

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

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

HUNDRED AND FOURTEENTH REPORT



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

**HUNDRED AND FOURTEENTH
REPORT**

**PUBLIC ACCOUNTS COMMITTEE
(1995-96)**

(TENTH LOK SABHA)

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

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

*[Action Taken on 83rd Report of Public Accounts Committee
(10th Lok Sabha)]*



*Presented to Lok Sabha on 29.2.1996
Laid in Rajya Sabha on 29.2.1996*

**LOK SABHA SECRETARIAT
NEW DELHI**

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(1995-96)

Shri Ram Naik — *Chairman*

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2. Smt. P.K. Sandhu — *Director*
3. Shri P. Sreedharan — *Under Secretary*
4. Shri Rajeev Sharma — *Assistant Director*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Fourteenth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Eighty-Third Report (Tenth Lok Sabha) on Customs Receipts—Loss of revenue due to non-availability of a provision in the Act.

2. In this Report, the Committee have noted that in pursuance of their recommendation Government have since incorporated necessary amendments in Section 45 of the Customs Act, 1962 to provide for recovery of duty from the custodians in respect of imported goods which are pilfered while in their custody. The Committee have urged upon the Ministry of Finance to ensure that these provisions of the law are faithfully implemented both in letter and spirit so as to effectively check unauthorised removal of such goods and its adverse impact on the economy and exchequer.

3. The Committee have further noted that the Central Board of Excise & Customs have since laid down a procedure to be followed by the field formations and to enable the Board to monitor the pendency of uncleared/unclaimed imported goods lying with the custodians. The Committee have, however, found that in spite of the monitoring stated to have been introduced for streamlining the system, no perceptible improvement appears to have been achieved in the matter. They have, therefore, desired that the Ministry of Finance should look into the efficacy of the steps initiated and take further necessary measures with a view to ensuring that the procedures laid down in the law for disposal of goods imported but not cleared within the prescribed/permitted period is scrupulously complied with by all concerned.

4. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 8 February, 1996. Minutes of the sitting form Part-II of the Report.

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

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

NEW DELHI;
23 February, 1996

1 Phalgun, 1917 (Saka)

RAM NAIK,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations and observations of the Committee contained in their Eighty-Third Report (Tenth Lok Sabha) on Paragraph 2.49 of the Report of the Comptroller & Auditor General of India for the year ended 31 March 1992, No. 4 of 1993, Union Government (Revenue Receipts—Indirect Taxes) relating to Customs Receipts—Loss of revenue due to non-availability of a provision in the Act.

2. The Eighty-Third Report which was presented to Lok Sabha on 20 March 1995 contained nine recommendations. Action taken notes have been received in respect of all the recommendations/observations and these have been categorised as follows:—

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

Sl. No. 1 to 3 and 5 to 9

(ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from the Government:

Nil

(iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration:

Sl. No. 4

(iv) Recommendations and observations in respect of which Government have furnished interim replies:

Nil

3. In the succeeding paragraphs the Committee will deal with the action taken by Government on some of their recommendations.

Amendment to Section 45 of the Customs Act, 1962 regarding liability of customs duty on imported goods lost from the custodians

4. The imported goods after unloading are allowed to be placed in the custody of Port Trust/International Airport Authority or the Custodian in Land Customs Station, as the case may be, before their clearance either for home consumption or for warehousing. The account of such goods and their clearance are required to be monitored both by the custodian of the goods and the Customs Department. There were, however, no provisions in the Customs Act, 1962 for action against the custodians for recovery of customs duty on goods pilfered while in their custody. Similarly, the laws governing the functioning of custodians of the landed

goods were also silent about their liability on the imported goods pilfered or lost while in their custody. The Public Accounts Committee had as far back as 1967 pointed out in paragraph 2.83 of their Second Report (Fourth Lok Sabha) that it was a most anomalous position that the goods lost after having landed at a port were not leviable to duty. Expressing their concern over the rise in the value of missing stores, the Committee had recommended that the Port Trust be held responsible at least partly for the loss of customs duty on packages pilfered from their custody.

5. In their Eighty-Third Report (Tenth Lok Sabha), the Committee had examined certain cases of revenue losses which had occurred due to remission of duty on imported goods pilfered while in the custody of a major Port Trust. The Committee had expressed their unhappiness that even after a lapse of more than 27 years since a recommendation was originally made by them to make the custodian liable for duty in such cases, no concrete action had been taken by Government to plug the legal loopholes. Consequently, the imported goods continued to be pilfered and removed surreptitiously from the custodians at the cost of public exchequer. The Committee in paragraph 56 of the report had, therefore, recommended that concrete action should be taken to make suitable amendments in the Customs Act, 1962 making the custodians liable for the loss of goods kept in their custody with a view to checking unauthorised removal of such goods and its adverse impact on the economy and the exchequer.

6. The Ministry of Finance (Department of Revenue) have in their action taken note stated as follows:—

“Having regard to the observations of the Public Accounts Committee, Section 45 of the Customs Act, 1962 has since been amended by the Finance Act, 1995 to provide for recovery of duty from the custodians in respect of imported goods which are pilfered while in their custody”

7. The Committee note that in pursuance of their recommendation Government have since incorporated necessary amendments in Section 45 of the Customs Act, 1962 to provide for recovery of duty from the custodians in respect of imported goods which are pilfered while in their custody. The Committee trust that the Ministry of Finance will ensure that these provisions of the law are faithfully implemented both in letter and spirit so as to effectively check unauthorised removal of such goods and its adverse impact on the economy and exchequer.

Delay in disposal of unclaimed/uncleared cargo placed with custodians
(Sl. No. 4 — Paragraph 51)

8. The Eighty-Third Report of the Committee (Tenth Lok Sabha) had also revealed certain other shortcomings related to the storage and disposal of imported goods placed with the custodians. Section 48 of the Customs Act, 1962 provided for the disposal of imported goods not cleared within

the prescribed period (now 30 days from the date of unloading) or such period as the proper officer may allow. The Committee had in Para 51 of the Report observed that the above laid down procedure was not being scrupulously followed by the Department for disposal of unclaimed/uncleared cargo placed with the custodians. The Ministry of Finance were also not aware of the precise extent of such goods lying with the custodians unclaimed as on a particular date. Expressing their concern over this unsatisfactory state of affairs, the Committee had pointed out that absence of proper monitoring of the fate of landed goods deposited with the custodians was likely to lend scope for pilferage and other malpractices. The Committee had, therefore, recommended that the Central Board of Excise & Customs (CBEC) should look into the matter and take appropriate steps to ensure that the procedure prescribed in the law for disposal of such goods was complied with in letter and spirit by all concerned. The Committee had also desired to be apprised of the total quantity/value of imported goods lying with the custodians unclaimed beyond the permitted period as on 31 March, 1994.

9. The Ministry of Finance (Department of Revenue) have in their action taken note stated that the CBEC have now prescribed a detailed procedure to be followed by the Field Formations to monitor the pendency of unclaimed goods lying with the custodians. According to the Ministry, the Board also receive a quarterly report from the Ministry of Surface Transport regarding the number of consignments pending unclaimed with the Ports at Bombay, Calcutta and Madras. The Board then follow-up with the concerned Customs Commissioner for expeditious disposal of such unclaimed/uncleared goods. As per the procedure now laid down, the field formations are required to send a monthly report to the Board from September 1994 onwards about the disposal of unclaimed/uncleared cargo lying with the custodians.

10. In their action taken note the Ministry also furnished the following details of unclaimed cargo/packages as on 31 March 1994 in respect of Bombay, Calcutta and Madras.

Name of Port	No. of packages
Bombay	519445
Calcutta	154805
Madras	8396

The Ministry did not furnish the value of such imported goods, the position in other ports and also other custodians. (as on 22 January, 1996).

11. The Committee note that the Central Board of Excise & Customs have since laid down a procedure to be followed by the field formations and to enable the Board to monitor the pendency of unclaimed/unclaimed goods lying with the custodians. As per the procedure now laid down, the field formations are required to send monthly report to the Board about the

disposal of such cargo lying with the custodians. The Committee are, however, surprised to note that despite the above, the Ministry of Finance have not been able to furnish to the Committee the precise position sought by them of the quantity and value of imported goods lying with the custodians beyond the permitted period. This clearly shows that inspite of the monitoring stated to have been introduced for streamlining the system, no perceptible improvement appears to have been achieved in the matter. The Committee cannot remain satisfied with the action taken. They therefore, desire that the Ministry of Finance should look into the efficacy of the steps initiated and take further necessary measures with a view to ensuring that the procedures laid down in the law for disposal of goods imported but not cleared within the prescribed/permitted period is scrupulously complied with by all concerned. The Committee would also like to be kept informed of the latest position in respect of quantity/value of imported goods lying with the custodians uncleared beyond the permitted period.

Absence of records of the imported goods lost from the custodians
(Sl. No. 6 — Paragraph 53)

12. Commenting on the system of records of the imported goods lost while in custody. The Committee in paragraph 53 of their 83rd Report (10th Lok Sabha) had recommended:—

“In paragraph 2.4 of their Second Report (Fourth Lok Sabha), the Committee had pointed out that the authorities did not possess complete record of imported goods lost from the custody of Port Trust. They had recommended that a proper account of goods received and lost should be maintained both by the Port Trust and also by the Customs authorities. The action taken note furnished to the Committee in response thereof had indicated that the recommendation had been noted for compliance and suitable instructions had been issued. The information furnished by the Ministry of Finance to the Committee in this regard in the course of examination of the instant Audit paragraph, however, revealed that adequate data on the value of cargo involved was not available at several Custom Houses/Port Trusts Air Cargo Stations. The Ministry of Finance were also not able to furnish the total amount of customs duty remitted/refunded due to pilferage since no separate records were stated to have been maintained of such figures in certain Collectorates/Customs Houses. Evidently, there had been no perceptible improvement in the system of maintaining records regarding loss of goods, value of duty foregone etc. from the position observed by the Committee in the sixties. While expressing their unhappiness over the inadequate implementation of their unhappiness over the inadequate implementation of their accepted recommendation, the Committee desire that the Ministry of Finance as well as other

concerned authorities should ensure that the system of records with regard to goods lost while in custody be streamlined. The Committee would like to be informed of the precise action taken in the matter."

13. In their action taken reply the Ministry of Finance (Department of Revenue) have stated:—

"Consequent to the recent amendment of the Customs Act, introducing a provision for recovery of duties from custodians, on pilfered goods, the Ministry had already issued instructions to all the Customs formations to evolve a procedure for the identification of goods pilfered and the manner of recovery of duty thereon, in consultation with the various custodians under their charge."

14. The Committee note that consequent to the recent amendment of the Customs Act, introducing a provision for recovery of duties from customs on pilfered goods, the Ministry have issued instructions to all Customs formations to evolve a procedure for the identification of goods pilfered and the manner of recovery of duty thereon, in consultation with the various custodians under their charge. The Committee would like to be informed of the procedure evolved in pursuance thereof, the quantity/value of such goods lost from the custodians after the introduction of the new provision in the law and also about the total amount of duty demanded and realised there against as on 31 December, 1995.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

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

Recommendation

The issue relating to loss of imported goods from the custodians had engaged attention of the Public Accounts Committee earlier also. The Committee had as far back as in 1967 pointed out in Para 2.83 of their Second Report (Fourth Lok Sabha) that it was a most anomalous position that the goods lost after having landed at a Port are not leviable to duty. Expressing their concern over the rise in the value of missing stores, the Committee had recommended that the Port Trust be held responsible atleast partly for the loss of Customs duty on packages pilfered from their custody. The Committee were then informed in the Action Taken Note that the matter had been examined initially by a Customs Study Team, subsequently, by an Empowered committee and later referred to the Major Ports Commission. The Committee deeply regret to note that even after the lapse of more than 27 years since the recommendation was originally made by them, no concrete action has been taken so far to plug the legal loopholes. Consequently, as the Audit Paragraph and the Committee's examination revealed, the imported goods continued to be pilfered and

removed surreptitiously from the custodians at the cost of public exchequer.

[Sl. Nos. 1 & 2 (Paras 48 & 49) of Appendix II to 83rd Report of PAC
(10th Lok Sabha)]

Action Taken

Having regard to the observations of the Public Accounts Committee, Section 45 of the Customs Act, 1962 has since been amended by the Finance Act, 1995 to provide for recovery of duty from the custodians in respect of imported goods which are pilfered while in their custody. The extract of the amended section 45 of the Customs Act, 1962 providing for recovery of duty from the custodian in respect of goods pilfered from their custody is annexed.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV
dated 1.11.1995]

ANNEXURE

Section 45. Restrictions on custody and removal of imported goods:—

(1) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the Collector of Customs until they are cleared for home consumption or are warehoused or are transhipped in accordance with the provisions of Chapter VIII.

(2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force,—

- (a) shall keep a record of such goods and send a copy thereof to the proper officer;
- (b) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer.

(3) Notwithstanding anything contained in any law for the time being in force, if any imported goods are pilfered after unloading thereof in a customs area while in the custody of a person referred to in sub-section (1), that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an import manifest or, as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which the said goods were carried.

Recommendation

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

[Sl. No. 3 (Para 50) of Appendix II to 83rd Report of PAC (10th Lok Sabha)]

Action Taken

The observations of the Committee have been noted.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV dated 1.11.1995]

Recommendation

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

[Sl. No. 5 (Para 52) of Appendix II to 83rd Report of PAC (10th Lok Sabha)]

Action Taken

In respect of the uncleared/unclaimed goods being disposed of by the custodians, the collection of Government revenue is being ensured by the field formations.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV
dated 1.11.1995]

Recommendation

In paragraph 2.4 of their Second Report (Fourth Lok Sabha), the Committee had pointed out that the authorities did not possess complete record of imported goods lost from the custody of Port Trust. They had recommended that a proper account of goods received and lost should be maintained both by the Port Trust and also by the Customs authorities. The action taken note furnished to the Committee in response thereof had indicated that the recommendation had been noted for compliance and suitable instructions had been issued. The information furnished by the Ministry of Finance to the Committee in this regard in the course of examination of the instant Audit paragraph, however, revealed that adequate data on the value of cargo involved was not available at several Custom Houses/Port Trusts/Air Cargo Stations. The Ministry of Finance were also not able to furnish the total amount of custom duty remitted/refunded due to pilferage since no separate records were stated to have been maintained of such figures in certain Collectorates/Customs Houses. Evidently, there had been no perceptible improvement in the system of maintaining records regarding loss of goods, value of duty foregone etc. from the position observed by the Committee in the sixties. While expressing their unhappiness over the inadequate implementation of their accepted recommendation, the Committee desire that the Ministry of Finance as well as other concerned authorities should ensure that the system of records with regard to goods lost while in custody be streamlined. The Committee would like to be informed of the precise action taken in the matter.

[Sl. No. 6 (Para 53) of Appendix II to 83rd Report of PAC (10th Lok Sabha)]

Action Taken

Consequent to the recent amendment of the Customs Act, introducing a provision for recovery of duties from custodians, on pilfered goods, the Ministry has already issued instructions to all the Customs formations to evolve a procedure for the identification of goods pilfered and the manner of recovery of duty thereon, in consultation with the various custodians under their charge.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV
dated 1.11.1995]

Recommendation

The Committee's attention has particularly been drawn to the increase in the number of cases of pilferages reported from the International Airport

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

[Sl. No. 7 (Para 54) of Appendix II to 83rd Report of PAC (10th Lok Sabha)]

Action Taken

Commissioner of Customs, Delhi has been asked to examine the reasons for large number of cases of theft at the Air Cargo Complex, New Delhi. Ministry of Finance has also issued instructions to all the custodians through the concerned Commissioners informing them about the changes made in the Customs Act, 1962 making Custodians responsible for payment of duty on the pilferred goods and requiring them to take measures for improving the security of the goods. It is expected that provision regarding the payment of duty on pilferred goods by the Custodians would motivate the custodians to improve the security further.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV dated 1.11.1995]

Recommendation

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

[Sl. No. 8 (Para 55) of Appendix II to 83rd Report of PAC (10th Lok Sabha)]

Action Taken

The observations of the Committee have been noted.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV dated 1.11.1995]

Recommendation

From the facts stated in the above paragraphs it is evident that the system of storage and disposal of imported goods placed with the custodians and their monitoring leaves a lot to be desired. During evidence, the representative of the Central Board of Excise & Customs informed the Committee that the Major Ports Commission to which the recommendation of the Public Accounts Committee made in their Second Report (Fourth Lok Sabha) was referred to, had not made any specific suggestion regarding amendment of Law to provide for making the

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

[Sl. No. 9 (Para 56) of Appendix II to 83rd Report of PAC (10th Lok Sabha)]

Action Taken

Section 45 of the Customs Act, 1962, has since been amended to provide for the recovery of duty from the custodians in respect of imported goods which are pilfered while in their custody. The Ministry has already issued instructions to the all the Customs formations to evolve a procedure for the identification of goods pilfered and the manner of recovery of duty thereon, in consultation with the various custodians under their charge.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV dated 1.11.1995]

CHAPTER III

**RECOMMENDATIONS/OBSERVATIONS WHICH THE
COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF
THE REPLIES RECEIVED FROM GOVERNMENT**

—NIL—

CHAPTER IV

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

Recommendation

Section 48 of the Customs Act, 1962 provides for the disposal of goods imported but not cleared within 45 days (now 30 days w.e.f. 23.12.1991) from the date of unloading thereof, or such period as the proper officer may allow. The Committee are surprised to note that in the first case reported in the Audit paragraph the goods imported were not cleared by the importer for as many as 275 days. The Department also took no concrete action to dispose them of. What has further surprised the Committee is that no consolidated data was available with the Customs Department about the exact quantity/value of goods pending disposal beyond the prescribed period. When asked by the Committee to furnish the data in respect of value of goods lying with the custodians uncleared beyond the permitted period, as on 31.3.1993, the Ministry of Finance were able to furnish information in respect of a few Custom Houses/Collectorates only which itself was incomplete in certain cases. The available data furnished by the Ministry indicate that while certain Custom Houses had figures of the value of the goods lying uncleared, certain others could make available only the quantity of the goods. The Ministry were unable to offer any convincing explanation for the non-availability of the requisite data uniformly in all Custom Houses/Collectorates. The Ministry also could not indicate the extent to which the importers could be contacted in respect of the goods lying uncleared with the custodians beyond the permitted period as on 31.3.1993. The available data, however, indicated that sizeable quantity of goods were lying with the custodians uncleared beyond the prescribed period. While the Ministry maintained that the Department got periodical Reports from the Ministry of Surface Transport furnishing details of cargo lying uncleared at the Major Ports, they admitted that no such regular reports were obtained in respect of disposal of unclaimed/uncleared cargo at air cargo complexes. From these facts, the Committee can only conclude that the procedure laid down in Section 48 of the Customs Act, 1962 for disposal of imported goods kept with the custodians is not being scrupulously followed by the Department nor are the Ministry aware of the precise extent of goods lying with the custodian uncleared as on a particular date. The Committee are concerned over this unsatisfactory state of affairs. Since absence of proper monitoring of the fate of landed goods deposited with the custodians is likely to lend scope for pilferage and other malpractices, the Committee desire that

the Central Board of Excise and Customs should look into the matter and take appropriate steps to ensure that the procedure prescribed in the Law for disposal of such goods is complied with in letter and spirit by all concerned. The Committee would also like to be apprised of the total quantity/value of imported goods lying with the custodians uncleared beyond the permitted period as on 31.3.1994.

[Sl. No. 4 (Para 51) of Appendix II to 83rd Report of PAC (10th Lok Sabha)]

Action Taken

The Central Board of Excise & Customs has since started monitoring the pendency of uncleared goods lying with the custodians and for this purpose a monthly statement had already been prescribed. A copy of the circular letter F.No. 442/3/93-Cus. IV dated 1st September, 1994 issued to the Customs authorities in this behalf is enclosed as Annexure-I. The Board also receive a quarterly report from the Ministry of Surface Transport regarding the number of consignments pending uncleared with the Ports at Bombay, Calcutta and Madras. The Board then follows up with the concerned customs Commissioner for expeditious disposal of such unclaimed, uncleared goods. The information regarding quantity of imported goods lying at Bombay, Calcutta and Madras Ports uncleared beyond the permitted period as on 31.3.1994 is enclosed as Annexure-II. The quantity and value of the goods lying with other custodian will be furnished separately.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 442/16/95-CUS. IV dated 1.11.1995]

ANNEXURE I

**F.No. 424/3/93-Cus. IV
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF FINANCE
CENTRAL BOARD OF EXCISE & CUSTOMS**

NEW DELHI, the 1st September, 1994.

To

**All Collectors of Customs,
Collectors of Customs & Central Excise,**

**Sub:— Disposal of unclaimed/uncleared cargo—
monthly report—regarding.**

Sir,

I am directed to say that in the context of the recent examination by the Public Accounts Committee of Para 2.49 of the C&AG's Report for 1991-92, Members of the Committee expressed grave concern regarding undue long delays in disposal of unclaimed/uncleared cargo at ports/airports/ICDs and other Custom stations.

The Collectors are already well aware of the need to pay special attention to this area of pendency where goods lie for long in custody and the Government is deprived of its due share of revenue by loss/late realisation. The Board has also been asking the Collectors from time to time to pay special attention of this area of work. A very close monitoring and active follow-up on a continuous basis is called for in this area.

With a view to enable the Board to monitor the disposal of unclaimed/uncleared goods, it has been decided that the field formations should send a monthly report in the proforma as shown in the Annexe to this letter so as to reach the Board's Office latest by the 15th of the following month, starting from September, 1994. Reports may show separate figures custodian-wise like Port Trust, IAAI, CWC etc. You are accordingly requested to forward the monthly statements in the prescribed format at the due date.

Please acknowledge the receipt.

**Yours faithfully,
Sd/-**

**(A.K. RAGHUNATHAN)
SENIOR TECHNICAL OFFICER**

Encl:- As above.

DISPOSAL OF UNCLAIMED/UNCLEARED GOODS
(Other than confiscated goods)

CUSTOM HOUSE
FOR THE MONTH
Name of the Custodian

	Opening Receipts* Balance	Disposal	Closing Balance	Age-wise			
				Below 2 months	2 months to 6 months	6 months to one year	1-2 year 2 years More than 2 years

No. of packages

Value of goods
(Estimated)

Duty involved
(Estimated)

Remarks:
(Reasons for
pendency/Efforts
taken to reduce
the pendency etc.)

*Receipts would refer to goods in respect of which the time limit for clearance specified in Sec. 48 of C.A. '62 is over during the month.

Authority : Board's circular No. 442/393-Cus.IV-(PAC Examination of Para 2.49 of C&AG's Report for 1991-92)

ANNEXURE-II**STATEMENT OF UNCLEARED CARGO/PACKAGES as on 31.3.94.**

Name of Port	No. of packages
Bombay	519445
Calcutta	154805
Madras	8396
Cars	19

CHAPTER V

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH
GOVERNMENT HAVE FURNISHED INTERIM REPLIES**

-NIL-

NEW DELHI;
23 February, 1990

Phalguna, 1917 (Saka)

RAM NAIK,
Chairman.
Public Accounts Committee.

APPENDIX

Conclusions and Recommendations

Sl. No.	Para No.	Ministry/ Deptt. concerned	Conclusion/Recommendation
1	2	3	4
1.	7	Ministry of Finance (Deptt. of Revenue)	The Committee note that in pursuance of their recommendation Government have since incorporated necessary amendments in Section 45 of the Customs Act, 1962 to provide for recovery of duty from the custodians in respect of imported goods which are pilfered while in their custody. The Committee trust that the Ministry of Finance will ensure that these provisions of the law are faithfully implemented both in letter and spirit so as to effectively check unauthorised removal of such goods and its adverse impact on the economy and exchequer.
2.	11	-do-	The Committee note that the Central Board of Excise & Customs have since laid down a procedure to be followed by the field formations and to enable the Board to monitor the pendency of uncleared/unclaimed goods lying with the custodians. As per the procedure now laid down, the field formations are required to send monthly report to the Board about the disposal of such cargo lying with the custodians. The Committee are, however, surprised to note that despite the above, the Ministry of Finance have not been able to furnish to the Committee the precise position sought by them of the quantity and value of imported goods lying with the custodians beyond the permitted period. This clearly shows that in spite of the monitoring stated to have been introduced for streamlining the system, no perceptible improvement appears to have been achieved in

1

2

3

4

the matter. The Committee cannot remain satisfied with the action taken. They, therefore, desire that the Ministry of Finance should look into the efficacy of 'the steps initiated and take further necessary measures with a view to ensuring that the procedures laid down in the law for disposal of goods imported but not cleared within the prescribed/permitted period is scrupulously complied with by all concerned. The Committee would also like to be kept informed of the latest position in respect of quantity/value of imported goods lying with the custodians uncleared beyond the permitted period.

3. 14

-do-

The Committee note that consequent to the recent amendment of the Customs Act, introducing a provision for recovery of duties from customs on pilfered goods, the Ministry have issued instructions to all Customs formations to, evolve a procedure for the identification of goods pilfered and the manner of recovery of duty thereon, in consultation with the various custodians under their charge. The Committee would like to be informed of the procedure evolved in pursuance thereof, the quantity/value of such goods lost from the custodians after the introduction of the new provision in the law and also about the total amount of duty demanded and realised there against as on 31 December, 1995.

PART-II

MINUTES OF THE TWENTY-FIRST SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (1995-96) HELD ON 8 FEBRUARY, 1996

The Committee sat from 1500 hrs. to 1615 hrs. on 8 February, 1996 in Committee Room 'C', Parliament House Annex, New Delhi.

PRESENT

Shri Ram Naik — *Chairman*

MEMBERS

Lok Sabha

2. Kumari Mamata Banerjee
3. Shri Anil Basu
4. Shri Dilcep Singh Bhuria
5. Shrimati Maragatham Chandrasckhar
6. Shri Gopi Nath Gajapathi
7. Dr. K.D. Jeswani
8. Maj. Gen. (Retired) Bhuwan Chandra Khanduri
9. Shri Peter G. Marbaniang
10. Shri Shravan Kumar Patel
11. Shri V. Krishna Rao

Rajya Sabha

12. Shri Triloki Nath Chaturvedi
13. Shri Misa R. Gancsan
14. Shri Ajit P.K. Jogi
15. Shri G.G. Swell

SECRETARIAT

1. Smt. P.K. Sandhu — *Director*
2. Shri P. Sreedharan — *Under Secretary*

REPRESENTATIVES OF AUDIT

1. Shri A.K. Thakur Pr. Director
(Reports Central)
2. Shri Vikram Chandra Pr. Director
(Indirect Taxes)
3. Smt. S. Ghosh Director
(Customs)

2.

3. The Committee thereafter considered the following draft Reports:

- (i) Customs Receipts—Loss of revenue due to non-availability of a provision in the Act [Action Taken on 83rd Report (10th Lok Sabha)].
- (ii) Import of life expired ammunition [Action Taken on 92nd Report(10th Lok Sabha)].
- (iii) Union Excise Duties—System defects in Working of Chief Accounting Offices [Action Taken on 98th Report (10th Lok Sabha).]

The Committee adopted the draft Reports at Sl. No. (i) and (iii) above without any amendments. The Committee adopted the draft Report at Serial No. (ii) above with certain modifications as shown in Annexure*. The Committee also authorised the Chairman to finalise these draft Reports in the light of the comments of Audit arising out of factual verification and to present these Reports to the House.

4.

The Committee then adjourned.

