was not clear enough whether it would also accommodate fully finished products, and hence assessment under item 82(3)(b) I.C.T. was resorted to."

1.67. To a question whether it was not incumbent upon the Collector to levy countervailing duty under 15A of the Central Excise Tariff having classified Collar stays under 82(3)(b), the Ministry replied: "Collector of Customs, Bombay has explained that Collar stays are not in the nature of sheets, foils or rectangular profiles or shapes which attract countervailing duty in terms of Notification No. 28-Customs, dated 1st March, 1964 and hence exemption from levy of countervailing duty was applied. It may, however, be mentioned that the articles which are held to be dutiable for the purpose of additional (countervailing) duty in terms of notification No. 28-Customs, dated 1st March, 1964, are the same as those listed in item 82(3)(b) I.C.T. It, therefore, follows that any article falling under item 82(3)(b) I.C.T. will also be assessable to countervailing duty in terms of the aforesaid notification as the wordings are identical."

1.68. The Committee desired to know the reasons for delay in giving clarification by the Board on a reference made by the Collector of Customs in November, 1970. The Ministry of Finance replied:

"Item 82(3) ICT was created in the Tariff on 1st March, 1970 and a file was started in Board's office to deal with problems, if any, in the classification of goods under this new item. A letter had been issued to the Collectors in that file on 23rd May, 1970 explaining the scope of the new item and the class of articles which would fall within its wording. On 8th April 1970 the Collector of Customs, Calcutta had made a reference on the question of the assessment of Nitro cotton and Methyl cellulose under the new item 82(3) and the same was under examination in the file referred to. It was decided that the question of the classification of Nitro cotton and Methyl cellulose should be first discussed by the Collectors of Customs in a Conference for a decision in the light of the principles laid down in the clarification issued by the Board on 23rd May, 1970. The papers had been kept aside for being considered in the Conference.

"A letter dated 6th November, 1970 was received from the Collector of Customs, Bombay and this was an omnibus reference dealing with the question of classification of several articles under item 82(3) ICT. This included, *inter alia*, the question of classification of Collar Stays and Polymeric Plasticizers. As the subject of the reference was the same as that being dealt with in the general file in which the question of a classification of Nitro cotton was pending for discussion in Conference, the reference was inadvertently linked in that file instead of putting up the papers for action on the letter from Bombay Custom House. This letter thus got merged in the file and was lost sight of.

"The reference from Calcutta regarding Methyl cellulose and Nitro Cotton was discussed in the Conference held in Cochin in January 1971 but the question of classification of Collar Stays and Polymeric Plasticizers was not discussed for the reasons stated above i.e. it would thus be seen that the letter was inadvertently lying unattended in the file and was therefore lost sight of.

"On 16th July, 1971 a reminder was received by Telex from Collector of Customs, Bombay and the earlier letter in question was then traced and found to be in file. It was included for discussion in a Conference of Collectors on Classification Matters and was discussed by the Collectors in the Conference held in Madras in February, 1972. Thereafter all the issues covered by the letter from Collector of Customs, Bombay dated 6th November, 1970 were examined and a Tariff Advice was issued in the case of Collar Stays on 18th August, 1972."

1.69. Observing that the tariff advice classifying Collar Stays under item 87 of the Indian Customs Tariff was given effect to retrospectively and on the strength of which additional duty was not levied, the Committee asked what was meant by a tariff advice and whether it could be made operative retrospectively. In a note furnished to the Committee, the Ministry explained:

"A Tariff Advice is an expression of opinion formed in the best judgment of the authority giving the advice, on a given set of facts and circumstances rather than being a ruling or a direction laying down the law for classification of an article. It interprets the Tariff so as to determine what

classification or rate of duty is applicable to a particular kind of goods; such a ruling does not alter the law, but merely states what in the view of the authority issuing the ruling, the law is already.

“Strictly speaking, it has no legal force in the sense that there is no legal provision by which the Board is authorised to issue such Tariff Advices which are legally binding on all authorities subordinate to the Board.

“In so far as a Tariff Advice seeks to explain what the law already is, it applies to all cases which are pending and open at the time of its issue. The cases which are open and yet to be decided at the time of issue of a Tariff Advice (such as in the present case in respect of classification of collar Stays which were under objection by the Audit Department) are decided in the light of the Tariff Advice and to this extent it has retrospective effect.”

1.70. The Committee cannot but deplore the inordinate delay on the part of the Board in issuing clarification on the reference made by the Collector of Customs House, Bombay in November, 1970, seeking guidance as to the classification of inter alia. Collector stays and polymeric Plasticizers. The Central Board of Excise and Customs issued the necessary clarification in the form of tariff advice on 18th August, 1972 (i.e. after about 22 months). This is a clear instance of gross inefficiency. The Ministry have stated that the reference from the Collector of Customs Bombay was inadvertently linked with another case regarding classification of Nitro Cotton referred to by the Collector of Customs, Calcutta, in April, 1970 and was lost sight of at the time of discussion in the Conference of Collectors held in Cochin in January, 1971. The reference was traced only on receipt of a reminder from the Collector of Customs, Bombay on 16th July, 1971 and the question was discussed at the Collectors Conference held in Madras in February, 1972. Thereafter tariff advice in respect of Collar stays was issued on 18th August, 1972. The Committee consider that the delay that has taken place is inexcusable and suggest that responsibility specially at the top level should be fixed for the delay and the Committee informed about the action taken in this behalf. The Committee would like to reiterate the observation made in paragraph 1.33 of their 110th Report (4th Lok Sabha) that the Central Board of Excise and Customs are meant to give a lead to the lower formations in the matter of prompt decisions and it is therefore imperative that decisions on questions of tax liability are promptly taken.

1.71. It has been stated by the Ministry that the pending cases and the cases under objection are decided on the basis of the tariff advice and to that extent the tariff advice has retrospective effect. The Committee wonder whether this view could be sustained in law. The Committee desire that the matter should be examined carefully. Incidentally, it is evident from the Ministry's reply that in the case under discussion the non-levy of additional duty during the period 1st March, 1970 to 17th August, 1972 was due to wrong interpretation of the notification dated 1st March, 1964 by the Bombay Custom House.

Audit Paragraph

Excess payment of drawback

1.72. A company exported from a major port 3,202 metric tonnes of 'Galvanised Steel Wire Ropes' to Bulgaria in 1971 and claimed a drawback of Rs. 1,459.95. However, the Custom House paid a drawback of Rs. 13,031.82, taking the steel content as 26,254 metric tonnes, whereas actually the steel content according to the claim made by the exporter himself was 2.625 metric tonnes. When this was pointed out in March, 1972, the Custom House issued a demand for recovery of Rs. 11,728 paid in excess. Out of this, it was stated in November, 1972 that the party has paid back Rs. 11,641. The Ministry have replied that it was a case of omission and there was no evidence of malpractice.

[Paragraph 10 of the Report of C&AG of India for the year 1971-72, Union Government (Civil),—Revenue Receipts, Vol. I—Indirect Taxes]

1.73. The Committee asked how the over-payment of refund escaped notice at various levels. In a written reply, the Ministry stated that "it appears to be a case of human error, for which explanations of the concerned officials have been called for by the Collector."

1.74. The Ministry informed the Committee that the declared market price of the goods exported was Rs. 9,762. and that drawback is not admissible in excess of the market price. To a question if it was not checked in this case that drawback should not exceed the market value, the Ministry replied:

"In the case of drawback claims under Section 75, market price is necessarily more than drawback amount as the former represents cost of manufacture *plus* duties leviable whereas the latter represents the duties leviable only. Hence a specific check that the market price is higher

than the drawback amount is not necessary. In this case, the mistake was one of calculation.

Pre-audit is done at a level higher than that of audit clerk (i) in all cases where the claim value is more than Rs. 5000 by the Deputy Office Superintendent (L.A.D.) (ii) irrespective of value by the Assistant Collector I.A.D. where any clarification is sought by Audit from the Assistant Collector Drawback.

The arithmetical calculation of drawback amount is made on the comptometer by the comptist on the basis of data of quantity, contents, drawback rates etc. indicated by the examiner. These calculations are simultaneously checked by the comptist of the Internal Audit Department. The examiner|appraiser are also required to satisfy themselves regarding the correctness of the amount worked out by the comptist.

* * * * *

“The Internal Audit Department is required to counter-check all the aspects which are necessary for the disposal of the claims.”

1.75. The Committee wanted to know the total staff employed for drawback in the Custom House concerned and the number of drawback cases disposed of by this unit. The Ministry stated that “During the relevant year 1971-72 when the claims under Audit Para was sanctioned, this unit of the Bombay Custom House disposed of over 1,22,300 claims.” The strength of UDCs in the Internal Audit Department was 13 and on this basis each UDC had to check about 30 to 40 claims per day.

1.76. Explaining the measures taken to avoid recurrence of such mistakes, the Ministry stated: “Instructions have been issued to the Collectors emphasising the need for proper calculation and checks at all stages. As a measure of further safeguard against such mistakes, the Collectors have been asked to introduce a column in the Drawback Payment Order, for filling the amount of drawback claimed by the exporter so that even at the sanctioning stage, an over-all check could be done conveniently.”

1.77. The Committee observe that in this case the Internal Audit Department failed to detect even an ordinary arithmetical mistake resulting in excess payment of drawback amounting to Rs. 11,728.

It is indeed regrettable that such a mistake should have been overlooked even after reorganisation of the Internal Audit Department. The Committee could suggest that the Ministry should lay down suitable norms of work that may be expected from a UDC and provide the staff accordingly. They make this suggestion as they find that in this case, there were only 13 UDCs in the Internal Audit Department of the Customs House at the material time and the number of drawback claims disposed of was over 1,22,300, which works out to 30 to 40 claims per day by a UDC which is indeed too much to be expected.

1.78. The Committee find that in this case the drawback paid was more than the market price of the goods which is inadmissible. But according to the Ministry, a specific check that the market price is higher than the drawback amount is not necessary. The Committee maintain that it is necessary to ensure that the drawback amount does not in any case exceed the FOB prices; this is unquestionably sound in principle, and would also save Government from acquiescing in the absurd of situation of buying foreign exchange at a premium.

Audit Paragraph

Loss of revenue due to incorrect computation of assessable value

1.79. Section 14 of the Customs Act, 1962 lays down that the value for purposes of assessment of duty in the case of exports should be the price at which the goods are ordinarily sold for delivery at the time of exportation. If the price of sale for export is inclusive of the foreign agents' Commission, assessment of duty should be made on that price.

Export duty on coir yarn and cotton waste exported by a company registered in Bombay through another port was levied on the value of the goods inclusive of commission to foreign agents. Subsequently, on a claim preferred by the exporter that the foreign agent's commission should be excluded from the assessment, refunds were allowed by the Custom House relying on certain instructions issued by the Board in March, 1957 based on the provisions of Section 30 of the repealed Sea Customs Act. The matter was, however, referred to the Board by the Collector for clarification in April, 1969. Before receipt, however, of the clarification, the Collector issued refunds to the extent of Rs. 68,030. In October, 1970, the Board clarified that the rulings of valuation based on Section 30 of the repealed Act should not be followed as a matter of routine, even if they have not been formally cancelled. As regards the

amount of Rs. 68,030 already refunded, the Ministry have replied that the cases could not be re-opened, as they had become time-barred.

[Paragraph 11 of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts—Vol. I Indirect Taxes].

1.80. The Committee desired to know whether the Board had advised its lower formations that the orders and instructions issued under the Sea Customs Act would cease to be applicable when the new Act came into force. In reply, the Ministry stated as follows:

“The Board had informed the Collectors of Customs in its letter F. No. 3/28/63-Cus-VI, dated 13th December, 1963 the extent to which the position in respect of valuation had changed with the introduction of the new Act as under:

The object of Section 14 of the Customs Act was to spell out specifically our concept of ‘real value’ under section 30(b) of the Sea Customs Act, 1878. It was recognised that the allowance of sole agency commission was not fully in accordance with the concept of a price as between two independent parties. Therefore, no special concession will be admissible under Section 14 of the Customs Act for sole agency commissions (and commissions for distributors, indentors, branches, subsidiaries etc., which are of the same nature as sole agency commissions). With this exception however, the intention was not to affect the accepted basis of valuation under Section 30(b) Sea Customs Act. It should not, therefore, be assumed that the various rulings of the Government of India and the Board issued with reference to Section 30(b) Sea Customs Act are automatically superseded.

“Thus, instructions had been issued in 1963 to the lower formations informing them the extent to which the orders and instructions issued under the old Act would cease to be applicable when the new Act came into force.”

1.81. The Ministry further stated that besides the instructions issued on 13th December, 1963, indicating the difference made under Section 14(1) of the Customs Act, 1962, instructions were also issued by the Board on 24th April, 1965 on the treatment of indenting commission for purposes of assessment and on 14th October, 1970

regarding foreign agents' Commission. The letter issued by the Board on 14th October, 1970 giving instructions regarding treatment of foreign agent's commission for purposes of assessment are reproduced below:

"I am directed to refer to the enclosed copy of letter No. 1|74|68-Cus., dated 18th April, 1969 from the Collector of Customs and Central Excise, Cochin on the above subject and to say that the question whether foreign agent's commission should continue to be allowed for purposes of assessment of export duty in terms of Board's instructions F. No. 23|41|55-Cus.I|VI dated 27th March, 1957 has been considered by the Board. As these instructions were issued when assessable value was regulated by section 30 of the Sea Customs Act, their continued application after section 14 of the Customs Act, has come into force has to be considered in the light of the provision in the latter section. Section 14 broadly stipulates that the price at which the goods are ordinarily sold for delivery at the time of exportation without any relationship between the seller and buyer should form the basis of assessment. When the price of sale of export is inclusive of the foreign agent's commission and this is the price paid by the buyer abroad assessment of duty should be made on that price."

"The Board desires that the rulings on valuation based on section 30 of the Sea Customs Act, should not be followed as a matter of routine even if they have not been formally cancelled. These rulings should be carefully examined in every case to see whether the substance of the ruling is maintainable under section 14 of the Customs Act. Such rulings should be followed only if the Collector is fully satisfied that they are consistent also with the provisions of section 14. If, however, the matter is not free from doubt, the Collector should invariably seek the clarification and for revision of the ruling from the Board."

1.82. The Committee asked when the reference in this regard was made by the Collector and also whether any instructions were given to the Collector on the matter prior to this either verbally or in writing. The reply given by the Ministry is appended below:

"Messrs..... had represented to the Board in September, 1968 that Cochin Custom House had been disallowing commission paid by them to the Swiss Agents since 1966 in computing assessable value for export duty purposes. The Board called for a report from the Collector of Customs, Cochin on the 6th September, 1968. The Collector in a letter dated 18th September, 1968 (which was

received on 8th October, 1968) enclosed an earlier report on the subject dated 18th March, 1968 which had not been received in the Board's office.

"In 1969 the Member incharge of Customs of the Central Board of Excise and Customs had visited Cochin on tour and at that time the Member, on being informed that this case was pending for a decision, verbally informed the Collector of Customs, Cochin that the case may be decided by him on merits after considering the nature of the Agreement and all other relevant particulars. A letter in writing was also sent. The general instructions on the subject having already been issued by the Board after the enactment of the new Act and particularly in 1965 regarding the treatment of commission paid to various types of agents, Member (Customs) had felt that it was for the Collector to decide the individual case on its facts and circumstances as indicated in the earlier instructions of 1965. further because the Board is the Appellate Authority."

1.83. The Committee enquired when the Board came to know that the Collector had started making refunds and whether the Board tried to stop it. The Ministry stated that the Collector of Customs, Cochin intimated to the Board on 6th November, 1969 that a decision had been taken by him and that all pending refund claims are being finalised accordingly. This report was examined in the Board's office thereafter. No instructions to stop payment of refunds were issued as it was not clear till the Board's final decision in the matter in its letter dated 14th October, 1970 that the Collector's decision was wrong.

1.84. The Committee wanted to know the considerations which weighed with the Collector in deducting the export agency commission for computing the assessable value of the goods. In reply, the Ministry stated that the Collector of Customs, Cochin after examination of relevant documents such as agency agreement, etc., came to the conclusion that the export agency commission could be deducted in this case in computing the assessable value.

1.85. The Committee desired to know the practice followed by other Custom Houses during the same period. In a written reply, the Ministry stated: "The practice followed in other Custom Houses is described by the Collector as follows:

- (i) *Calcutta Custom House*: "The practice followed in this Custom House in respect of agency commission for assessment purposes on export consignments is that the assess-

able value is arrived at without deduction of agency commission from the gross sale price."

- (ii) *Bombay Custom House*: "The practice followed at this port is to exclude foreign agent's commission for the purposes of assessment to export duty."
- (iii) *Madras Custom House*: "No such cases have been noticed at this port."

1.86. The Committee are indeed amazed to see the manner in which this case was handled by no less a person than the Member, Customs himself. The question whether foreign agent's commission was to be excluded for the purpose of export duty had been pending with the Board since as early as September, 1968, when the exporter wrongly represented against inclusion of the commission by Cochin Custom House. While the matter was still pending and the Board would not arrive at a decision, the Member (Customs) made a visit to the Custom House at Cochin and directed the Collector to 'decide the case on merits' and this was also followed by a letter which was highly improper, and gives rise to serious suspicion. After the Collector allowed refund of duty amounting to Rs. 68,030, evidently as a result of the Member's visit and directive to the Collector, the Board issued a clarification only in October, 1970 that assessment of duty should be made on the price inclusive of foreign agent's commission. The Committee cannot escape from the conclusion that the undue haste shown in refunding the big amount could have been only possible by this direct intervention by the Board Member. Further, the delay in giving a clarification by the Board was responsible for allowing the irregular practice to continue in Bombay and Cochin Custom Houses involving very heavy loss of revenue.

1.87. Having regard to this huge loss of revenues the Committee desire that a thorough and expeditious probe should be carried out into the conduct of all the officials concerned, particularly the Member and the Collector, and that this probe should be entrusted to the Central Vigilance Commission. The Committee should also be informed of the outcome and action taken on this recommendation.

Audit Paragraph

Express levy of additional duty

1.88. In a major Custom House, a consignment of 'Bundy Tubes' (Steel tubes-welded) imported in January, 1971 was assessed to

duty under tariff item 63(18)A Indian Customs Tariff read with item 26AA, Central Excise Tariff @50 per cent *ad valorem* and on account 5 per cent *ad valorem* plus Rs. 75 per metric tonne. The amount of additional duty @5 per cent *ad valorem* was wrongly worked out involving excess recovery to the extent of Rs. 20,423. On Being pointed out by Audit in July, 1971 the department admitted the excess levy but stated that the same could not be refunded due to time bar.

[Paragraph 14 of the Report of C&AG of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Vol. I—Indirect Taxes].

1.89. In a written reply, the Ministry of Finance stated:

“While calculating the amount of countervailing duty the decimal point was put inadvertently at the wrong place. Instead of the correct amount of Rs. 2,269.20, the amount was erroneously shown to be Rs. 22,692.00”.

1.90. Replying to a query, the Ministry informed the Committee that this mistake was not detected by the Internal Audit. The Internal Audit received the relevant bill of entry on 4th March, 1971, but forwarded it to the Customs Receipt Audit for checking only on 29th June, 1971. “The non-detection of the arithmetical error in this case is due to human error. The officials concerned have been cautioned to be more careful in future and instructions have been issued to the effect that the Auditors and Audit A.Os. should, while exercising review in Audit, invariably carry out a rough over all calculation with a view to avoid such errors.”

1.91. Explaining the reasons for the delay in forwarding the bills of entry to the Customs Receipt Audit, the Ministry of Finance informed the Committee that “On receipt of the Customs duty in the Cash & Accounts Department, Bill of entry is required to be processed in the Statistical Department, Daily List Section, Internal Audit Department of the Custom House before it is sent to the Revenue Audit. The delay caused in movement of the Bill of Entry in the instant case is reported by the Collector to be due to heavy pressure of work. The Board have not prescribed any specific time limit for sending such documents to Customs Revenue Audit for checking.”

1.92. The Committee take a serious view of the gross excess levy of duty to the extent of Rs. 20,423 which could not be refunded.

It is a matter of regret that the mistake was not detected by the Internal Audit Department. The workload needs to be looked into.

1.93. The Committee find that in this case there was delay in forwarding the bill of entry to the Customs Revenue Audit. The Committee suggest that in order to avoid such delays, a time limit must be specified for rendering the Customs documents to Audit.

Audit Paragraph

Loss of Revenue due to the theft in a Customs godown

1.94. The local audit of the records and documents of an outpost in May, 1971 revealed that a report of theft of articles worth Rs. 13,289 in the customs godown in August, 1970 had been made by the local official. It was reported that, when the officer in-charge of the godown opened it on 27th August, 1970, he has reported that there was evidence of unauthorised entry. Subsequent departmental check-up however, showed that there was no evidence of forceful entry or tampering of the lock. The matter was reported to the police but the case was declared undetectable by them.

The loss of goods was not reported to the Accountant General concerned as required under para 16 of General Financial Rules, 1963. The department has intimated that disciplinary proceedings against the officer incharge of the godown are in progress and action to write off the loss would be taken after finalisation of these proceedings.

The Ministry have replied that:—

- (i) the Officer responsible for failure to intimate the loss of Government property to the Accountant General has since retired from service; and
- (ii) the Inspector who was in immediate charge of the godown was placed under suspension and necessary disciplinary proceedings for imposing a major penalty have been initiated.

[Paragraph 18 of the Report of C&AG of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Vol. I—Indirect Taxes].

1.95. The Committee enquired whether any investigation has been carried out and whether collusion of the officials concerned was suspected. The Ministry replied: "The theft was reported on the day it was noticed, viz. 27th August, 1970. The Police after investigation reported that the case was undetectable. No collusion of godown officials was suspected."

1.96. Asked why the loss was not reported by the Collector to the Accountant General, as required under the rules, the Ministry stated as below: "According to Rule 16 of General Financial Rules, loss of stores or property should be reported by the subordinate authority concerned to the next higher authority as well as to the Account Officer. In this case the Superintendent promptly reported the theft to the Police and also to the Assistant Collector. The requirement of submission of a report to the Accountant General was lost sight of by the Superintendent of Central Excise. The other superior officers including the Collector did not report the loss to the Accountant General nor brought the lapse on the part of the Superintendent to his notice for rectification. This appears to be due to oversight on their part."

1.97. Answering a question about the value of the goods kept in the godown, the Ministry stated that "the value of the goods kept by the godown keeper was Rs. 18 lakhs. The earliest consignment stored in the godown was seized on 11th May, 1967."

1.98. The Committee enquired on what dates stock-taking of goods in this godown was done prior to 27th August, 1970, the date on which the theft in question was noticed and reported. The Ministry replied: "Prior to 27th August, 1970, a broad stock verification had been made by the Officers-in-charge of the godown at the time of handing over/taking over. Such verification had taken place on 24th January, 1970, 26th January, 1970, 30th March, 1970, 22nd July, 1970 and 1st August, 1970. No discrepancies were noticed."

1.99. Replying to a question about the measures taken for guarding the godown after the theft in question took place, the Ministry stated: "The guarding of the godown was strengthened by posting an additional guard at the vulnerable point. Checks on the guards on duty by the Gazetted Officers were enforced. As the godown was having only a single tiled roof without ceiling, the question of strengthening the godown by installing a metal ceiling was earnestly pursued with C.P.W.D. The question of providing Police guard was discussed by the Assistant Collector with the

Superintendent of Police, but the police expressed their inability to take over the guarding of the godown in view of the insecure condition."

1.100. The Ministry informed the Committee that a subsequent theft occurred in the same godown on 8th/9th May, 1973. The theft was due to the insecure condition of the godown on account of the delay in fixing a metallic ceiling by the C.P.W.D. and negligence in the discharge of their duties by the guards guarding the godown. The guards have been placed under suspension.

Audit Paragraph

1.101. According to Audit, the Government issued a circular in May, 1968 regarding guarding the godowns. The Committee enquired what action was taken by the Collector concerned in this case. The Ministry informed the Committee that though the need for requisitioning the services of the Police for guarding the godowns was realised by the Officers, the department could not succeed in getting the services of the Police Staff for guard duty as the godown was considered by the Police to be insecure.

1.102. As regards the action taken by the other Collectors, the Ministry replied: "The matter was taken up with the units of Special Police Establishment at Bombay, Calcutta and Madras by the Customs and Central Excise authorities there. The Police officers had inspected the Customs godowns along with the departmental officers and made suggestions which were noted by the Department for compliance."

1.103. The Committee desired to know about the action taken on the recommendations of a departmental Committee on disposal of confiscated goods regarding custody of such goods. In a note the Ministry stated: "The Committee's recommendations were circulated to the Collectors for implementation and where necessary for reference to the Board. As far as the recommendations regarding requisitioning the services of the Police authorities are concerned, some of the Collectors have reported that the existing system of guarding by departmental staff is working quite satisfactorily and employing Police personnel may be quite expensive and uneconomical, particularly in places where the godowns are safe and value of goods is not high. However, Police are employed on guard duty in the important centres of Bombay, Calcutta and Madras where the value of goods stored is high. The services of Police have been obtained for Kozhikode godown also. Proposals for employing

Police on guard duty in some other centres have been received and these are under Government's consideration."

1.104. The Committee wanted to know the total loss of goods due to thefts and other causes for the year 1971-72 while the goods were in the custody of Customs. In a note the Ministry of Finance stated that the total loss of goods due to thefts and other causes while the goods were in the custody of Customs for the year 1971-72 is Rs. 27,542/-. The classes of articles stolen were textiles, wearing apparel, cigarette lighters, machinery parts, watches and cloves.

1.105. In a note dated 18-8-1973, the Ministry furnished the following information to the Committee regarding the value of goods seized during 1971-72:

(i) Value of goods seized during 1971-72	Rs. 20.34 crores.
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(ii) Value of goods confiscated out of (i) above	Rs. 15.2 crores.
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(iii) Realisation on sale so far out of (ii) above.	Rs. 2.99 crores. In addition gold and silver valued at Rs. 34 lakhs was sent to the Ministry Currency and cheques valued at Rs. 12 lakhs were sent to Reserve Bank. Launches and Firearms valued at Rs. 80,000 were appropriated for departmental use.
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1.106. The Committee are most astonished to observe that in this case although goods worth Rs. 18 lakhs were kept in the godown, no proper guarding arrangements existed. The godown which is having only a single tiled roof without ceiling, has not been provided with a proper metal ceiling. After the theft of articles worth Rs. 13,289 occurred in August 1970, no action was taken by the CPWD to provide a proper ceiling for the godown in order to make it secure. No wonder another theft occurred in May, 1973. The Committee desire that necessary steps should be taken forthwith to remove the insecure condition of the godown and strengthen the guarding arrangements. They would also like to know the outcome of the investigation by the police of the second theft. It is possible even that the Customs staff have connived at the thefts. The Com-

mittee understand that on both the occasions consumer articles were lost and the Executive officer did precious little to prevent repetition. They would like that investigations should be conducted to ensure that there was no collusion by customs staff.

1.107. The Committee find that the earliest consignment stored in this godown was of May 1967. This shows that the goods had been stored for more than 3 years and no action was taken to dispose them of; some of which could deteriorate in value. The Committee are of the view that confiscated goods should be disposed of expeditiously and, ordinarily, the disposal should take place within three months of the confiscation. This would ensure the maximum realisation and, at the same time, reduce the possibility of deterioration in quality as also of theft. The Committee would like to be informed about the reasons for delay in this case.

1.108. The Committee were informed in August, 1973 that the value of goods confiscated out of the goods seized during 1971-72 was Rs. 15.2 crores and that the sale price realised till then was Rs. 3.458 crores. This shows that either the disposal of confiscated goods was slow or the sale value realised was very low compared to the value of the goods confiscated or the value of seized goods were highly inflated to unduly highlight Customs performance. If the second presumption is true, the Committee would like to have an explanation why the value realised was so low. The Committee suggest that in order to prevent over-pricing, it might be useful for the Customs authorities to give cogent reasons for any large difference between the valuation figures computed and the value realised in disposal.

1.109. The Committee note that during the year 1971-72 the total loss of goods from the Customs' custody due to theft and other causes amounted to Rs. 27,542. The Committee require that the Board must ensure that there are proper security arrangement in the Customs godown. All cases of major losses and theft should be reviewed by the Board to ascertain whether there was any collusion. To guard against clandestine removal of goods and later on covering it up as theft, there should be frequent surprise verification of goods by higher Departmental officers.

Audit Paragraph

Unauthorised export of goods

1.110. One vessel was seized on suspicion on 18h May, 1970 off south west coast Rummaging of the vessel and complete unloading

of the goods revealed that only part of goods on board the vessel was shown in the export manifest. The unmanifested cargo included coir yarn, coir mat, mattings, tamarind and other articles valued at Rs. 1,19,792. On adjudication, by the department, the entire unmanifested cargo was confiscated, imposing penalty.

Of the confiscated articles, goods valued at Rs. 4,814 were ordered to be destroyed as they were found unfit for human use. Such huge quantities of unmanifested cargo in a vessel reveals absence of necessary supervision over loading operations in ports. Export of unmanifested cargo is likely to aid smuggling operations.

[Paragraph 19 of the Report of C&AG of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Vol. I—Indirect Taxes].

1.111. The Committee were informed by the Ministry of Finance that "the seizure of the vessel was effected by sea patrolling organised on the basis of information."

1.112. The Committee enquired whether the statements of offenders were recorded. Answering in the affirmative, the Ministry stated in a note as follows:

"The tindal in-charge of the vessel had given two statements before the Customs authorities. In the first statement he stated that he had not checked the goods on board his vessel but believed that all the goods on board were covered by valid documents. He stated that the excess goods had been loaded by his vessel's agent at Kozhikode without his knowledge. In his second statement he changed his version and stated that the excess goods had been loaded by an Arab National at Kozhikode without observing Customs formalities and without informing him. Being illiterate he could not verify whether the cargo was covered by valid Customs documents or not. Though according to the tindal's statement the unmanifested cargo might have been loaded in the vessel in the port of Kozhikode it is not corroborated by other evidence and it is not possible to say where they were loaded. The vessel as per the tindal's statement did not touch any other port after leaving Kozhikode. The manifested cargo loaded on the vessel was of the order of 35 tons and 95 cubic metres (timber). The Unmanifested goods were of the order of 40 tons and 70 cubic

metres. Unmanifested goods of such bulk would have easily been noticed by the rummaging officer who rummaged the vessel before permitting it to sail. It is therefore likely that the unmanifested cargo just like the illicit emigrants was loaded beyond port limits.

“The types of unmanifested goods found in the vessel in question were coir products, tamarind, fishoil, chappals, bamboo reed, jackwood roots, copper rods, timber, sharbath and pickles. The goods (except pickles, sharbath and tamarind) were disposed of through public auction by the D.G.S.&D. Pickles, sharbath and tamarind which were found unfit for human consumption were destroyed. In the case of perishable goods, the officer in charge of Azhikal Custom House, who was also a member of the seizing party and who was the custodian of the goods should have taken immediate action for disposal. The need for prompt disposal of the perishable goods (Sharbath, Pickles and Tamarind) before they got deteriorated had been lost sight of by the officer. The goods were seized on 8.6.70. The case was adjudicated on 22.1.71 giving the owners of the goods option to redeem them on payment of fine within a period of three months. Action was initiated only after the period of redemption had expired. By that time the goods had deteriorated and became unfit for human consumption.”

1.113. Asked what action was taken against the offenders and whether the Department had any offences on earlier occasions against the persons involved in this case, the Ministry replied as under:

“A personal penalty of Rs. 5,000|- was imposed on the tindal. This was in addition to the absolute confiscation of Rs. 7,250|- out of the Indian currency of Rs. 7,270|- seized. The unmanifested goods and the vessel were also confiscated with an option to redeem the same on payment of a fine of Rs. 1 lakh and Rs. 15,000|- respectively. A prosecution case was also initiated in the court but the tindal could not be apprehended. He had been enlarged on bail, for a surety amount of Rs. 5,000|- in August, 1970. Regarding illicit emigrants, the case is pending trial before the District Magistrate.

“No offence was booked on earlier occasions by the Department against the tindal or the crew of the vessel in question.”

1.114 According to Audit the vessel carried a number of emigrants, the Committee asked whether the matter was reported to the C.B.I. or any other authority. The Ministry replied that “the case was reported to Police authorities.”

1.115. The Committee desired to know how many cases of this type were reported subsequent to 1970. The Ministry stated:

"During the last three years, in the Cochin Customs and Central Excise Collectorate one vessel M.S.V. Taruna carrying unmanifested cargo worth Rs. 5,000/- was intercepted on high seas and seized on 19-10-1972".

1.116. To a query whether the offence in these cases involved foreign exchange regulations, the Ministry replied:

"Export of goods without G.R. 1 Form and taking out of Indian currency in excess of the prescribed limit are offences under Sections 8 and 12 respectively, of Foreign Exchange Regulations Act. Since the goods sought to be exported had been seized, the question of a foreign party paying for them after the seizure would not arise."

1.117. To a question about the remedial measures taken to prevent recurrence of such unauthorised exports, the Ministry replied:

"The existing arrangements for checking that unmanifested goods are not loaded at the ports are adequate. Unauthorised loading from anywhere on the long coast is sought to be prevented by intelligence and preventive measures in general."

1.118. The Committee wanted to know the goods that were normally exported through the ports on the West Coast of Kerala and Mysore and now the quantities of these goods exported during 1971-72 compared with those of 1970-71. In reply, the Ministry furnished the following information:

"The goods normally exported through the ports of Kerala are cashew kernels, timber, coir products, coir fibre, coir yarn, pepper, ilmenite, coffee, tea, marine products, cardamom, ginger, etc. The goods normally exported through the ports of Mysore are iron ore, manganese ore, coffee, cashew kernels, shimps, pepper and cardamom.

"There has been generally an increase in 1971-72 over 1970-71 in all the above mentioned items of exports except pepper and timber, through the ports of Kerala. There has been generally a decline in the export of all items of goods except shimps, through the ports of Mysore."

1.119. The Committee enquired whether any study has been undertaken to find out the reasons for this decline in the export duty realised at Kozhikode port. The Ministry of Finance in a written reply stated:

“A study undertaken to find out the reasons for the decline of export duty at Kozhikode port reveals the following result:

“The fall in export duty in Kozhikode port is due to diversion of goods to Cochin by major exporters on account of pilferage, labour trouble and lesser number of steamers calling at Kozhikode port for export of goods. The realisations on account of export duty from Kozhikode port are as follows:—

Year	Export duty realised
	(Rs.)
1971-72	65,000
1972-73	25,000

1.20. Asked whether similar decline in receipts from export duty was noticed at any other port on the West Coast in the account years 1969—72, the Ministry furnished the following statement showing the position:

RECEIPT FROM EXPORT DUTY

Name of Port	1968-69	1969-70	1970-71	1971-72	Reasons for decline in export duty
Bombay .	7,66,16,000	6,80,51,000	6,04,42,000	6,23,08,000	Decline in 1970-71 as compared to 1969-70 is due to (1) Abolition of export duty on tea with effect from 1-3-70. (2) Less export of raw cotton due to failure of cotton crop. (3) Less export of de-oiled groundnut meal.
Porbandar.	67,23,000	79,50,000	75,33,000	61,20,000	Decline due to Indo-Pak war.

Kandla	2,45,000	8,50,000	1,01,000	46,000	Decline due to:— 1. Stoppage of export of steatite and raw cotton. 2. Removal of export duty on tea
Coondapur		5,00,000	5,25,000	3,90,000	Decline due to less export of Mangane- nese ore and iron ores by the M. M. T. C.
Tellicherry		[1,33,000	3,01,000	84,000	Decline due to divi- sion of goods to Cochin.
Alleppy	62,50,000	49,74,000	33,63,000	35,70,000	Due to decline in the number of steam- ers calling at the port, labour un- rest late start of season and diver- sion of carg to other ports.
Cochin	8,65,23,000	6,17,81,000	4,62,91,000	5,07,85,000	Decline due to:— (1) Fall in export of tea, pepper and and coir fibre. (2) Abolition of ex- port duty on tea.

1.121. The Committee feel concerned to find that in this case the seized vessel carried unmanifested goods of the order of 40 tons. According to the Ministry it is likely (mere guess) that the unmanifested cargo was loaded beyond the port limits. The Committee are surprised how such huge bulk of goods could be loaded in a vessel beyond the port limits in mid-sea without docking and platform facilities. The Committee, therefore, maintain that the matter needs further investigation as to where the unmanifested goods were loaded and whether there was failure on the part of Customs officers.

1.122. The Committee feel concerned over the decline in receipts from export duty at some of the ports including Kozhikode on the West Coast. The Committee require the Central Board of Excise and Customs to undertake a review of the position to determine the extent to which the decline in receipts can be attributed to smuggling operations and to take effective measures to check the same.

1.123. The West Coast covers a long belt and hence calls for tighter vigilance operations to curb effectively clandestine operations such

as picking up of illicit emigrants and valuable goods after clearance of the vessels from the ports. The penalties for such offences should be severe to act as a deterrent.

Audit Paragraph

Remissions and abandonments of Customs Revenue

1.124. (i) The total amount of customs revenue remitted, written off, or abandoned during the year 1971-72 is Rs. 24,76,649. The corresponding amounts during the preceding three years are as follows:

	Rs.
1968-69	30,03,930
1969-70	25,98,305
1970-71	15,35,045

(ii) During the year 1971-72, a total of 324 exemptions were issued under section 25(2) of the Customs Act, 1962 by the Central Government having revenue effect of Rs. 4,05,41,493. Of these in 102 cases involving exemptions in each case exceeding Rs. 10,000 the revenue forgone amounted to Rs. 3,78,66,846.

[Paragraph 20 of the Report of C&AG of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Vol. I—Indirect Taxes].

1.125. The Committee desired to know the amount of custom revenue forgone during the year 1971-72 in respect of (i) goods landed but found missing before clearance, (ii) goods pilfered, lost or stolen from the custody of Port Trust|Customs and (iii) confiscated goods destroyed|lost. The Ministry furnished the following information: "The amount of customs duty refunded, on goods landed but found missing before an order for clearance is given, under the provisions of section 13 of the Customs Act, 1962 during the year 1971-72 was Rs. 4.28 lakhs. These goods get pilfered or stolen while in the custody of Port Trusts prior to clearance.

1.161. "The amount of customs revenue foregone on goods pilfered, lost or stolen from the custody of Customs during the year 1971-72 comes to Rs. 1,872|- only.

1.162. "In accordance with the provisions of Section 126 of the Customs Act, 1962, after confiscation of the goods the property vests in the Central Government. Hence, the revenue foregone in case of confiscated goods destroyed or lost, will equal to their value. The Book value of such goods, which were destroyed or lost during the year 1971-72 works out to Rs. 24,550|-."

1.126. In reply to a question regarding the articles that were generally stolen or pilfered and whether any collusion was suspected in any of the cases, it was stated by the Ministry that "the articles that are generally stolen or pilfered are chemicals, ball bearings, motor vehicle parts, textiles, wearing apparels, consumer and luxury goods like liquor, etc. No collusion was suspected in any of the cases of 1971-72."

1.127. Asked about the type of guards provided, the Ministry stated: "The Customs Godowns and Air Transit Sheds at Bombay, Calcutta and Madras are guarded by Armed Police Guards and by Customs Sepoys. Valuables are kept in strong rooms of the Custom Houses and where necessary in the safe vaults of Reserve Bank of India or State Bank of India. At premises, the port authorities have their own security force, in addition to Central Industrial Security Force. In other Customs Houses/Central Excise Collectrates, the Customs Godowns are guarded by Customs|Central Excise Sepoys."

1.128. The Committee enquired how many exemptions issued under Section 25(i) of Customs Act were operative in 1971-72. In a note, the Ministry stated as below:

"The Customs Act, 1962, came into force with effect from 1-2-1963. This Act repealed the Sea Customs Act, 1878. Section 160 (3) (a) of the Customs Act, 1962 provides *inter alia* that any notification issued under any repealed enactment shall, so far as it is not in consistant with the provisions of Customs Act, 1962, be deemed to have been done under the corresponding provision of this Act. For Section 25(1) of the Customs Act, 1962, the corresponding section in the Sea Customs Act, 1878 was section 23 of that Act. Accordingly, the date in respect of exemption Notifications issued under section 23 of the Sea Customs Act, 1878 are also furnished below in addition to the exemption Notifications issued under section 25(1) of the Customs Act, 1962. While compiling these data, each Notification has been counted as one exemption. The data relates to financial year 1971-72.

(i) Exemption Notifications operative on 1-4-1971:—

(a) Exemption Notification issued under Section 23 of the Sea Customs Act, 1878	140
(b) Exemption Notifications issued under Section 25 (1) of the Customs Act, 1962	207
Total :	<u>347</u>

(i) Exemption Notifications issued under section 25 (1) of the Customs Act, 1962 during the period from 1.4.1971 to 31-3-1972.	43
(ii) Exemption Notifications rescinded/superseded during the period from 1.4.71 to 31.3.72—	
(a) Exemption Notifications under section 23 of the Sea Customs Act, 1878	9
(b) Exemption Notifications under Section 25(1) of the Customs Act, 1962	30
TOTAL	39

1.129. The Committee asked about the justification for a large number of exemptions when the objective of Government seemed to be to achieve restraint on imports. The Ministry in a written reply stated:

“Section 25(1) of the Customs Act, 1962, empowers the Government to grant exemptions:

- (i) from import duties leviable on goods imported into India; and also,
- (ii) from export duties leviable on goods exported out of India.

“On the export side, the effective rates of export duties are regulated from time to time in order to increase the competitive position of the exported goods in the international market. Accordingly, the exemptions from export duties are given for the purpose of promoting Indian exports to other countries.”

“The reasons for granting exemptions on import side may be broadly categorised as follows:—

- (i) In accordance with the General Agreements on Trade & Tariff, certain tariff concessions agreed to by India have been implemented through exemption notifications.
- (ii) In cases where indigenously manufactured finished products using imported raw materials are placed at a disadvantageous position *vis-a-vis* imported finished product, on account of high incidence of import duties leviable on imported raw materials, industries concerned have been given tariff assistance by bringing down through exemption notifications the import duties applicable in the case of imported raw materials to a level necessary for the removal of the disadvantage.

- (iii) In cases where components|raw materials required for the initial setting up, assembly or manufacture of machinery|finished product are assessable to duty at higher rate than what is leviable on the machinery|finished product, the tariff anomaly has been set right through the exemption notification equalising the two rates.
- (iv) Certain raw materials|semi-finished products are imported for producing finished products which are to be exported later. In such cases, exemptions from import duties have been given in the interest of export promotion.
- (v) Some exemptions have been given on humanitarian grounds like relief, rehabilitation & repatriation of the Indians, etc. Again, in view of the national interest involved in promoting agriculture, education, art, culture, family planning and public health etc., some exemptions have been given. Also, in order to honour some international conventions and obligations, certain special categories of imports effected by privileged persons diplomatic missions and International Organisations etc. have been offered concessional treatment through exemption notifications.

“In this connection, it may also be mentioned that each item in the Indian Customs Tariff carries a statutory rate of duty. However, the effective rate of duty under a specific item is always regulated in accordance with Government’s policy in this regard, which changes from time to time. The pegging down of such effective rate to a level which is in consonance with the policy formulated in this behalf has to be done through the issue of an exemption notification under section 25(1) of the Customs Act, 1962. In view of this, such exemption notifications on import side can not be considered to be trade concessions. Most of the exemption notifications on import side belong to this category.”

1.130. The Committee drew attention to the Finance Minister’s statement in his budget speech in May, 1971 reducing the member of *ad valorem* rates of duty from 7 to 4 and asked in how many cases

operative exemptions were allowed other than these rates of duty. The Ministry replied as follows:

“The Finance Minister’s Speech referred to above relates to 1971 budget which was announced in May, 1971. In the above extract of the speech there is a reference to *ad valorem* rates of import duty. Therefore, in computing the number of operative exemptions for the purpose of reply to this point, exemption Notifications relating to export duty as well as those prescribing specific rates of import duty have been ignored. Each exemption Notification has been treated as one exemption and the data have been prepared on the basis of the exemption. Notifications operative in 1971-72 (Financial Year)”.

“On the above basis, the number of post-budget operative notifications which carried the *ad valorem* rates of import duty other than the rates of duty of 30 per cent, 40 per cent, 60 per cent and 100 per cent *ad valorem* were 169. The Notifications prescribing ‘Nil’ rate of duty have been included in the above figures.”

1.131. The Committee asked about the justification for issue of as many as 169 post-budget notifications in the light of Finance Minister’s statement. The Ministry replied as follows:

“During the formulation of the budget proposals from year to year, tariff rates, both statutory as well as those fixed under exemption notifications, are reviewed with a view to determining the necessity of introducing any changes in tariff rate structure.”

“Out of 169 exemption notifications, 121 carried ‘nil’ rate of duty. The policy statement made by the Finance Minister in his Budget speech for 1971-72 with regard to rationalisation of the tariff rate structure referred to *ad valorem* rates only and was not intended to cover ‘Nil’ duty exemptions. Accordingly, in the case of 121 exemption notifications which carried ‘nil’ rate of duty, the rationalised percentages could not be introduced because of the Government’s deliberate policy of not levying any import duty in such cases.”

"In the remaining 46 exemption notifications, the effective *ad valorem* rates could not be rationalised in view of the country's commitments under various Trade and Tariff Agreements and also on account of the need for removing certain tariff anomalies and for providing tariff assistance to some industries."

1.135. The Ministry of Finance furnished a list of 328 cases of exemptions given during 1971-72 under Section 25(2) of the Indian Customs Act, 1962 which included Government Departments, individuals, firms etc. The Committee enquired whether the Board were satisfied that the exemptions given in the case of individuals and firms served public interest as provided in the Act. In their reply, the Ministry stated:

"The *ad hoc* exemptions given during the year under review in favour of the individuals and the firms may be classified in the following broad categories:

- (1) Exemptions of Life-Saving Drugs|Equipment;
- (2) Exemptions in respect of cars imported by returning Indian Heads of Missions;
- (3) Exemptions in respect of professional equipment brought by the Indian Nationals well-qualified in Science and Technology;
- (4) Exemptions in respect of articles of utility imported by disabled and handicapped persons;
- (5) Exemptions in respect of empty cylinders imported for re-export, filled with gas;
- (6) Exemptions in respect of equipments, raw film, etc., imported temporarily by Radio, Press, Film and Television items;
- (7) Exemptions in respect of equipment imported for Exhibitions;
- (8) Others."

1.136. The Committee find that during the year 1971-72, the amount of Custom duty refunded on goods landed but found missing before clearance was Rs. 4.28 lakhs. The goods were pilfered or stolen while in the custody of port trusts. The Committee feel concerned over the loss and desire the Port Trust authorities should take necessary steps to tighten the security arrangements. All cases of losses of valuable goods should be examined with a view to determining whether the thefts have occurred in collusion with the staff or importers and if so, to take appropriate deterrent action.

1.137. The number of exemption notifications operative during the year 1971-72 was 351. This figure consists of 131 Notifications issued under Section 23 of the Sea Customs Act, 1878 and 220 issued under Section 25(1) of the Customs Act, 1962. The Committee note that exemptions on export duties may be justified to some extent to sustain exports under certain conditions. The Committee feel that on the import side there should not be many exemptions, when the objective is to achieve restraint on imports. The Committee suggest that with this end in view the Ministry should review the existing exemptions on the import side. In the case of concessions under the General Agreements on Trade and Tariff given with reference to articles, it should be examined whether there could be tariff rates equivalent to effective rates. It should also be examined whether in the case of imbalance in duties and cost of raw materials and finished goods, tariff anomalies could be adjusted in the tariff itself, because raw materials and finished goods are assessable under different tariff items. As most of the exemption notifications affecting the tariff have been current for a number of years a review is urgently called for, before the next Finance Bill, with a view to seeing the extent to which they can be embodied in the Statute rather than being continued automatically under executive powers for all time. The Committee would await the outcome.

1.138. The Committee note that during the year 1971-72 in 328 cases exemptions were given under Section 25(2) of the Indian Customs Act, 1962, which provide for exemption of duty under circumstances—5.

tances of exceptional nature. The Committee are anxious that before giving such exemption the Board should satisfy themselves that exemption given to individual and firms etc. invariably serves public interest.

NEW DELHI;
March 3, 1975

Phalguna 12, 1896 (S)

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

APPENDIX

Summary of main Conclusions/Recommendations

S. No.	Para No. of Report	Ministry/Department Concerned	Conclusions/Recommendations
1	2	3	4

1. I 22 Ministry of Finance (Department of Revenue and Insurance)

The Committee are concerned to find that during the year 1971-72 the variation between the budget estimates (Rs. 534 crores) and actuals (Rs. 695.67 crores) of the Customs Receipts amounted to Rs. 161.67 crores which work out to 30.28 per cent. In fact the percentage of variation is the highest recorded during the last 10 years. The two post budget levies i.e. regulatory duty of customs imports and increase in export duty on carpet backing and other hessians accounted for variation only to the extent of about Rs. 24 crores. The bulk of the variation was due to larger imports than expected in respect of petroleum products, iron and steel and some other commodities, viz. machinery, motor vehicle parts, chemicals and other industrial raw materials and fertilizers. Such a wide gap between the budget estimates and actuals points to the conclusion that the present system of estimating receipts of customs duty is seriously defective and undependable and that this has not even been realised shows lack of efficiency, at the top.

2. 1.23 Ministry of Finance
(Department of Revenue
and Insurance)

In pursuance of the recommendation made by the Committee in paragraph 6.1(c) of their 89th Report (5th Lok Sabha), Government appointed an Expert Committee in January, 1974 to suggest ways and means of achieving a more accurate and scientific forecasting of customs revenue. The Expert Committee in the report submitted in June, 1974 have expressed the view that a system which seeks to take as its quantitative base the past import levels of a larger number of commodities which do not display any reliable trend and build on it qualitative judgment which again depends on hunches and informed guess work at various levels of estimation is not calculated to yield satisfactory results. The Expert Committee have suggested the use of a statistical method for forecasting customs revenue to provide a more accurate forecast of likely level of total imports in the budget year as well as the likely level of customs revenue. The Expert Committee have suggested that the Central Board of Excise and Customs should give urgent thought to further examination of possible statistical and econometric models for forecasting customs revenue. The Committee desire that the necessary follow up action on the recommendations of the Expert Committee should be expedited and the progress reported to them.

-Do-

from abroad and for exercising restraint on imports, the Government took powers from Parliament to impose regulatory duty of customs first in the Finance Bill, 1963 and a similar provision has continued to be made in subsequent Finance Bills on year to year basis. The provision was invoked only on 17th February, 1965, when regulatory duty at a flat rate of 10 per cent of the value of all imports with the exception of foodgrains, fertilizers, pesticides, books etc. was imposed. It was withdrawn with effect from 6-6-1966 consequent on devaluation at it was considered that devaluation itself would restrain imports which was not correct. The levy was again imposed on 13th December, 1971 because of the need to put a restraint on imports in the context of war with Pakistan. The Committee, however, note that the actual realisation of regulatory duty was to the extent of Rs. 14 crores as against the anticipated revenue of Rs. 12 crores during the year 1971-72. If the enabling provisions were intended to impose a restraint on imports, the realisation should show a lower figure than anticipated and not an increase. In this connection the Committee notice that the value of imports which was Rs. 1582 crores in 1969-70 and Rs. 1634 crores in 1970-71 went upto Rs. 1825 crores in 1971-72. The Committee feel that the power of the executive to enhance the levy authorised by Parliament is somewhat extraordinary and the exercise of the power so granted can be justified only if the intention is fulfilled. This do not appear to have happened. In order that Parliament may come to a proper appreciation of the position an evaluation of the imposition of regulatory duties on imports in the past should be given in every case.

4. 1.34 Ministry of Finance
(Department of Revenue
and Insurance)

The Committee are unhappy that in this case assessable value of a consignment of cross rails imported in July, 1963 and surface measuring instruments imported in December, 1963 by a public undertaking under special project import procedure was assessed to duty on assessable value of Rs. 1,257 per metric tonne and Rs. 2,801 per metric tonne respectively, although similar consignments covered by the same contract were valued at far higher figures i.e. Rs. 7,150 in case of cross rails and Rs. 41,520 in case of surface measuring instruments. Admittedly the Appraiser concerned was not careful while assessing the goods initially. It is surprising that he could not distinguish between rails and structurals. This raises the basic question of adequacy of training of appraising staff in order that they may be effective and efficient. The Committee desire that this aspect should be considered by the Central Board of Excise and Customs with the seriousness that it deserves and the Committee informed about the outcome.

5. 1.35 -Do-

The Committee are at a loss to understand how the mistakes could not be detected both at the time of checking the bills at the project site in October, 1964 at January-February, 1966 and in the course of Internal Audit when Revenue Audit could detect them which confirms the usefulness of Revenue Audit. Further, they see no reason why it should have taken a year to reply to the Audit objection in the first case which was raised in June, 1970. In this connection the Committee would remind the Government that they

have time and again impressed upon the Board the need to take prompt action on Audit objections. They would, therefore, require suitable action against the delinquent officers for all the above lapses after fixing the responsibility particularly in the higher cadres under advice to the Committee.

6. I. 36

-Do-

Another unsatisfactory feature of this case is that there was undue delay in finalising the provisional assessment made under special project procedure. The contracts were registered on 1st December, 1961 and the imports against the contracts were spread over a period of 8 years in case of cross rails and 7 years in case of surface measuring instruments. The assessments have not yet been finalised as the final reconciliation statements have not been submitted by the importer. The Committee are not satisfied with the delay of 5-6 years in finalisation of the assessments after the last importation. The Committee desire that this matter should be vigorously pursued with the State Undertaking concerned and the Committee apprised of the progress. A general review in this regard in all the Customs Houses also appears called for. For instance in Calcutta Customs House, out of 50 contracts registered during the period 1961-73, none is current at present and it is not at all clear whether all the provisional assessments relating to them have been finalised. The Committee would, await the results of the review as well as the action taken to stop repetitions.

7. I. 37

-Do-

From the figures furnished to the Committee they find that while the number of contracts still current in the major custom

Houses of the country is of a negligible order (12 in Madras Custom House, none in Calcutta Custom House and 7 in Bombay Custom House). The pendency of contracts in Visakhapatnam custom House is abnormally high and out of 867 contracts registered during the period 1961—1973, the number of contracts which are still current is 572. Out of these, as many as 143 contracts relate to the period 1961—63. In the opinion of the Committee it would not be in the public interest to allow the contracts to continue for an indefinite length of time as it is always fraught with the risk of loss of documents and of goods becoming unidentifiable. The Committee, therefore, desire that a suitable time-limit, say 3 years, should be prescribed for the currency of such contracts under the special procedure.

The Committee note that in both the cases the bills of entry were presented under the prior entry system, that is, presentation of documents before arrival of the vessel. Under Section 15 of the Customs Act, the rate of exchange applicable is the one prevalent on the date of presentation of the bill of entry or date of entry of the vessel whichever is later. In these cases as the rates of exchange had changed by the time of grant of entry inward, goods should have been revalued and differential amounts should have been realised. The Committee regret that the correct procedure was not followed in these cases. The Ministry have explained that the omission was due to the fact that the Customs House treated

**Ministry of Finance
(Department of Revenue and
Insurance)**

8. 1.43

the difference as insignificant and therefore did not issue the demand. The Committee would observe that this assumption is unwarranted. The exact quantum of duty depends on the value and rate. Where these are high or even one of the factors is high, the difference would be appreciable. The Committee understand that the normal practice is not to demand duty for a sum less than Rs. 25. In the present cases, the difference of duty amounted to Rs. 38,888 which is not at all an insignificant amount.

-Do-

1.44

9.

The Committee feel that the existing system for review of all bills of entry presented under prior entry needs examination. They have been informed that in the cases mentioned in the foregoing paragraph the bills of entry were audited and reviewed by computerists, audit clerks and audit appraisers. According to the Audit the duty paid was Rs. 3,65,916. Having regard to the amount involved there is definitely a case for check at higher levels as well. In order to avoid recurrence of such cases of under assessment, the Committee require that the Department should lay down rigid guidelines in this behalf.

-Do-

1.55

10.

The Committee take a serious view of the Port Trust not declaring actual freight to the Customs in this case. The freight declared by the importer in the bill of entry and accepted by the Custom House for the purpose of assessment was Rs. 30,392, whereas the freight actually paid by the Port Trust on the consignment was U. S. dollars 3,392 amounting to Rs. 144,587. After the Port Trust came to know in December, 1967 that the actual freight was

Rs. 144,587, no action was taken by them to apprise the Custom House of the actual position. Under-assessment came to notice when it was pointed out by Audit in December, 1969 whereafter action was taken to recover short collection of duty to the extent of Rs. 80,256. The Committee suggest that necessary action should be taken to fix responsibility on the officers of the Port Trust for not giving necessary information to the Custom House.

11. 1.56 Ministry of Finance
(Department of Revenue and Insurance)

The Committee are surprised how the Collector of Customs accepted the freight declared to be fair being 20 per cent of the cost of goods imported when in this case the goods were very heavy weighing about 118 tonnes. The Committee note that in order to ensure that there is no short levy due to flat addition of 20 per cent on account of freight and insurance, it has been prescribed that a record should be maintained of any class of goods in respect of which 20 per cent addition is inadequate. The Committee desire that the Board should ensure that such a list is maintained by all Customs Houses and that it is kept up-to-date.

12. 1.63 -Do-

The Committee regret to observe that in this case failure of the Customs House to scrutinize the contract resulted in under-assessment of custom duty to the extent of Rs. 19,757. The Customs had assessed the goods on the basis of invoices in which the values were for 95 per cent of the weight of goods shipped. The under-assess-

ment was detected on the scrutiny of the contracts at the instance of Audit. The Committee are unhappy that Internal Audit Department could not detect the mistake.

13. 1.64 -Do-

It was the duty of the importer to bring to the notice of the Customs House that invoices were provisional. The Committee note that the importer in this case is a public undertaking, and therefore no action was taken against them. The Committee desire that correct procedure should be followed by all Public Undertakings. It is the normal practice that goods should be cleared by an authorised agent. If that is so, then the Committee would suggest that action should be taken against him for his failure in not producing the original contract and invoices on his own accord under advice to the Committee.

14. 1.70 -Do-

The Committee cannot but deplore the inordinate delay on the part of the Board in issuing clarification on the reference made by the Collector of Customs House, Bombay in November, 1970, seeking guidance as to the classification of *inter alia* Collar stays and polymeric Plasticizers. The Central Board of Excise and Customs issued the necessary clarification in the form of tariff advice on 18th August, 1972 (i.e. after about 22 months). This is a clear instance of gross inefficiency and a big failure. The Ministry have stated that the reference from the Collector of Customs, Bombay was inadvertently linked with another case regarding classification of Nitro Cotton referred to by the Collector of Customs, Calcutta in April, 1970 and was lost sight of at the time of discussion in the

Conference of Collectors held in Cochin in January, 1971. The reference was traced only on receipt of a reminder from the Collector of Customs, Bombay on 16th July, 1971 and the question was discussed at the Collectors Conference held in Madras in February, 1972. Thereafter tariff advice in respect of Collar stays was issued on 18th August, 1972. The Committee consider that the delay that has taken place is inexcusable and suggest that responsibility specially at the top level should be fixed for the delay and the Committee informed about the action taken in this behalf. The Committee would like to reiterate the observation made in paragraph 1.33 of their 110th Report (4th Lok Sabha) that the Central Board of Excise and Customs are meant to give a lead to the lower formations in the matter of prompt decisions and it is therefore imperative that decisions on questions of tax liability are promptly taken.

15. Ministry of Finance
(Department of Revenue
and Insurance)

1.71

It has been stated by the Ministry that the pending cases and the cases under objection are decided on the basis of the tariff advice and to that extent the tariff advice has retrospective effect. The Committee wonder whether this view could be sustained in law. The Committee desire that the matter should be examined carefully. Incidentally, it is evident from the Ministry's reply that in the case under discussion the non-levy of additional duty during the period 1-3-1970 to 17-8-1972 was due to wrong interpretation of the notification dated 1-3-1964 by the Bombay Custom House.

16. 1.77 -Do-
The Committee observe that in this case the Internal Audit Department failed to detect even an ordinary arithmetical mistake resulting in excess payment of drawback amounting to Rs. 11,728. It is indeed regrettable that such a mistake should have been overlooked even after reorganisation of the Internal Audit Department. The Committee would suggest that the Ministry should lay down suitable norms of work that may be expected from a U.D.C. and provide the staff accordingly. They make this suggestion as they find that in this case, there were only 13 UDCs in the Internal Audit Department of the Customs House at the material time and the number of drawback claims disposed of was over, 1,22,300, which works out to 30 to 40 claims per day by a UDC which is indeed too much to be expected.

17. 1.78 -Do-
The Committee find that in this case the drawback paid was more than the market price of the goods which is inadmissible. But according to the Ministry, a specific check that the market price is higher than the drawback amount is not necessary. The Committee maintain that it is necessary to ensure that the drawback amount does not in any case exceed the FOB prices; this is unquestionably sound in principle and would also save Government from acquiring in the absurd situation of buying foreign exchange at a premium.

18. 1.86 -Do-
The Committee are indeed amazed to see the manner in which this case was handled by no less a person than the Member, Customs himself. The question whether foreign agent's commission was to

be excluded for the purpose of export duty had been pending with the Board since as early as September, 1968, when the exporter wrongly represented against inclusion of the commission by Cochin Custom House. While the matter was still pending and the Board would not arrive at a decision, the Member (Customs) made a visit to the Custom House at Cochin and directed the Collector to 'decide the case on merits' and this was also followed by a letter which was highly improper, and gives rise to serious suspicion. After the collector allowed refund of duty amounting to Rs. 68,030, evidently as a result of the Member's visit and directive to the Collector, the Board issued a clarification only in October, 1970 that assessment of duty should be made on the price inclusive of foreign agent's commission. The Committee cannot escape from the conclusion that the undue haste shown in refunding the big amount could have been only possible by this direct intervention by the Board Member. Further, the delay in giving a clarification by the Board was responsible for allowing the irregular practice to continue in Bombay and Cochin Custom Houses involving very heavy loss of revenue.

19. 1.87

Ministry of Finance
(Department of Revenue
& Insurance)

Having regard to this huge loss of revenue the Committee desire that a thorough and expeditious probe should be carried out into the conduct of all the officials concerned, particularly the Member and the Collector, and that this probe should be entrusted to the Central Vigilance Commission. The Committee should also be informed of the outcome and action taken on this recommendation.

20. 1.92 -Do- The Committee take a serious view of the gross excess levy of duty to the extent of Rs. 20,423 which could not be refunded. It is a matter of regret that the mistake was not detected by the Internal Audit Department. The workload needs to be looked into.

21. 1.93 -Do- The Committee find that in this case there was delay in forwarding the bill of entry to the Customs Revenue Audit. The Committee suggest, that in order to avoid such delays a time limit must be specified for rendering the Customs documents to Audit.

22. 1.106 -Do- The Committee are most astonished to observe that in this case although goods worth Rs. 18 lakhs were kept in the godown, no proper guarding arrangements existed. The godown which is having only a single tiled roof without ceiling, has not been provided with a proper metal ceiling. After the theft of articles worth Rs. 13,289 occurred in August 1970, no action was taken by the CPWD to provide a proper ceiling for the godown in order to make it secure. No wonder another theft occurred in May, 1973. The Committee desire that necessary steps should be taken forthwith to remove the insecure condition of the godown and strengthen the guarding arrangements. They would also like to know the outcome of the investigation by the police of the second theft. It is possible even that the customs staff have connived at the thefts. The Committee understand that on both the occasions consumer articles were lost and the Executive Officer did precious little to prevent repetition. They would like that investigations should be conducted to ensure that there was no collusion by customs staff.

1 2 3

23. 1.107 Ministry of Finance
(Department of Revenue
& Insurance

The Committee find that the earliest consignment stored in this godown was of May, 1967. This shows that the goods had been stored for more than 3 years and no action was taken to dispose them of; some of which could deteriorate in value. The Committee are of the view that confiscated goods should be disposed of expeditiously and ordinarily, the disposal should take place within three months of the confiscation. This would ensure the maximum realisation and at the same time, reduce the possibility of deterioration in quality as also of theft. The Committee would like to be informed about the reasons for delay in this case.

The Committee were informed in August, 1973 that the value of goods confiscated out of the goods seized during 1971-72 was Rs. 15.2 crores and that the sale price realised till then was Rs. 3.458 crores. This shows that either the disposal of confiscated goods was slow or the sale value realised was very low compared to the value of the goods confiscated or the value of seized goods were highly inflated to unduly highlight Customs performance. If the second presumption is true, the Committee would like to have an explanation why the value realised was so low. The Committee suggest that in order to prevent over-pricing it might be useful for the customs authorities to give cogent reasons for any large difference between the valuation figures computed and the value realised in disposal.

24 1.108 -Do-

25. 1. 109 -Do-
The Committee note that during the year 1971-72 the total loss of goods from the Customs' custody due to thefts and other causes amounted to Rs. 27,542. The Committee require that the Board must ensure that there are proper security arrangements in the Customs godown. All cases of major losses and thefts should be reviewed by the Board to ascertain whether there was any collusion. To guard against clandestine removal of goods and later on covering it up as theft, there should be frequent surprise verification of goods by higher Departmental officers.

26. 1. 121 -De-
The Committee feel concerned to find that in this case the seized vessel carried unmanifested goods of the order of 40 tons. According to the Ministry it is likely (mere guess) that the unmanifested cargo was loaded beyond the port limits. The Committee are surprised how such huge bulk of goods could be loaded in a vessel beyond the port limits in mid-sea without docking and platform facilities. The Committee, therefore, maintain that the matter needs further investigation as to where the unmanifested goods were loaded and whether there was failure on the part of Customs Officers.

27. 1. 122 -De-
The Committee feel concerned over the decline in receipts from export duty at some of the ports including Kozhikode on the West Coast. The Committee require the Central Board of Excise and Customs to undertake a review of the position to determine the extent to which the decline in receipts can be attributed to smuggling operations and to take effective measures to check the same.

28. 1.123 Ministry of Finance
(Department of Revenue
& Insurance) The West Coast covers a long belt and hence calls for tighter vigilance operations to curb effectively clandestine operations such as picking up of illicit emigrants and valuable goods after clearance of the vessels from the ports. The penalties for such offences should be severe to act as a deterrent.
29. 1.136 -Do- The Committee find that during the year 1971-72, the amount of Customs duty refunded on goods landed but found missing before clearance was Rs. 4.28 lakhs. The goods were pilfered or stolen while in the custody of port trusts. The Committee feel concerned over the loss and desire the Port Trust authorities should take necessary steps to tighten the security arrangements. All cases of losses of valuable goods should be examined with a view to determining whether the thefts have occurred in collusion with the staff or importers and if so, to take appropriate deterrent action.
30. 1.137 -Do- The number of exemption notifications operative during the year 1971-72 was 351. This figure consists of 131 Notifications issued under Section 23 of the Sea Customs Act, 1878 and 220 issued under Section 25(1) of the Customs Act, 1962. The Committee note that exemptions on export duties may be justified to some extent to sustain exports under certain conditions. The Committee feel that on the import side there should not be many exemptions, when the objective is to achieve restraint on imports. The Committee suggest that with this end in view the Ministry should review the exist-

ing exemptions on the import side. In the case of concessions under the General Agreements on Trade and Tariff given with reference to articles, it should be examined whether there could be tariff rates equivalent to effective rates. It should also be examined whether in the case of imbalance in duties and cost of raw materials and finished goods, tariff anomalies could be adjusted in the tariff itself because raw materials and finished goods are assessable under different tariff items. As most of the exemption notifications affecting the tariff have been current for a number of years a review is urgently called for, before the next Finance Bill, with a view to seeing the extent to which they can be embodied in the Statute rather than being continued automatically under executive powers for all time. The Committee would await the outcome.

31. 1.183 -Do-

77

The Committee note that during the year 1971-72 in 328 cases exemptions were given under Section 25(2) of the Indian Customs Act, 1962, which provide for exemption of duty under circumstances of exceptional nature. The Committee are anxious that before giving such exemption the Board should satisfy themselves that exemption given to individual and firms etc. invariably serves public interest.