P.A.C. No. 184

PUBLIC ACCOUNTS COMMITTEE
(1968-69)

THIRTIETH REPORT

(FOURTH LOK SABHA)

Action taken by Government on the recommendations of the Public Accounts Committee contained in their 50th Report (Chapters I—III) (Third Lok Sabha) relating to Export Promotion Schemes etc.]

LOK SABHA SECRETARIAT
NEW DELHI

August, 1968/Sravana, 1890 (Saka)

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Page	Para	Line	For	Read
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*Declared elected on 19th August, 1968 *vice* Shri M. M. Dharia who resigned from the Committee.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 30th Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in Chapters I to III of their 50th Report (Third Lok Sabha) on "Export Promotion Schemes and Allied Matters" relating to the Ministry of Commerce.

2. On 12th June, 1968, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:

1. Shri D. K. Kunte—*Convener*
2. Shri C. K. Bhattacharyya
3. Shri K. K. Nayar
4. Shri Narendra Kumar Salve
5. Shrimati Tarkeshwari Sinha
6. Shri N. R. M. Swamy

3. The draft Report was considered and adopted by the Sub-Committee at their sitting held on 20th July, 1968 and finally adopted by the Public Accounts Committee on 12th August, 1968.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report (Appendix II).

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

NEW DELHI;
August 20, 1968.
Sravana 29, 1890 (*Saka*).

M. R. MASANI,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

(i) *General*

This Report of the Committee deals with the action taken by Government on the recommendations observations contained in their 50th Report (Chapter I—III), (Third Lok Sabha), which was presented to the House on the 26th April, 1966.

1.2. It would be seen from the 50th Report of P.A.C. (Third Lok Sabha) that the first three Chapters concern the Ministry of Commerce and the Fourth Chapter relates to the Department of Iron and Steel. Some of the Action Taken notes received from the Department of Iron and Steel have been commented upon by the Public Accounts Committee in their 56th Report (Third Lok Sabha). Further, a Committee of Enquiry on steel transactions had been appointed by Government in accordance with the recommendations of the Public Accounts Committee contained in para 4.167 (S. No. 97) of their 50th Report and para 2.30 of 56th Report (Third Lok Sabha). A copy of the resolution of the Government dated 12th Septembers, 1966 constituting the Committee of Enquiry on Steel Transactions is at Appendix I. Action taken notes on the recommendations/observations included in Chapter IV of 50th Report and those of 55th and 56th Reports, will be examined on the basis of the findings of the Committee of Enquiry on Steel Transactions and the Government's action taken thereon. A separate Report would be presented to Parliament thereafter.

1.3. The first three chapters of the 50th Report. contained 52 recommendations/observations. Government have sent an interim reply in respect of only one of these recommendations/observations which appears at S. No. 24 (Para 2.38) of Appendix XLV of the Report. The replies received in respect of the remaining recommendations/observations have been categorised under the following heads:—

I. Recommendations/observations that have been accepted by the Government. (S. Nos. 1—7, 9, 12—16, 18-19, 21, 23, 25—32, 38-39, 41 and 47).

II. Recommendations/observations which the Committee do not desire to pursue in view of Government's reply. (S. Nos. 8, 17, 20, 33—37, 40, 42—46, 48—52).

III. Recommendations/observations to which Government have furnished interim replies. (S. No. 24).

1.4. The recommendations in respect of which Government's replies have not been accepted by the Committee and which require reiteration have been dealt with in this Chapter.

1.5. The Committee hope that a final reply duly vetted by Audit in regard to the Recommendation observation to which only interim reply has so far been furnished will be submitted to them early.

(ii) *Export Promotion Scheme—Loss due to non-forfeiture of Bonds—paras* 1.34 & 1.36 *of the* 50*th Report of Public Accounts Committee—Third Lok Sabha* (*S. Nos.* 10 & 11).

1.6. In their Fiftieth Report (Third Lok Sabha), the Committee had highlighted some instances of default by licencees of their export obligations under the Art Silk Export Promotion Scheme. The default resulted in a shortfall of foreign exchange earnings to the tune of Rs. 5.29 crores. The Committee had then raised the question why bonds/undertakings totalling Rs. 151 crores given by the licencees to guarantee their export performance were not forfeited by Government. In this context they had made the following observations in para 1.36:

> "In view of the large amount involved, the Sub-Committee desire that the whole matter should be thoroughly investigated without any loss of time with a view to fixing responsibility, taking appropriate action against the defaulting officers, adopting suitable preventive measures against occurrence of such cases in future and retrieving the loss caused to foreign exchange/public exchequer to the extent possible."

1.7. In the action taken notes furnished by the Ministry of Commerce *vide* their O.M. No. 7(3) Tex. F./66, dated 4th Nov., 1966, the Ministry while agreeing to investigate the points raised by the Committee, stated *inter-alia* as follows:

> "Government would like to respectfully point out that the apparent irregularities of defaults in this matter have really arisen out of what the Committee have termed as an anomalous position, namely that an exporter of a commodity should be categorised and regarded both as a prospective exporter and an established exporter. It will be appreciated that in relation to exports and export realisations of the same product, it would not

be correct or justifiable for Government to prescribe differing facilities or obligations. The point which was stated before the Committee by the officials of the Ministry was that there cannot be discrimination, at the same point of time, as between two classes of exporters of the same product with regard to their undertakings or obligations, and more so if the more onerous obligations are imposed on exporters with actual performance to their credit than on those who had to export at a later point of time. Thus, the initial stipulation which was later found to be mistaken and defective one of prescribing differing facilities, conditions, obligations and prescriptions in relation to exports and export realisation of the same product had, in equity, to be rectified. It is in this context that the question arises as to whether the letter of any undertaking or bond could or should, in equity, be enforced against the spirit of the schemes as a whole. The concept of contingent losses of foreign exchange or rupee realisation for the public exchequer has also reference to this basic issue. However, in deference to the recommendations of the Committee, Government agrees that the whole matter and particularly the points mentioned by the Committee in para 1.36 should be examined and investigated. Government have already undertaken such an investigation. The result of this investigation will, on its completion, be submitted to the Committee."

1.8. After investigation, the Ministry of Commerce informed the Committee in a *notes sent under their O.M. No. 7(3)Tex-F|66 dated 5th Oct., 1967 that the decision not to enforce the bonds was a deliberate one, taken with a view to correct the inequitous situation which arose as a result of suspension of the Scheme. The views expressed by the Ministry in this regard are given below:

"41. It is seen from a study of the scheme that the main reason for enforcing export obligations even in respect of licences issued on the basis of past exports was to ensure continuity of exports. The intention under the scheme always was that fresh import licences would be issued against further exports. When a party executed a bond or gave an undertaking for further exports, he had every reason to feel that he could satisfy those obligations by earning profits on the artsilk yarn that

*Not Appended.

would be licensed under the E.P. Scheme. When therefore, the E.P. Scheme was suspended, it became no longer possible for him to make further exports because he received no further import licences. The export promotion scheme has to be viewed as a continuous chain of exports and imports, i.e., exports of artsilk fabrics and import of artsilk yarn. Thus if an exporter of artsilk fabrics is given an import licence for artsilk yarn, he is tied up with further exports of artsilk fabrics, which in turn will entitle him to get import licences for artsilk yarn and so on. It will, therefore, be seen that any export in the middle of the chain has two aspects, namely, discharging the obligations against the previous import and earning entitlement for further imports in future. These series of transactions could be illustrated as follows:—

E-1, I-1; E-2 I-2; E-3 I-3; E-N I-N.

If the chain is broken some where in the middle, say 1-3 (Import-3), the question will arise whether the series should be continued further to E-4 (Export-4). The logical conclusion would be that when the series started with E(Exports), it should end with I(Imports). It is the application of this principle which has resulted in the waiving of the export obligation arising out of the last import in the series. If instead of stopping at 1-3, we had extended the series to E-4, the party would have become entitled to a further import, namely I-4, which in view of the discontinuance of the scheme could not have been implemented by the Government."

"42. As mentioned in paragraph 1.1 of the Report of the P.A.C., the import licences under the E.P. Scheme were issued to two categories of exporters, namely established exporters, and prospective exporters. Licences in the case of established exporters were issued on the basis of the value of past exports, whereas licences in the case of prospective exporters were issued in anticipation of the earning of foreign exchange by these exporters on the basis of orders of foreign buyers pending with them. In respect of import licences issued to prospective exporters, where no exports were made, bonds executed by the licencees were forfeited and the amount credited to the Government, *vide* paragraph 1.2 of the Report of

the P.A.C. The non-enforcement of the bonds/undertakings related only to the category of established exporters, i.e., those who had already made exports in the past. If this category of exporters had been forced to make exports even after the suspension of the E.P. Scheme, this would have placed them in a more disadvantageous position, *vis-a-vis* prospective exporters, because the export obligations of the former category for the same quantum of import licences would in that event have been in excess of the export obligations applicable to the latter category."

1.9. The crux of the argument of Government is that the bonds not forfeited were those given by established exporters and that the enforcement of the bonds would have placed on them a heavier export burden *vis-a-vis* prospective exporters. The Committee are not, however, fully convinced with the explanation given by Government. It is no doubt true that an established exporter had already an export record to his credit and that in consideration of the grant of an import licence, he had to effect a second export, as against a prospective exporter who had only to make one export against a licence. However, the quantum of export obligation was generally heavier in the case of prospective exporters (133 1|3 per cent of the value of imports) as compared to established exporters (100 per cent of the value of imports). Besides, established exporters were given preferential treatment in the matter of bonds executed, in that they were not required to support it with bank guarantee, which were invariably required of prospective exporters. In fact, even the bonds were ultimately waived in the case of established exporters and replaced by simply undertakings. The Committee also find that the conditions for the issue of import licences in the period July, 1957—March, 1959 specifically provided "In the case of established exporters who have already effected the exports without seeking any earlier import licence under this Scheme, the bond would be required only for the value of the import licence which is in excess of the prescribed percentage." This would imply that the bond was required from an established exporter only in respect of that portion of the import licence which was not covered by import entitlement earned on previous exports. The series of transactions under the E.P. Scheme would thus become:

I-1 E-1; I-2 E-2; I-3 E-3.....In En.

1.10. On this showing it would appear that the most appropriate point for stopping operation of the Scheme was after the fulfilment

of the export obligation undertaken [illegible] of the import licence issued in advance. In the circumstances, the Committee feel that sufficient weightage was given to established exporters in the Scheme in consideration of their past export record. The Committee are, therefore, unable to appreciate the Government's decision to release the established exporters from export obligation for which they had given an undertaking/bond.*

1.11. In fact, the Government should have taken care to incorporate in the Scheme, for the Export Promotion of Art Silk, which was revived after an interval of only a few months in July, 1959, a suitable provision by which the undertaking/bond executed by the established exporters would have been automatically carried forward and given effect to.

1.12. Another point that was raised by the Committee in the course of examination of the Scheme was the failure of the Ministry of Commerce to consult the Ministry of Finance in matters connected with the scheme. The observations in this respect are given below:

> "The Sub-Committee fail to understand how the Ministry of Commerce could decide without even consulting the Ministry of Finance not to enforce the bonds, the non-forfeiture of which has resulted in a loss of revenue to the extent of Rs. 1.51 crores. Moreover, the Ministry of Finance were also not consulted in regard to the foregoing of the foreign exchange earning to the tune of Rs. 5.29 crores though the Rules of Business made it clear that in financial matters, there should be consultation with the Ministry of Finance. The Sub-Committee view such lapses with great concern and recommend that the Ministry of Commerce should be more careful and vigilant and consult the Ministry of Finance in matters involving huge financial implications."
> (Para 1.34 of the Report).

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*The Estimates Committee in their 165th Report (2nd Lok Sabha) had desired that a detailed investigation might be conducted into the circumstances under which the Export Promotion Scheme for Art Silk fabrics was so manipulated by the exporters and manufacturer-exporters as to result in heavy depletion of foreign exchange. The Government in their reply to the Estimates Committee (1964-65) had stated that at their instance the Reserve Bank of India had conducted a comprehensive review of the working of the Export Promotion Scheme since its inception. The Report of the Reserve Bank of India had *inter-alia* brought out that:—

(i) The invoicing of exports was three to four times the actual f.o.b. realisation.

(ii) The profit margin on the sale of imported art silk yarn was about 100 per cent of the c.i.f. price.

1.13. The point raised by the Committee has been examined by the Ministry of Commerce. The Ministry have admitted "As the Scheme involved policy issues, formal consultations with the Ministry of Finance was essential and this had not been fully complied with."

1.14. The Committee would again like to stress that there was a grave lapse on the part of the Ministry of Commerce in not consulting the Ministry of Finance at various stages of formulation & implementation of the Scheme and that effective steps should be taken to avoid recurrence of these lapses.

(iii) *Malpractices relating to Export Promotion Scheme—Para 2.30 of the 50th Report of P.A.C. (Third Lok Sabha)—S. No. 22.*

1.15. In para 2.30 of their 50th Report, the Committee had drawn attention to certain malpractices connected with Export Promotion Scheme for Zari goods and other items. The following observations were made by the Committee:

> "The Sub-Committee regret to note the incidence of malpractices particularly in the cases of Export Promotion Schemes for Zari goods and art silk ready-made garments. The total amount of loss due to malpractices including those mentioned above amounted to Rs. 8.03 crores (Rs. 469.71 lakhs for Zari goods in 1963 and Rs. 333.85 lakhs for other goods from the year 1960 to 31st August, 1965). Perhaps much of the loss could have been avoided if the Ministry had been a little more careful and vigilant."
>
> "Though this amount of loss when compared to the total amount of exports between 1960—65, may appear to be a small percentage, yet in actual figures, the loss of foreign exchange involved is very large. The Sub-Committee, therefore, feel that the Ministry should not relax their efforts to ensure, as far as possible, that the export obligations are fulfilled by the defaulting parties, apart from taking final action, as necessary."

1.16. In their reply to these observations, the Ministry of Commerce under their O.M. No. 22(10)|66-EAC dated 16 Jan., 1967 have stated:—

> "The amount of foreign exchange awaiting repatriation has come down from Rs. 8.07 crores on 31-8-1965 to Rs. 5.77 crores on 1-7-1966. When parties fail to repatriate

foreign exchange within prescribed time limits, penal action such as, black-listing and de-registration is taken in addition to forfeiture of bond."

"Where parties fail to fulfil their export obligations, proceedings for penal action are initiated well in time and pursued vigorously and concluded expeditiously."

1.17. In a subsequent note sent under D.O. No. 22(10) 66-EAC dated 16th February, 1968, the Ministry of Commerce reported the following position:—

"A rigorous drill has been laid down in order to keep a close and strict watch in respect of all cases involving fulfilment of export obligations by the parties concerned. Necessary instructions in this regard have been issued by the Chief Controller of Imports & Exports to all the licensing Authorities. The amount of foreign exchange default has come down to Rs. 5.11 crores, as on 1-7-1967."

1.18. The Committee are constrained to observe that the progress in this case has not been satisfactory. Over a period of one year from 1st July, 1966, the parties concerned have repatriated foreign exchange of only Rs. 0.66 crores out of Rs. 5.77 crores. The Committee reiterate the recommendations made by them in para 2.30 of their 50th Report (Third Lok Sabha) and desire that vigorous steps should be taken to ensure repatriation of the foreign exchange earning and fulfilment of export obligation by defaulting parties.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The fact that the Art Silk Export Promotion Scheme had to be revised at short intervals seems to indicate that while working out the scheme sufficient attention was not given to details. The Committee cannot but emphasise too strongly the desirability and necessity of working out the details of scheme with a view to giving it a fair trial over a reasonable period of time. Making of frequent changes in the scheme at short intervals is likely to defeat the very purpose of the scheme.

[Sl. No. 1 Para 1.6 of Appendix XLV to 50th Report (3rd L. S.)]

The Committee are not convinced of the reasons for discontinuing this scheme because:

(a) These reasons are quite common and found to exist in other export promotion schemes also which are still in vogue; and

(b) Even the Art Silk Export Promotion Scheme was also revised and re-introduced soon after without making any provision to safeguard against these abuses.

The Committee propose to deal with the irregularities in the various export promotion schemes in a separate chapter.

[Sl. No. 2 para 1.8 of Appendix XLV to 50th Report (3rd L. S.)]

The Committee are of the view that because of the paramount necessity of ensuring that export obligations are fulfilled, the Ministry should have itself prescribed the specific amounts of bonds as a percentage of the value of the goods imported instead of giving discretion to the licensing authorities at the ports.

[Sl. No. 3 para 1.11 of Appendix XLV to 50th Report (3rd L. S.)]

The Committee feel that it is an anomalous position that an exporter of a commodity should be regarded both as a prospective exporter and an established exporter. If the same exporter is classified

both as a prospective exporter and established exporter, then these terms become meaningless. They would like the Ministry to take steps to remove such an anomaly, wherever it exists.

[Sl. No. 4 para 1.13 of Appendix XLV to 50th Report (3rd L. S.)]

The Committee are not convinced by the arguments advanced by the Secretary, Ministry of Commerce. These statements are not supported by the documents produced before the Committee. (In this connection attention is invited to para 1.22 to 1.26 and 1.32 to 1.36 of this Chapter). Bonds were unconditional and were to be released only on fulfilment of export obligation failing which they were to be forfeited.

[Sl. No. 5 para 1.16 of Appendix XLV to 50th Report (3rd L.S.)]

The Committee fail to understand why when the decision to suspend the Art Silk Export Promotion Scheme was taken in March 1959, the Ministry of Commerce had not taken into consideration the implications thereof. While the suspension of the Scheme obviously placed an embargo only on the further issue of import licences under the Scheme, this did not prevent the Ministry of Commerce from enforcing export of goods under the past obligations. This the Ministry failed to do.

[Sl. No. 6 para 1.18 of Appendix XLV to 50th Report (3rd L.S.)]

The Committee note from the Public Notice, dated 26th May, 1958, that Government had clarified that imports should be tied up with exports and the requirement of the bond could not be dispensed with in the case of established exporters. Vide the Public Notice, dated 6th February, 1959, though the condition of the execution of a bond was waived in the case of established exporters, they were required to give an undertaking to the effect that they would export processed/finished goods equal to the value of the imports. Thus, it is clear that none of these two Public Notices exempted the Established Exporters from their export obligation under the Scheme.

[Sl. No. 7 para 1.24 of Appendix XLV to 50th Report (3rd L.S.)]

The Committee are of the view that the copies of the notings/orders reproduced in Appendix VI do not bear out that the intention was that the bonds which had matured need not be enforced or that they might be allowed to lapse after the 5th March, 1959. The notings clearly indicate that the export obligations must be retained under the Scheme and tied with another scheme.

In this connection the Committee would also like to draw the attention to the copy of the letter, dated the 28th November, 1959,

from the Mysore State Silk and Rayon Exporters and Importers Association (Appendix VII) wherein they have not claimed that they were under no obligation because they had already got the licence.

The Committee are, therefore, amazed to find out that the decision of the Government in this case has not been carried out faithfully. If the decision has been interpreted correctly and the export obligation insisted upon, there would not have been a huge loss of about Rs. 5.29 crores of foreign exchange. Alternatively, the public exchequer would have gained about Rs. 1.51 crores by the forfeiture of bond amounts.

[Sl. No. 9 para 1.32 of Appendix XLV to 50th Report (3rd L.S.)]

Action taken by Government

Recommendations made in paragraph 1.11 and 1.13 are accepted by Government for compliance.

2. The observations made in paragraphs 1.6, 1.8, 1.16, 1.18, 1.24, 1.32 and 1.34 have been noted.

* * * * *

[Ministry of Commerce O.M. No. 7(3)Tex(F)|66 dated 4-11-1966]

Further Information

Paras 1.11 *and* 1.13: With the abolition of all export promotion schemes including the Art Silk Export Promotion Scheme consequent on devaluation there is no longer any link between exports of art silk fabrics and import of art silk yarn. The question, therefore, of prescribing any export obligation or amounts of bonds as a percentage of the value of the goods imported does not arise now. The position no longer exists where an exporter is declared both as a prospective exporter and an established exporter.

[Ministry of Commerce D.O. No. 7(3) Tex(F)/67 dated 1st/5th December, 1966]

Recommendation

This Committee fail to understand why Government have deliberately given such a high priority to the import of art silk yarn even when there is adverse balance of trade and during a period of 6 years the adverse balance of trade on this account alone is Rs. 14 crores. Moreover, it is really surprising that for the sake of importing art silk yarn, Government have considered it essential to

export sugar at a highly subsidised rate. In this connection, the Committee would also like to draw attention to the Press Note, dated 22nd March, 1966 of the Ministry of Commerce (vide Appendix VIII) re: Ban on non-transferable specific delivery contracts in imported art silk yarn. In the Press Note it has been stated *inter alia* "A good deal of trafficking in import licences is reported to be taking place". The Committee are, therefore, of the opinion that the priority to be given to the import of art silk yarn should be carefully re-examined by Government in the light of their observations.

[Sl. No. 12 para 1.38 of Appendix XLV to 50th Report (3rd L. S.)]

Action taken by Government

At the outset, it may be stated for the information of the Committee that there has been no export of sugar against importation of art silk yarn. In fact 7825 tons of staple fibre (from which yarn was spun) had been imported against the export of sugar.

The priority to be given to the import or art silk yarn is being examined by Government in the light of the Committee's observations. In making this examination, the following factors are also being borne in mind:—

(a) Government's decision to treat man-made fibre industry as a priority industry;

(b) the need to maintain sufficiency of supply of fabrics to meet the clothing requirements of the rising population;

(c) the plans for production of synthetic yarn in the country;

(d) industrial uses of synthetic yarn such as in the manufacture of parachutes, fishing nets and gas mantles;

(e) desirability of maintaining employment of handloom weavers and of labourers working in both organised and unorganised sectors; and

(f) the changing pattern of world trade and world consumption. The use of man-made fibre fabrics is continuously expanding as compared to traditional fibres like cotton, wool, etc. Therefore, world export markets for art silk fabrics are going up and India's share in these markets has to be continuously increased by promoting exports of these art silk fabrics. Also the quality and standards

of Indian art silk fabrics is high and is liked in foreign markets.

[Ministry of Commerce O.M. No. 7(3)Tex F/67, dated 4-11-1966].

Further Information

Para 1.38: With the abolition of the erstwhile Export Promotion Scheme for Art Silk Fabrics, all imports of synthetic yarn (nylon yarn and cupramonium yarn) is now canalised through the State Trading Corporation. After a careful and detailed examination of the requirements of the art silk weaving industry for synthetic (nylon and cupramonium) yarn and the present and anticipated production of such yarn indigenously, Government have arranged import of nylon and cupramonium yarn for a total value of Rs. 9 crores. All these imports will be made by S.T.C. against tied foreign exchange credits available from U.S.A., West Germany, Japan and Italy. The distribution of the yarn thus imported to the weaving industry on actual user basis will also be done by State Trading Corporation.

[Ministry of Commerce D.O. No. 7(3) Tex (F)/67 dated 1st/5th December, 1967].

Recommendation

From the figures of exports given in Appendix IX against items Nos. 13 (Metals and Mfrs.) and 37 (Chemical and Allied products-excl. essential oils) which are also covered by the import entitlement schemes, it would be apparent that in spite of export incentives, exports of these commodities went down in 1962-63 in the case of Item 13 and during 1960-61 and 1961-62 in the case of item No. 37. It would therefore, appear that the purpose for which Export Promotion Schemes were initiated is not being fully achieved.

[Sl. No. 13, Para No. 2.4 of Appendix XLV to the 50th Report (3rd L.S.)].

Action taken by Government

The figures of exports in Appendix IX have been taken from the compilation published by the Director General of Commercial Intelligence and Statistics. Item No. 13 of Appendix IX namely "Metals and Manufacturers", covers (a) metals for which there was no promotion scheme and (b) metal manufactures for the export of which promotion schemes were in force. The fall in the figures of exports against item 13 in 1962-63 was due mainly to the fall in

exports of metals an item not covered by any export promotion scheme. The figures for this item are given below:

(Rs. Lakhs.)

Year	Metals & manufactures	Metals	Metals manufactures only
1959-60	377	214	163
1960-61	1187	993	194
1961-62	1263	985	278
1962-63	534	237	297
1963-64	947	561	386
1964-65	1637	1205	433

2. The Export Promotion Scheme for engineering goods covered (a) metal manufactures included in item 13 of Appendix and (b) machinery and transport equipment (e.g. diesel engines, pumps, electric fans, sewing machines etc.) which are not included in the figures against item No. 13, but which appear to have been taken into account in the grand total at the foot of the appendix. The figures of exports of (a) and (b) together during the period under review are shown below:

(Rs. lakhs.)

1958-59	390
1959-60	503
1960-61	670
1961-62	782
1962-63	942
1963-64	1342
1964-65	1681

3. Item No. 37 of Appendix IX consists of (a) items covered by the Export Promotion Scheme for Chemicals and Allied Products and (b) items like plastic moulding powders and manufactures thereof which were not so covered. Also this scheme covered pro-

ducts like rubber tyres and other rubber manufactures, paints and varnish, glass and glass ware, ceramics, refractories and asbestos products, which are not included in serial No. 37 of Appendix IX.

4. Exports of products covered by promotion schemes for allied chemical products were as follows:—

	(Rs. lakhs.)
1958-59	347
1959-60	350
1960-61	431
1961-62	465
1962-63	515
1963-64	549
1964-65	969
1965-66	1167

5. It will be seen from the figures given in paragraph 2 and 4 above that exports of engineering and chemical items to which export promotion schemes had been applied have risen steadily over the last 7-8 years.

[Ministry of Commerce & Industry O.M. No. 22(10)/66-EAC Dt. 16-1-1967].

Recommendation

Information pertaining to the analysis of the export promotion schemes where entitlement was the highest and where the performance was the best is still awaited from the Ministry.

[Sr. No. 14, Para No. 2.7 of Appendix XLV to the 50th Report (3rd L.S.)].

Action taken by Government

A detailed note containing the requisite information has been sent to the Lok Sabha Secretariat (PAC Branch) with this Ministry's O.M. No. 7(23)-B & A/65 (Vol. II)—Pt. II dated the 23rd April, 1966.

[Ministry of Commerce & Industry O.M. No. 22(10)/66-EAC Dt. 16-1-1967].

Recommendation

The Committee are surprised to learn that the statistics of import are maintained commodity-wise and not scheme-wise and that the same commodity is sometimes allowed to be imported under

more than one scheme. They are, however, glad to be informed that it has since been decided to introduce code numbers to indicate on licences issued under a particular scheme so that in future this information may be available.

[Sl. No. 15, para No. 2.10 of Appendix XLV of the 50th Report (3rd L. S.)].

Action taken by Government

The decision to introduce code numbers scheme-wise was brought into effect from 1-4-1968. Since that date statistics are being maintained, both commodity-wise and scheme-wise.

With effect from 6-6-1966, pre-devaluation scheme of Export Promotion has been abolished. Nevertheless, statistics of imports which will be effected by Registered Exporters in replenishment of the single import content of their exports are proposed to be maintained separately for each category of exported goods.

[Ministry of Commerce & Industry O.M. No. 22 (10)/66-EAC dated 16-1-1967]

Recommendations

While appreciating the promptness with which Government has initiated action on various recommendations of the Review Committee, the Committee would like to point out that the Review Committee primarily dealt with the organisational and promotional aspects of the E.P. Councils, as required under its terms of reference. It did not undertake any quantitative assessment of the results achieved by various Export Promotion Schemes.

[Sr. No. 16, Para 2.13 of Appendix XLV to the 50th Report (3rd L. S.)]

Action taken by Government

It is correct that the Review Committee was not, by its Terms of Reference, required to undertake a quantitative assessment of the results achieved by various Export Promotion Schemes. A statement showing the progress of exports of some of the items, the export of which has been promoted through Export Promotion Schemes is given below for the information of the Committee.

Statement showing the progress of exports of some of the items covered under the Export Promotion Schemes.

(Value in lakhs Rs.)

Item	1960-61	1961-62	1962-63	1963-64	1964-65	1965-66
1. Drugs, pharmaceuticals & fine chemicals.	108·9	111·3	120·9	127·50	222·42	303·59
2. Coal tar Chemicals, dyes & intermediates.	..	..	..	46·6	44·94	49·72
3. Rubber products.	80·5	95·1	123·4	136·7	248·00	316.8
4. M. S. Pipes, Tubes and fittings.	17·47	12·55	6·18	37·40	83·11	209·88
5. Diesel Engines and Parts.	25·16	47·73	54·27	65·37	126·72	126·20
6. Automobiles & Auto parts.	11·25	12·95	13·38	57·89	110·79	117·05
7. Bicycles & parts.	6·06	18·69	13·84	42·70	79·72	114·97
8. Electric wires and cables.	2·06	0·39	8·98	15·90	58·76	74·23
9. Iron & Steel Casting (all sorts)	24·06	35·42	35·46	52·10	53·68	70·44
10. Processed Aluminium products (including utensils and capsules.	28·09	34·75	35·65	41·63	45·03	46·53
11. Builder's Hardware including Locks & Padlocks.)	15·26	16·23	16·22	32·94	35·77	44·64
12. Machine tools.	4·10	9·69	6·21	10·52	16·60	35·60
13. Steel furniture	14·32	21·68	22·24	26·56	25·00	28·30
14. Jute Mill Machinery	5·00	11·78	17·38	25·51	37·06	32·71

[Ministry of Commerce & Industry O.M. No. 22(10)/66-EAC dated 16-1-1967]

Recommendation

The argument advanced by the Textile Commissioner that "it (entitlement) is invariably not more than 100 per cent for computation purposes the figure is slightly in excess" does not appear to be convincing. The Committee would like to impress upon the Government that they should ensure that in no case import entitlement is more than 100 per cent of the export obligation, preferably it should be less.

[Sr. No. 18, Para 2.19 of Appendix XLV to the 50th Report (3rd L. S.)]

Action taken by Government

Consequent on devaluation, the Export Promotion Scheme has since been abolished with effect from 6.6.1966. However, the point made would be borne in mind as a principle for guidance for the future. It may be added that linking of imported cotton with value of cotton cloth exported should not be construed as import entitlement, as the cotton had to be imported independently on its own, and not because of any import-entitlements.

[Ministry of Commerce O.M. No. 22(10) '66-EAC dated 22-7-1967].

Recommendation

"The Committee were informed that the average entitlement is 15 per cent of the export. The Committee, therefore, feel that a definite maximum limit of import entitlement must be fixed for each commodity. Any extra incentive, if necessary, should be given in Indian currency but the percentage of import entitlement should not be changed. The Export Promotion Schemes must generate free foreign exchange and hence it is imperative that this import entitlement is kept lowest possible and the export should be compensated by other incentives of fiscal case subsidy nature. Also no advance import licence should be given as that has landed itself to lot of abuses.

[Sl. No. 19, para 2.19 of Appendix XLV to the 50th Report (3rd LS)].

**Action taken by Government*

The erstwhile Export Promotion Schemes were abolished with effect from 6th June, 1966. The needs of the imported raw material for the purpose of maintaining export productions were assessed in

the light of new circumstances and a Scheme of Import replenishment has been devised. Under this import policy for Registered Exporters the replenishment is allowed on the basis of the single import content of the export product. The percentages of import replenishment fixed for various export commodities are published in the Red Book.

While generally these licences are allowed as replenishment after the export, there are instances where advance import of the material is necessary to make production for export possible. A Committee of Senior Officers at the Headquarters considers requests for advance licences in cases of specific export orders and upto the extent allowed under the policy.

[Ministry of Commerce D.O. No. 22(10) 66-EAC dated 9-8-1968].

Recommendation

The Committee are glad to know that the Audit Unit has been constituted in the Office of the CCI&E. They would like to be informed of the results achieved by the Audit Unit in due course.

[Sl. No. 19, para No. 2.21 of Appendix XLV to the 50th Report (3rd L.S.)].

Action taken by Government

The E. P. Inspection Unit was constituted in the Office of the Chief Controller of Imports and Exports in December, 1964. The broad objective of constituting this Unit was to remove the difficulties in the way of genuine exports and to keep a watch over the proper utilisation of foreign exchange in connection with the E. P. licensing. These objectives were sought to be achieved by periodical inspections of the licensing offices as also the offices of the sponsoring Export Promotion Councils/Commodity Boards.

The Inspection Unit conducted a case study of the licences issued on a random sampling basis. The object of the study was three-fold, namely:—

(i) to see whether import licences had been issued promptly and strictly in accordance with the provisions of the E.P. Schemes;

(ii) to detect undue benefits, if any, derived by unscrupulous exporters taking advantage of any possible loopholes in the actual working of the Schemes and to suggest remedial measures;

(iii) to examine to what extent existing procedure could be further simplified.

The Inspection Unit also had discussions with the Customs, the Reserve Bank, E. P. Council/Commodity Boards and the Textile

Commissioner etc. export promotion problems with a view to resolving the difficulties of the exporters on the one hand and of the Government Department on the other in so far as the actual working of the E. P. Schemes was concerned. In the light of case study undertaken and the discussions held, several suggestions were made by the Inspect on Unit concerning procedural matters. Most of the suggestions have already been implemented.

It was on the basis of the suggestion of the Inspection Unit that the licensing authorities and the Export Promotion Councils/Commodity Boards started maintaining detailed information in the prescribed form to enable them to exercise an effective check over the follow-up action in respect of fulfilment of export obligations against advance licences and realisation of export proceeds against the undertakings given by the exporters. This method had the desired effect in that the outstanding in respect of matured bonds and undertakings which stood at Rs. 1646.70 lakhs on the 1st June 1965 came down to Rs. 788.75 lakhs on the 1st April, 1966.

The policy of issuing licences against undertakings was also stopped and it was decided to issue licences only in cases where bank certificates were available in respect of the realisation of foreign exchange. The licensing authorities were also instructed not to issue advance licences except with prior approval on a case-to-case basis of the Ministry of Commerce.

To enable the sponsoring Export Promotion Councils to detect cases of over-invoicing, they were advised to maintain international unit prices of items handled by them and also to constitute Raw Material Committees to go into the question of the Import contents of the exported products. This was one of the means suggested by the Inspection Unit.

At the instance of the Inspection Unit, several changes were made in the method of processing of the applications to assure that the malpractices could be removed to the extent possible. Important of these are as under:—

(a) Applications for registration were screened with reference to the names of the individual partners/Directors or Proprietors and not merely with reference to the name of the firm and Company.

(b) In the case of manufacturer exporter, his capacity to produce goods of the requisite quality and standard was

examined at the time of registration. Similarly, in the case of a merchant exporter, his turnover and past record were kept in view while registering him as an exporter.

(c) The exporters were asked to produce a copy of the shipping bill with their application for an incentive licence so that the possibility of the double advantage may be eliminated.

(d) It was decided not to issue more than two advance licences to an exporter under the same scheme at a time.

(e) Orders were issued to the effect that only the actual requirement of the raw material and components going into the production of the exportable product should be allowed to be imported to the applicants. Prior Clearance from the DGTD in regard to the indigenous angle was also made necessary.

(f) It was decided not to accept Auditor's Certificates in lieu of the Bank Certificate.

[Ministry of Commerce & Industry O.M. No. 22 (10)/66-EAC dated 16-1-1967]

Recommendation

The Committee regret to note that the information indicating the actual foreign exchange earned by exporters (according to the figures compiled by the Ministry of Commerce) and the foreign exchange deposited in the Reserve Bank of India, during the last three financial years, indicating reasons for difference, if any, is still awaited.

[Sl. No. 21, para 2.23 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

The data compiled by the Director-General, Commercial Intelligence & Statistics represent the physical export of goods while the Reserve Bank of India figures reflect the actual payments received in the country. Apart from the difference in time in those two operations, difference in the territorial coverage is one of the main factors responsible for the difference in these two sets of figures. While the statistics compiled by the DGCI&S include figures of exports to Nepal, the Reserve Bank of India has continued to exclude such trade from their balance of payments statistics. If the figures of exports to Nepal are excluded from the DGCI&S figures, the difference between the two sets is narrowed down significantly and

gets evened out over a period as will be seen from the following figures:—

(Rs. crores)

Years	Receipts of foreign exchanges as recorded by Reserve Bank of India	Physical exports as recorded by DGCI&S from Customs returns	Actual exports to Nepal	Excluding Nepal	Difference in figures of column 2 over Col. 5
1962-63 . .	682	714	4†	710	—28
1963-64 . .	802	794	12	782	+20
1964-65 . .	803*	815	17	798	+5
1965-66 . .	782*	810	20	790	—8

It will be seen that the figures for the last two financial years are only preliminary so far as the Reserve Bank of India is concerned, and it is likely that these may be revised upwards, thus narrowing down the difference still further.

Among other reasons for the difference between these two sets of figures are:

(a) Extension given by the Reserve Bank of India for the repatriation of sale proceeds; and

(b) Permission granted by the Reserve Bank of India for retention of some portions of sale proceeds abroad for various approved purposes.

[Ministry of Commerce & Industry O.M. No. 22 (10)/66-EAC dated 16-1-1967]

Recommendation

The Committee note that the Ministry have not only abandoned the Export Promotion Scheme for Zari Goods and modified the [illegible] for stainless steel, they have also initiated adequate steps against the defaulting firms. They hope that the Ministry would keep a continuous check on the working of other Export Promotion Schemes and will not allow the malpractices to creep in.

[Sr. No. 23, para 2.31 of Appendix XLV to 50th Report (3rd L. S.)].

*Preliminary.

†Estimated

Action taken by Government

All entitlement schemes have been abolished. The observation of the Committee has nevertheless been noted for future guidance.

Recommendation

From the evidence tendered and also from the notes furnished by the Ministry, the Committee find that the prevailing situation leaves much scope for improvement in the working of the Schemes. The modus operandi of the fradulent traders who exploit the Schemes in their own interest can be categorised roughly as below:—

(i) production of false documents
(ii) mis-declaration of export goods
(iii) over-invoicing
(iv) forgery of export documents
(v) under invoicing
(vi) liquidation of the firms after enjoying the imports to escape governmental action against them.

[S. No. 25, para 2.50 of Appendix XLV to 50th Report (3rd L. S.)]

Action taken by Government

All import entitlement schemes have since been abolished. Nevertheless the observations of the Committee have been noted for future guidance.

[Ministry of Commerce & Industry O.M. No. 22 (10)/66-EAC dated 16-1-1967]

Recommendation

This Committee are surprised to learn that the Ministry have to depend wholly on the customs authorities to verify as to whether the exports stipulated under the Schemes are actually effected or not. Enquiries against firms are initiated either when adverse reports are submitted by the customs authorities or when the CCI&E develop any doubt, mostly on the basis of anonymous reports. The Committee are of the opinion that the present checks against the aforesaid malpractices are not adequate because in many cases licences were issued to firms which on subsequent varification were found to be not in existence. There were 8 such cases out of the list of 58 cases furnished. The deposition of the CCI&E that 'there have been cases where at the time of registration they (firms) were in existence but afterwards they went out of existence', makes it necessary to have thorough enquiries made before firms are issued import/export licences. They also feel that the checks that the customs authorities are exercising at present to detect cases of over-invoicing and other connected malpractices are

inadequate as they have come across cases where on a subsequent enquiry, it was found that the parties had indulged in under hand methods which had escaped the Customs authorities (e.g. Case No. 3).

[S. No. 26 para 2.51 of Appendix XLV to 50th Report (3rd L. S.)]

Action taken by Government

The customs alone are in a position to verify the exports which are actually effected by exporters. The claims of exporters are, however, checked with reference to (a) Bills of Ladings which are required to be submitted in original and (b) Shipping Bills which are required to be certified by Customs Authorities. In cases where suspicion is aroused, Licensing Authorities are expected to contact the Customs Authorities with a view to confirming the genuineness of the documents presented. Further, because applications were required to be routed through the Export Promotion Councils and the Commodity Boards, opportunity was available for competitors or rivals in the trade to point out the genuineness or otherwise of the claims put forward by the exporters.

The supplementary checks mentioned in the preceding paragraph are available not merely for checking up the fact of export but also on the values at which exports were declared to have been effected. In many cases, on the recommendations of the Export Promotion Councils, the declared values had been reduced at the time of issuance of import entitlement licences.

As regards firms which go out of existence, the procedure regarding registration, de-registration and verification is being tightened up.

[Ministry of Commerce & Industry O.M. No. 22(10)|66-EAC Dated 16-1-1967].

Recommendation

The Committee consider it most unfortunate that even the provision of securing bank guarantees has not proved to be of much avail as in one case (No. 37) a bank stood guarantee for a firm which was not in existence. (The bond amount in this case was forfeited). Under the existing scheme, the defaulting parties could only be proceeded with under the provisions of Import (Control) Order or through the forfeiture of bonds furnished by them which till July, 1965 was only 20 per cent of the value of import licence and there was no course open to the Government whereby the parties could be compelled to fulfil their export obligations. Consequently, the fraudulent parties indulged in malpractices and could

conveniently go underground when called upon to justify their actions without fulfilling their obligations under the Schemes to export and thereby the real purpose of the Schemes was defeated. The Committee fail to understand how a bank could give guarantee in respect of such non-existent firms. The Committee desire that the banks concerned should be addressed to and their explanation obtained with a view to taking corrective measures.

Even in cases where the guilt was proved the firms were to undergo imprisonment till the rising of the Court and a fine of Rs. 200 only and they were debarred from receipt of licences for one or two licensing periods of six months each.

[S. No. 27 of para 2.52 of Appendix XLV to 50th Report (3rd L.S.)]

Action taken by Government

The Banks which had stood guarantee for the firm in question were asked and have advised that the firm opened accounts with them through proper introduction and that they had no reason to doubt that the firm was bogus or non-existent.

As mentioned in Report itself, the bond amount in this case had been forfeited.

The action taken against exporters defaulting on export obligations, has been tightened up.

It may be added that the Import Export Control Act has been amended with effect from 19th March, 1966 making it obligatory on the part of the Courts to award imprisonment for a minimum period of six months for contravention of Import Export Rtgu'ations. The cases in which fines of Rs. 200/- were imposed, mentioned in the report, pertain to judgments delivered earlier and the punishments awarded were in terms of the relevant Sections of the Indian Penal Code in force at the time.

[Ministry of Commerce & Industry O.M. No. 22(10)/66-EAC Dated 16-1-1967].

Recommendation

That Committee note that from July, 1965 the value of the bond amount has been raised to 100 per cent of the import licence and that by the Imports and Exports (Control) Amendment Act, 1966 the period of imprisonment has been raised from one day to 6 months /2 years.

[S. No. 28 of para 2.53 of Appendix XLV to 50th Report (3rd L.S.)]

Action taken by Government

No action is required.

[Ministry of Commerce and Industry O.M. No. 22(10)/66-EAC, dated 16-1-1967].

Recommendation

The Committee cannot get away from the impression that the fraudulent traders were in a way encouraged by the lenient and lukewarm attitude of the officials. In respect of cases where the parties have preferred false claims of exports (Nos. 4 and 8) and the fact was proved, no penal action was taken and only an amount equivalent to the amount of excess exports claimed by the parties was deducted. In another case (No. 31) even though the allegations were proved the case could not be taken to the court of law because original documents were not available. There was yet another case (No. 36) in which a fake owner of a non-existent mill could get a licence for import of art silk. The party sold the Imported goods to other parties without fulfilling the export obligations. (In this case, a successful prosecution was launched and a Director and a Manager of the Company were sentenced to pay fine totalling Rs.3,500).

[S. No. 29 of para 2.54 of Appendix XLV to 50th Report (3rd L.S.)]

Action taken by Government

This has been noted.

[Ministry of Commerce & Industry O.M. No. 22(10)'66-EAC Dated 16-1-1967].

Recommendation

The Committee take a serious view of the various malpractices noticed in the operation of the Export Promotion Schemes and regard it most unfortunate that even after several years of existence of Export Promotions Schemes, even major loopholes in them have not been plugged and they still continue to be exposed to various malpractices and abuses.

They also strongly feel that the machinery administering the Export Promotion Schemes should be toned up in such a way that the possibilities of fraudulent practices are eliminated altogether.

[S. No. 30 of para 2.55 of Appendix XLV to 50th Report (3rd L.S.)]

Action taken by Government

The observations of the Committee have been noted for guidance.

[Ministry of Commerce & Industry O.M. No. 22(10)|66-EAC Dated 16-1-1967].

Recommendation

While the Committee agree that it takes some time for every department to conduct their own enquiry before handing over the case

to C.B.I., they are not convinced that a department should take as long a period as seven years for this purpose. They feel that such a situation arises only when a department is hesitant to take a firm decision. In order to enable the Police/SPE/CBI to play an effective role, it is desirable that decisions are taken promptly and all documents/files etc. relating to the case are kept in the custody of a responsible officer till the final decision in the case is taken. The Sub-Committee would also like the C.B.I. to take steps to ensure that their investigations are completed more expeditiously.

[S. No. 31 para 2.57 of Appendix XLV to 50th Report (3rd L.S.)].

Action Taken by Government

The recommendation has been noted and acted upon. Copies of two licensing instructions since issued are enclosed.*

[Ministry of Commerce & Industry O.M. No. 22(10)|66-EAC Dated 16-1-1967].

Recommendation

The Committee suggest that Government should appoint a Committee of experts (a) to make a quantitative assessment of the Export Promotion Schemes, (b) to revise the Export Promotion Schemes in operation so as to put them on a more scientific basis with a view to ensuring that they succeed in stimulating the export in the desired direction, (c) to plug the loopholes which have resulted in various malpractices, (d) to make sure that the import entitlements are given only for such commodities as are essential for country's economy and for which no indigenous substitutes are available, and (e) to ensure that each Export Promotion Scheme generates a certain minimum percentage of free foreign exchange.

The Committee also recommend that since the advance import licences in anticipation of export have resulted in various malpractices, and since in a number of cases the anticipated exports have not taken place subsequently the system of advance licensing should be dispensed with and import entitlements under the Export Promotion Schemes should be given only after the requisite foreign exchange has been generated through exports.

[S. No. 32, Para 2.60 of Appendix XLV to 50th Report (3rd L.S.)].

Action taken by Government

The schemes to which this recommendation relates have been abolished with effect from June 6th, 1966.

[Ministry of Commerce & Industry O.M. No. 22(10)|66-EAC Dated 16-1-1967]

Not printed.

Recommendation

The Committee are unable to understand how the Ministry continued to place orders on firms (vide Serial Nos. 5, 9, 15, 16, 25, 36, and 39 of Statement III of Appendix XX) which were black-listed. They feel that this could happen because of lack of coordination and it indicates, to say the least, some negligence on the part of the officials concerned. They would, therefore, urge that these cases should be thoroughly investigated and the persons found guilty should be suitably dealt with. They would also like that on the basis of such investigations adequate steps should be taken to tighten up the official procedure so as to make recurrence of such cases impossible.

[S. No. 38, Para 3.19 of Appx. XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

The particular cases referred to in Statement III Appendix XX of the Report (Pages 212—217) were barter deals for import of steel against export of various mineral ores. The details are:—

S. No.	Name of the bartering party	Date of approval	Validity period	Value of b deal (in Rs. lakhs)
5.	M/s. Ramkrishan Kulwantrai, New Delhi.	30-7-63	31-12-64	100·0
9.	M/s. P. Singh, Calcutta.	28-9-63	31-12-64	47·50
10.	M/s. Ramkrishan Kulwantrai, New Delhi.	13-11-63	13-12-64	35·00
16.	M/s. Rajkumar (I) Ltd., Delhi	10-1-64	31-12-64	200·00
25.	M/s. Rajkumar(I) Ltd., Delhi.	17-4-65	31-12-65	50·00
36.	M/s. Ramkrishan Kulwantrai, New Delhi.	18-5-65	31-3-66	90·00
39.	M/s. Electrolytic Tinplates Ltd., Bombay.	21-5-65	31-3-66	45·00

2. With regard to the dates of approval of these barter deals, as given above, presumably the Committee were referring to the orders of the Ministry of Iron & Steel (covering the period 31-7-1963 to 31-7-1965) referred to in paragraph 4.126 of their Report. It would, however, appear from the succeeding paragraphs of the Report that the orders for suspension of the business dealings with the concerned firms, issued by the Iron & Steel Ministry, were made applicable only to the Iron & Steel Controller and were not communicated to other

Government Departments. The M.M.T.C. have also confirmed that, at the time these barter deals were concluded by them with the above parties, no orders black-listing the parties in question had been received by them.

3. Attention is also invited to the reply submitted under Recommendation Serial No. 98.

[Ministry of Commerce O.M. No. 7(12)-B&A/66 Dated 12-4-1967].

Recommendation

The Committee find that out of the 2 contracts worth Rs. 8.60 crores entered into with the firm, the party could export goods worth only Rs. 2.86 crores during a period of 2 years and that the validity period is only upto 31st December, 1966. They have now been informed that the party has asked for extension of the validity period upto September, 1967. From the trend of performance upto date, the Sub-Committee doubt whether the export obligation under this barter deal would be fulfilled even by the extended date viz. September, 1967. The Committee are of the view that at the time of accepting a barter deal, the capacity of the party concerned to fulfil the export obligation should be properly assessed.

[S. No. 39, Para 3.22 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

The observations, and suggestions for action contained in these paragraphs, have later been summarised by the PAC in Recommendation Number 52 (Para 3.45), in reply to which a detailed note is being submitted to the Committte. Accordingly, separate replies are not being offered in respect of these recommendations.

[Ministry of Commerce O.M. No. 7(12)-B&A/66 Dated 12-4-1967].

Recommendation

The Committee find from Sl. Nos. 2, 9, 11 and 19 of Statement I of Appendix XX that the price, quantity and quality of mica quoted therein are not consistent. For instance in Sr. No. 2 the party was supposed to export 20,00,000 lbs. of Mica for Rs. 38,00,000. Actually, however, the quantity exported was 9,61,672 lbs. and the amount of foreign exchange earned was Rs. 38,11,532. They observe that cols. 6 & 8 thereof do not tally with each other and are not convinced by the argument advanced during evidence that it was because of the wide variation in the quality of mica.

[S. No. 41, Para 3.26 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

The observations have been noted for future guidance. It might be added that the deals referred to were of 1959-60 and, partly because of the special difficulties mentioned below relating to Mica, Mica is no longer included in subsequent barter deals. It may also be added that, till the introduction of the floor price system in early 1964, there was no readily available yardstick in regard to Mica prices.

2. Mica is sold in different grades and shapes, such as blocks, films, and scrap; within each, again, there are a very large number of qualities. The price variation within the single item (Mica) are large. For instance, while the price of heavy stained blocks (Special Grade 6) may be only about $1 per lb. FOB, the price for top quality block Mica (CXX Special Grade) might be in the neighbourhood of as much as $50 lb. FOB. Therefore, to facilitate implementation of the concerned contracts with the overseas buyers, ceilings both in regard to quality and value were fixed under the contracts in question.

3. The quantity of 20,00,000 lbs. of mica shown at Serial No. 2 of Statement I of Appendix XX, for instance, was the sum total of four sale contracts of 5,00,000 lbs. each entered into with overseas buyers and the value of each contract in terms of rupees was Rs. 9,50,000—($2,00,000). The details of these contracts are given below:—

S.C. No.	Grade	Quantity contracted	Contracted Value
			Rs.
25/60	Block, Scrap & condenser films	5,00,000 lbs.	9,50,000
28/60	Films, blocks & Scrap	5,00,000 lbs.	9,50,000
29/60	Do.	5,00,000 lbs.	9,50,000
30/60	Do.	5,00,000 lbs.	9,50,000
	TOTAL	20,00,000 lbs.	38,00,000

4. Against the above total of 20,00,000 lbs. (Valued at Rs. 38,00,000), a quantity of 9,61,672 lbs. valued at Rs. 38,11,532 was exported. It would be observed that if mainly high priced mica is exported, the limit in regard to value would be reached without the quantitative ceiling being reached simultaneously. If only low-priced mica valued

at cents 97 per pound is exported within the ceiling of $ 2,00,000 (i.e. Rs. 9,50,000) under the contract, the exports will be 2,06,000 lbs. On the other hand, if only high-priced mica valued at $49.80 per lb. is exported within the ceiling $ 2,00,000 the export quantity will be only 4016 lbs. A maximum quantitative ceiling of 5 lakh lbs. was, however, provided under the contract so as to allow shipment of mica scrap also which was priced on long ton (2240 lbs.) basis. The intention in providing this quantitative ceiling was that, within this ceiling, as far as possible all grades of mica are exported within the value of Rs. 9,50,000 ($ 2,00,000). This would, explain how under the above sale contracts, while the value of total export was Rs. 38,11,532.00 against the ceiling of Rs. 38,00,000 the quantity exported was only 9,61,672 lbs.

5. The same explanation also applies to the other deals referred to at S. Nos. 9, 11, and 19 of Statement I of Appendix XX.

[Ministry of Commerce O.M. No. 7(12)-B&A/66 Dated 12-4-1967].

Recommendation

The Committee feel that the conditions which were laid down at the time of releasing the nylon tows for civilian use were rather unusual. Since the question of conversion of nylon tows into tops for defence production was no longer there, it is not quite understandable why it was laid down that these should be processed by only certain mills, though under the direction of the Textile Commissioner. It is also not very clear why the condition of price control could not be enforced. Since the parties had refused to lift the goods, Government could have disposed them of by inviting open tenders. The Committee would like to be apprised of the considerations which weighed with the Government for acting in such a manner.

[S. No. 47, Para 3.37 of Appx. XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

Early in January 1963, it was considered that substantial quantities of nylon tops would be required for blending with Indian wool for the manufacture of hosiery goods required for the Defence. At that time only three units had been licensed for conversion of synthetic tow (which includes nylon tow also) into tops. Out of these three units, only two were ready for production. The third unit came up much later. The two units were Messrs. * * * * * * * * * * * * * * (the latter was subsequently changed into Messrs. * * * *). Neither of these two units was getting any 'actual users' licences or raw materials for production and their capacity was reported to be idle

In view of the need for obtaining nylon tops and in view of idle capacity lying with them, they came up with a proposal for importing nylon tow under a barter agreement. Under this agreement, the State Trading Corporation was to export Manganese ore and against the proceeds, the two firms were to import nylon tow valued at Rs. 25 lakhs each at international prices. As the State Trading Corporation expected to suffer a substantial loss in the export of manganese ore, the two firms were asked to pay to the State Trading Corporation a compensation of 42 d. per lb. in rupees, over and above the international price of nylon tow at 63 d. per lb. The price paid by them, therefore, worked out to 105 d. per lb. The parties paid the compensation in cash in rupees to the State Trading Corporation and, thereafter, two licences were issued in favour of the State Trading Corporation for Rs. 25 lakhs each. The firms were allowed to import nylon tow for conversion into tops against letter of authority.

2. There was no distribution or price control over nylon tops. Therefore, the two firms were asked to give an undertaking to the Textile Commissioner, Bombay, agreeing to certain conditions. Two of these conditions were (a) that they will not distribute, allot or transfer the nylon tow or tops to any party without the prior written permission of the Textile Commissioner and (b) that the nylon tops would be delivered in accordance with the written instructions of the Textile Commissioner and at prices to be fixed by him. This was done with a view to ensure that the mills which were producing goods for defence obtained nylon tops for blending with the Indian wool. The nylon tow was to be imported at the rate of about 50,000 to 60,000 lbs. every month commencing four weeks from the receipt of the letter of authority.

3. Subsequently on a reassessment in 1963, the defence requirements became considerably less and the demand for tops was also reduced. Apart from the tow which had been imported by these two firms, a quantity of 3.70 lakh lb. of nylon tops which had been imported at international prices (about 70 d. per lb.) by the Indian Woollen Mills Federation against an *ad hoc* licence given to them was also released for civil consumption in consultation with the D.G.S.&D. and the Defence Authorities as these were no longer required by the Defence. The woollen mills who were given actual users' licences in the normal course were also eligible to import nylon tow/tops upto 10 per cent of the face-value of such licences at international prices. By the time the nylon tow covered by the barter agreement referred to in paragraph 1 above reached the country in

substantial quantities and was converted into tops the demand for the defence goods had already been met and a substantial quantity of nylon tops imported at considerably cheaper prices was available to the mills out of the releases made by the Indian Woollen Mills Federation and against mills' own A.U. Licences. As the two firms had imported nylon tow under the barter agreement, the rupee prices were loaded to the extent of 66-2/3 per cent (42 d. per lb.) paid by them to the State Trading Corporation to cover its losses. The prices of the nylon tops were, therefore, higher than the price of tops released as surplus by the Indian Woollen Mills Federation and other quantities purchased by mills against their own A.U. Licences. The problem thus became one of disposal of the goods in a market where substantial quantities of tops were available.

4. The two firms had paid in rupees the full cost of the imported tow plus the compensation to the State Trading Corporation. The goods did not belong to Government but were only subject to distribution and price control in terms of an agreement which they had entered into with the Textile Commissioner. The two firms had blocked their capital and were anxious that the goods should be released early. Mills in whose favour the allotments were made by the Textile Commissioner were not prepared to lift the tops at the price suggested by the Textile Commissioner which naturally took into account the compensation paid by the two firms. According to the firms even the cost of tow after payment of compensation to the State Trading Corporation, import duty, countervailing excise duty, Bank charges etc., came to Rs. 17.60 per kg. and in addition they had incurred charges on conversion, godown rent etc. As the goods were not lifted by the allottees, the firms were told that they could negotiate the price themselves with the parties to whom the tops had been allotted. As this did not result in the clearance of the stocks, the parties were ultimately allowed to sell the goods to such woollen mills as were prepared to buy these tops as it was found that in a market where substantial quantities of imported tops were available at cheaper prices, it would be difficult to force the woollen mills to buy these India converted tops at a price which was higher by nearly 66-2|3 %. The goods could not also be kept indefinitely as they had been declared surplus and were unlikely to be required for the defence purposes in the near future. The two firms had also blocked their own capital and were anxious to dispose of the goods. All mills could not utilise the tops because of certain technical difficulties. This could only be used by woollen mills for blending with wool.

5. The conversion of nylon tow into tops was allowed only to the mills which had the capacity to convert such tow into tops. The

third unit was not in production at that time and no other mills in the country had the necessary equipment for this purpose. The condition regarding price fixation by the Textile Commissioner could not be enforced as the market price for nylon tops at that time was much lower than the cost price of tops converted by these two firms because of the element of loading by 66-2/3 per cent. If Government had taken over the tops and auctioned them, Government would have been under an obligation to give the two units the difference between their cost price and the prices realised in auction which were likely to be lower as the demand for nylon tops had been considerably reduced and there were very few buyers. In such circumstances, a loss in the sale of tops by auction was likely and there was also a possibility of the entire stock not being lifted because of technical difficulties in using them. In these circumstances, it was considered that there was no scope for the two firms to make any disproportionate profits in the disposal of nylon tops converted by them and they were, therefore allowed to sell off the tops to woollen mills on their own. These tops were sold out by them over a period of months as and when they could enter into agreement with mills. Government or the S.T.C. was not responsible for either the loss or profit in such cases.

[Ministry of Commerce O.M. No. 7(12)-B&A/66 Dated 12-4-1967].

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF GOVERNMENT'S REPLY

Recommendation

"From this note, the Sub-Committee are surprised to learn that the non-availability of the file was first noticed only in January, 1965. It appears that even at the stage, the loss of such an important file was not reported to the higher authorities/police, and that a thorough physical search of the file was made only in July, 1965 when the subject was to come up for discussion with the Public Accounts Committee. The Sub-Committee also note with regret that no proper inquiry has been held to fix responsibility for the loss of the file. They are not convinced by the argument that it is not possible to fix responsibility on any person or persons for the custody of the file. The Sub-Committee, therefore, urge that all efforts should be made to locate the original file at an early date.

They also desire that a proper inquiry should be held to fix responsibility for the loss of the file containing an important decision which meant loss of public revenue, due to non-forfeiture of bonds, to the tune of Rs. 1.51 crores."

[Serial No. 8, Para 1.29 of Appendix XLV to the Fiftieth Report of the Public Accounts Committee (1965-66)]

Action taken by Government

Further effort has been made to locate the original file [No. 166 (10)EPD/II/(59)] referred to in the above recommendations, but this has not proved successful. It has also not been possible to fix responsibility for the loss of the file.

2. The Report of the Inquiry Officers appointed to hold an inquiry into this matter, covering the above aspects, is enclosed.*

3. The conclusions reached in the Inquiry Report were broadly the following:—

(a) The main file leading to the decision to suspend the scheme on 6th March 1959 is not missing; it is intact and available;

*Not Printed.

(b) It has not been possible to trace the subsequent Ministry file (evidently started in March/April 1959 and closed in August/September 1959) leading to the instructions issued by the CCI&E on 2nd September 1959 about non-forfeiture of certain bonds;

(c) With reference to the records of the offices of JCCI&E, Bombay and of the Textile Commissioner, Bombay, it has been seen that the counterpart file of the Chief Controller of Imports & Exports contains re-production of the possible contents of the missing Ministry file (between 7th April, 1959 and 28th August, 1959);

(d) A substantially complete reproduction of the missing Ministry file existed right from the beginning in the Office of the Chief Controller of Imports & Exports. Further, the corresponding records in the offices of the Joint Chief Controller of Imports & Exports, Bombay, and of the Textile Commissioner, Bombay, also remained intact and are available; so it will not be illogical to deduce that the particular Ministry file got misplaced due to negligence rather than any *mala fide* action.

4. In view of the findings of the Inquiry Report, Government feel that no mischief can be reasonably suspected and accordingly accept the above conclusions.

5. The Inquiry Officers tried to fix responsibility for the loss of the file. They succeeded only in narrowing the gap in the period of time, and that also through indirect evidence, during which the file could have been lost, *viz.*, from 28th August 1959 to December, 1962.' During this period, because of the administrative re-organisations, on account of which the responsibility for the subject in question was transferred from Section to Section, and because of the frequent changes of personnel in the Sections concerned, it has not been possible for the Inquiry Officers to fix responsibility on any particular person or even any group of persons.

6. Government have carefully considered this conclusion and have no alternative but to accept it.

7. The Inquiry Officers have also made the following recommendations of a general nature:

(a) It should be examined whether some supplementing of the Secretariat Manual is necessary to lay down the exact procedure to be followed in regard to separation (or copying) of ancillary documentation like File Registers and

File Movement Registers when the subjects being dealt with in a particular Section are redistributed to one or more different sections.

(b) It should be examined whether, as a measure of abundant caution, periodically (once in three or six months) the fact that all the files (according to File Registers etc.) in the custody and possession of a particular Section are in fact physically there could be verified by a Section Officer (or officer of higher rank) unconnected with the particular Section, and such periodical verification done on reciprocal basis between different Sections within the same Ministry.

(c) More importance should be given than has been possible so far, to the need for proper space for keeping important records in safe custody while providing for office accommodation.

8. Further action will be taken by Government on the above recommendations.

[Ministry of Commerce O.M. No. F-14/22/66-Vig. Dated 14-10-1966].

Recommendation

The Committee are surprised to learn that even when there is no sanction from the Government and Parliament, the Textile Commissioner gives his "moral" support to the Cotton Mills Federation for realising premium on foreign cotton and fee on Indian cotton consumption. The Committee are of the view that, however, desirable the objective, this compulsory levy has all the ingredients of a tax and hence, it should be levied only with the prior sanction of Parliament and should be operated by an official agency.

[Sr. No. 17, Para 2.17 of Appendix XLV to the 50th Report (3rd L.S.)].

Action taken by Government

The premium collected on imported cotton is in the nature of a voluntary contribution made by the Cotton Textile Industry towards bearing the burden of export assistance by spreading it equitably among all the cotton textile mills of the country. The bulk of the exports of Cotton textiles from India is of textiles produced out of Indian cotton rather than of imported cotton. As the imported cotton could better bear the burden of such a premium as compared to indigenous cotton, the industry evolved a voluntary scheme whereby the imported cotton and therefore the fine and super-fine cloth produced therefrom, could bear the burden of financing the export assistance required for our cloth exports.

2. The Indian Cotton Mills Federation have collected a voluntary contribution organised by the Industry itself and which falls equitably on those varieties of cloth which can bear it best. Such voluntary and indirect methods and modes of export assistance are recognised, and practised in many countries (as for example, dual pricing system industry-wise and unit-wise whereby the local consumers pay a higher price and indirectly enable reduction in international prices) in preference to the system of collection of tax/duty/cess by the Government and direct subsidisation by Government.

3. The Committee may like to consider whether such measures could prove beneficial to our economy also.

4. It may be mentioned that it is open to any individual unit of the Industry to refuse to pay the contribution, in fact, there are quite a number of textile mills who are not paying this contribution to the Federation.

5. So far as the reference to the 'moral' support given to the scheme by the Textile Commissioner is concerned, what was meant was that the scheme for collection of this voluntary contribution and its funding for purposes of export promotion was evloved with the knowledge of the Textile Commissioner and the Government authorities and that the Textile Commissioner was aware of the efforts made by the industry to formulate a self-financing scheme for supporting exports in the national interest.

[Ministry of Commerce O.M. No. 22(10)/66-EAC Dated 22-7-1967].

Additional Information furnished by Ministry of Commerce vide their O.M. 7(12) B&A/66 dated 26th June, 1968.

A Note on the Export Promotion Fund of the Indian Cotton Mills' Federation.

The Export Promotion Fund of the Indian Cotton Mills' Federation came into being in March, 1959 for financing the export assistance required for our cotton textile exports. The Fund is administered by the Indian Cotton Mills' Federation and is regulated by the Rules and Regulations, a copy of which is attached vide Annexure I. The main purposes for which the Fund was established were:—

(1) To promote exports of cotton textile products.

(2) To give incentives, monetary or otherwise, to the manufacturers, processors and exporters of cotton textile products with a view to promoting the exports of such products.

(3) To incur expenses for the administration of the Fund and for carrying out such work of calculating and disbursing export incentives as may, in consultation with the Textile Commissioner, be decided upon from time to time by the Federation.

(4) To collect and disseminate information on all matters affecting the export of cotton textile products and to print, publish, issue and circulate such papers and circulars as may be necessary for all or any of these objects.

(5) To send representatives or trade delegations abroad for any work connected with the promotion of exports of cotton textile products and to bear the entire or such proportion of expenses incurred in connection therewith as may be determined from time to time by the Federation.

(6) To take part in Tariff or other enquiries and the work of Committees, conferences, etc., in India or abroad, which have a bearing on the objects of the Fund and to incur expenses in connection therewith.

2. The source of revenue of the Export Promotion Fund is the premium/fee collected by the Federation from mills on their consumption of cotton—both imported and Indian. This collection is in the nature of a voluntary contributilon made by the cotton textile industry towards bearing the burden of export assistance by spreading it equitably among all the cotton textile mills of the country. This contribution, under rule 4(I) of the Rules and Regulations of the Fund, is to be collected in such manner as may, in consultation with the Textile Commissioner, be determined from time to time by the Committee and is credited to the Fund. The rate of the premium/fee has been varying from time to time and from quality to quality. While premium on imported cotton is being collected since March, 1959, fee on indigenous cotton is being collected only from 1st January, 1962.

The collection of fee on indigenous cotton has been discontinued with effect from 1st January 1967. The rates were different for different varieties of cotton and the average rate per bale was Rs. 7.50 before collection was discontinued.

The current rate at which a contribution is levied on the basis of quantities of cotton imported/(effective from 23rd November 1966) is Rs. 200.00 per bale of 400 lbs. for all varieties.

3. The main item of expenditure out of the Fund is giving of cash incentives to manufacturers etc., on the export of cotton textiles. The rates of cash incentive are fixed by the Committee of the Federation in consultation with the Textile Commissioner and they have varied from time to time, from quality to quality and from destination to destination.

Other items of expenditure out of the Fund are the administrative expenses of the Fund, contributions to the Cotton Textiles Export Promotion Council and the Handlooms Export Promotion Council, etc. A statement (Annexure II) showing the break-up of the expenditure out of the Fund since its inception is attached.

4. All the trusts and the properties of the Fund vest in the Trustees appointed under rule 7.I of Rules and Regulations of the Fund. The accounts and records of the Fund are maintained in such manner as may be approved by the Committee of the Federation, and the auditors of the Federation are also the auditors of the Fund. It is understood from the Federation that there is also a continuous internal audit of the Fund and particularly of the disbursements, by a firm of chartered accountants.

5. Payments to the Fund are made by means of cheques and demand drafts and not in cash. All the cheques and demand drafts received from the various sources are deposited in the Federation's current account with the Bank of India Ltd., Fort, Bombay, which is operated upon by the Secretary-General of the Federation. Similarly, payments from the Fund are made through the Bankers and not in cash.

Moneys not immediately required for the purposes of the Fund are invested in Fixed and Call Deposits with Banks.

6. A statement showing the receipts and disbursements of the Fund since its inception is attached (Annexure III).

7. This note has been vetted by the Accountant General, Commerce Works and Miscellaneous, New Delhi *vide* his U.O. No. Rep-I-9(219) Com/Vol. VIII/1548-49 dated 2.3.1968.

ANNEXURE I

THE INDIAN COTTON MILLS' FEDERATION, BOMBAY-1

Rules and Regulations of the Indian Cotton Mills' Federation's Export Promotion Fund

1. The name of the Fund shall be 'The Indian Cotton Mills' Federation's Export Promotion Fund'.

Definitions

2.1. The 'Federation' shall mean the Indian Cotton Mills' Federation.

2.2. The 'Committee' shall mean the committee of the Indian Cotton Mills' Federation.

2.3. The 'Textile Commissioner' shall mean the Textile Commissioner to the Government of India.

2.4. 'Cotton Textile Products' shall mean yarn and cloth manufactured with cotton or with mixtures of cotton and other fibres, or mixture fabrics containing cotton, and shall include other products and by-products manufactured with the help of such yarn and such cloth including tapes, newars, ropes, fishing nets, webbings, hosiery fabrics, ready-made garments, mosquito nets, tents and such other items as may be determined from time to time by the Committee, in consultation with the Textile Commissioner.

2.5. 'Contributors' shall mean those persons, firms, associations, companies or authorities as are called upon under rule 4.1 to make contributions to the Fund.

2.6. 'Beneficiaries' shall mean those manufacturers, processors and exporters as are eligible to receive payments from the Fund under rule 5.1.

Objects

The purposes for which the Fund is established are:—

3.1. To promote exports of cotton textile products.

3.2. To give incentives, monetary or otherwise, as may, in consultation with the Textile Commissioner, be decided upon by the Committee from time to time to the manufacturers, processors and

exports of cotton textile products with a view to promoting the exports of such products.

3.3. To borrow or raise money for carrying out the purposes of the Fund.

3.4. To incur expenses for the administration of the Fund and for carrying out such work of calculating and disbursing export incentives as may, in consultation with the Textile Commissioner, be decided upon from time to time by the Committee.

3.5. To collect and disseminate information on all matters affecting the export of cotton textile products and to print, publish, issue and circulate such papers and circulars as may be necessary for all or any of these objects.

3.6. To send representatives or trade delegations abroad for any work connected with the promotion of exports of cotton textile products and to bear the entire or such proportion of expenses incurred in connection therewith as may be determined from time to time by the Committee.

3.7. To take part in Tariff or other enquiries and the work of Committees, Conferences, etc., in India or abroad, which have a bearing on the objects of the Fund and to incur expenses in connection therewith.

3.8. To promote and finance research about cost of production and marketing of products with a view to promoting the exports of cotton textile products.

3.9. To incur expenses in carrying on propaganda or publicity in India or abroad for the purpose of promoting exports of cotton textile products.

3.10. To encourage and finance research and technical developments in plant, machinery, products and processes with a view to promoting exports ef cotton textile products.

3.11. To invest the money of the Fund not immediately required in such manner as may from time to time be determined by the Committee or on delegation of authority from the Committee, by one or more of the Chairman, the Deputy Chairman, the Vice-Chairman, Members of the Committee and the Secretary-General of the Federation.

Contributions to the Fund

4.1. Contributions to be paid by cotton mills and others having direct or indirect connection with the manufacture, processing, distribution or export of cotton textile products, shall be collected in

such manner as may, in consultation with the Textile Commissioner, be determined from time to time by the Committee and they shall be credited to the Fund.

4.2. The decisions of the Committee as regards the quantum, manner and basis of contribution and the time limit for paying the contributions shall be final and binding on all concerned.

4.3. The Committee shall have the authority to decide from time to time, about payment of extra contributions by such contributors to the Fund as are in default in paying their dues to the Fund within the prescribed time limits.

4.4. Any interest accruing from the investment of the funds shall be made over to the Federation for being utilised for any of the purposes of the Federation.

Export Incentive Payments from the Funds

5.1. Payments from the Fund to manufacturers, processors and exporters in respect of exports of cotton textile products shall be made in such quantum and at such time as may, in consultation with the Textile Commissioner, be decided upon by the Committee from time to time.

5.2. The Committee shall have the authority to withhold payment of any amounts due to any beneficiary of the fund in case the beneficiary is in arrears of any payments due by him to the Fund or otherwise, if in the opinion of the Committee the beneficiary has done or omitted to do any acts resulting in or calculated to result in derogating from the objects of the Fund.

Management of the Fund

6.1. The Fund shall be managed by the Indian Cotton Mills Federation and the Chairman, the Deputy Chairman, the Vice Chairman, the Committee and all officers of the Federation shall hold corresponding positions in regard to the management of the Fund provided that the Trustees of the Indian Cotton Mills—Federation shall not be ex-officio Trustees of the Fund, but shall be appointed under rule 7.1 of these Rules and Regulations.

6.2. The Committee shall decide from time to time as to the portion of the total expenses incurred by the Federation as shall be attributable to expenses for the administration of the Fund, for carrying out the work of calculating and disbursing the export incentives and for carrying out any of the objects of the Fund and on such determination the amount shall be debited tot he Fund.

6.3. The Committee shall have the authority to advance loans from the Fund for purposes of carrying out any objects of the Federation on condition that the Federation shall remain liable to the Fund to return the whole of the loan and to ensure that there is no delay in making payments to beneficiaries on due dates, because of the Federation having taken the loan.

6.4. If and when the Committee deem it necessary or desirable for the purposes of the Fund that any money should be borrowed or raised, the committee may, under their powers specified in Rules and Regulations of the Indian Cotton Mills' Federation, borrow or raise money for the Fund to the extent required in any manner authorized under Rule 4.21 of the Rules and Regulations of the Indian Cotton Mills' Federation and at any rate of interest and on such terms and conditions and whether with or without security as the Committee shall think fit, and the money so raised shall be made over as loan to the Fund.

Trustees

7.1. There shall be not less than two and not more than five Trustees of the Fund to be appointed by a Resolution of the Committee. Any person for the time being entitled to be nominated as a member of the Committee shall be eligible to be appointed as a Trustee, but shall *ipso facto* cease to be a Trustee if he ceases to be eligible to be appointed as a Member of the Committee. Any Trustee may be removed by a majority of 75 per cent of the votes cast at a special General Meeting of the Federation duly convened for the purpose of considering such removal. The Trustees of the Federation shall be eligible to be appointed as Trustees of the Fund.

7.2. All the trusts and properties of the Fund shall be vested in the Trustees appointed under rule 7.1, and they shall have custody of all securities and documents of little relating thereto, and shall deal with and dispose of the same and the income thereof in accordance with the written directions from time to time given to them by the Committee.

Accounts and Records

8.1. Proper accounts and records shall be maintained in such manner as may be approved by the Committee.

8.2. The Committee shall have power to determine the manner in which bills, loans, receipts, acceptances, endorsements, cheques and other documents, shall be signed or executed by or on behalf of the Fund.

8.3. The Auditors of the Federation shall also be the Auditors of the Fund and an audited statement on the financial position of the fund for every year shall be sent with the notice convening the Annual General Meeting of the Federation, to every member of the Federation.

8.4. The accounting year of the Fund shall be the same as that of the Federation.

Dissolution of the Fund

9.1. The Fund shall stand dissolved on such date as may be determined by the Committee.

9.2. On the dissolution of the Fund, accounts about the working of the Fund shall be made up by the Committee within three months of the dissolution of the Fund, and shall be duly audited.

9.3. If on the dissolution of the Fund, the accounts reveal a deficit, the Committee shall decided upon the manner in which the deficit should be made good, by collecting, if they so decide, further contributions from the contributors of the Fund, or otherwise.

9.4. If on dissolution of the Fund, the accounts reveal a surplus the same shall be dealt with by the Committee in the following manner.

The whole or such part of the surplus as may, with the approval of the Textile Commissioner, be decided upon by the Committee shall be applied towards any of the objects of the Fund. The surplus of the Fund, not so applied towards the objects of the Fund, shall be distributed among the contributors to the Fund. The distribution shall be in direct proportion, or as near thereto as possible, to the contributions received by the Fund from the contributors provided, however, no contributor shall be entitled to share in the surplus so distributed if he is in arrears in respect of any of his contributions to the Fund.

9.5. Notwithstanding anything contained herein above, a contributor shall continue to be liable in respect of his contributions to the Fund till all dues payable by him in respect of his contributions to the Fund have been duly paid.

General

10.1. All acts done by the Chairman, Deputy Chairman, Committee and Officers of the Federation in good faith and within the powers conferred on them by these presents shall, notwithstanding that it is afterwards discovered that there was some defect in the appoint-

ment of any of these office-bearers, be as valid as if every one of them had been duly appointed.

10.2. Without affecting the generality of the powers of the Committee, it shall have the authority to make by-laws in regard to all matters connected with the operation of the Fund.

10.3. No alteration of these rules shall be made save and except by a majority of three fourths of the votes cast at a special meeting of the Committee of the Federation called for the purpose of considering such alterations provided the alteration so passed shall not be effective unless it has the approval of the Textile Commissioner to the Government of India.

ANNEXURE II

Statement showing the Details of Disbursements from the Export Promotion) Fund of the Federation for the Period 1-1-1959 to 31-8-1967 (Subject to Audit

	Rs.
1. Cash Incentive (See foot note)	58,33,97,593
2. Refund of 10% Regulatory Customs Duty	2,72,55,599
3. Payment of S.T.C. for export of Cambric to Indonesia	7,93,000
4. Contribution for exhibitions abroad	19,12,000
5. Payment to the Cotton Textile Export Promotion Council	*22,32,932
6. Contribution towards expenses of running Handloom Export Promotion Council, Madras.	2,00,000
7. Administration Expenses of the fund	23,78,674
8. Interest paid on loan from Government	3,28,521
9. Bank charges for Disbursement of Incentives	50,278

NOTE : The total cash incentive includes an amount of Rs. 2,70,44,956 paid for post-devaluation exports made against pre-devaluation contracts.

*Provisionally being treated as advance by I.C.M.F.

ANNEXURE III

Statement showing Receipts and Disbursements of the Export Promotion Fund of the Indian Cotton Mills' Federation, Bombay

As on	Balance at the beginning of the year	Receipts on account of premium etc.	Disbursements	Balance at the end of the year
31-12-1959	—	3,15,52,290·70	1,52,73,536·00	1,52,78,754·70
31-12-1960	1,62,78,754·70	6,76,07,904·00	6,64,39,715·00	1,74,46,943·70
31-12-1961	1,74,46,943·70	5,28,64,069·00	5,75,51,452·00	1,27,59,560·70
31-12-1962	1,27,59,560·70	12,05,22,614·24	5,64,34,041.16	7,68,48,133·78
*31-3-1964	7,68,48,133·78	11,99,67,366.97	9,26,69,911·20	10,41,45,589.55
31-3-1965	10,41,45,589.55	7,98,77,192.90	7,14,04,963·89	11,26,17,818.56
31-12-1965	11,26,17,818.56	2,81,72,417·35	8,59,24,378·79	5,48,65,857·12
31-12-1966	5,48,65,857·12	7,15,93,788·40	15,24,26,502.31	(-) 2,59,66,856·79
31-8-1967 (Provl. and subject to audit)	(-)2,59,66,856·79	8,77,40,725·95	6,17,73,869·16	58,60,034·89

*The accounting year of the Federation was calendar year till 1962. As it was registered as a trade union under the Indian Trade Unions' Act, 1926, it had to change the accounting year to financial year in July 1963 as per the act, and it closed its accounts on 31.3.1964 for the period 1.1.1963 to 31.3.1964 and on 31.3.1965 for 1964-65. The Indian Trade Unions' Act, 1926 was amended in 1965 requiring trade unions to maintain accounts on Calander year basis and, therefore, the Federation changed its accounting year to calendar year in 1965 and presented accounts for the period from 1-4-1965 to 31-12-1965. From 1965 onwards the accounts are maintained on Calendar year basis.

Recommendation

Incidentally, the Committee find that the compilation on Export Promotion Schemes prepared by the Directorate of Commercial Publicity has been marked as Confidential/For Official Use only. They, however, feel that it is advisable to publicise this compilation in order to make it available to the general public.

[Sl. No. 20, para 2.22 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

The compilation of Export Promotion Schemes was intended for the use of administrative authorities, Export Promotion Councils, administrative officers and exporters directly concerned with the schemes. It was thought that if this compilation was made available to those who are not directly concerned with the schemes, there could be some embarassment with international organisations dealing with international trade and importers in foreign countries might be tempted to ask for at least a part of the monetary benefits from the scheme to be passed on to them.

The Export Promotion Schemes included in the compliation referred to by the Public Accounts Committee have since been abolished. But even in the case of each assistance schemes which have since been introduced, it has been considered that if the details are too widely circulated, we would run the risk of facing embarassment and exporters might run the risk of pressure from importers to depress export prices.

[Ministry of Commerce & Industry, O.M. No. 22(10)/66-PAC, dated 16-1-1967].

Recommendation

The Committee are not happy to learn that leaving a few items of ore, neither the M.M.T.C. nor the S.T.C. maintain any list of commodities which can be exported or imported under the Barter Scheme. It has been stated during the course of evidence that it is not practicable to draw up any such list as the commodities are changed from time to time according to the exigencies. While the Committee concede that no permanent list of such commodities can be drawn up which will meet the varying needs of the trade over a length of time, they fail to understand why the Ministry equipped with all the necessary knowledge of the trends of internal trade and which have experience of barter deals during the last eight year or more, should not be in a position to prepare a list of items acceptable for barter from time to time. Moreover, the difficulties against the preparation of such a list do not appear to be insurmountable.

The Chairman, S.T.C. stated in evidence, "Since 1958, we know from precedents as to what is regarded as acceptable. Then we consistently hold meeteings, we also know that in a certain year, we may have to face difficulties". It is obvious, therefore, that the commodities which can be considered for barter are known to Government and the plea that. "What is in one's mind at one moment may not be known to anyone" is not cogent enough to substantiate the stand against having a list which could be made use of by the traders of the country in general.

The Committee are glad to observe that in a subsequent meeting, (arranged at the instance of the Ministry), the Secretary, Ministry of Commerce was receptive to the suggestion that a list of commodities acceptable for barter could be prepared and amended from time to time.

[Sl. No. 33, Para 3.8/3.9 of Appendix XLV to the 50 Report (3rd Lok Sabha)].

Recommendation

The Committee find that the Scheme of barter which was evolved in 1958 with the purpose of importing more steel and ultimately extended to cover the import of other items essentially needed in the country by exporting items which were 'difficult to sell' still continues to be in a nebulous state.

[Sl. No. 34, Para 3.10 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

Under the circumstances where there is no systematic procedure of issuing periodic press notes circulars giving adequate information about the barter deals, excepting those who are already in the barter deals or those who have access to official heirarchy, the trading community in general is denied the benefit of getting information regarding the details of the different schemes of barter which are in operation or which are likely to be taken up or the commodities which are permitted for export/import under the barter arrangements. As it is, the initiative rests not with the Government but with each individual trader to approach the Government to find out for himself whether a particular commodity could be bartered.

[Sl. No. 35, Para 3.13 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

Since the objective of the scheme is to export "difficult" items, it is all the more essential that the trading community is kept fully informed. The Committee therefore, strongly feel that the working of the present Schemes needs reorientation. They, therefore, suggest that the Ministry should devise ways and means by which all information pertaining to the barter transactions including the list of commodities are adequately published and are easily made available to those who want to take advantage of them.

[Sl. No. 36, Para 3.14 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

The Committee feel concerned to note that more than 90 per cent of the proposals have to be rejected for some reasons or the other. This only indicates that Government's policy in regard to barter deals is not fully known to the trading community in general resulting in a lot of infructous effort by the parties concerned.

[Sl. No. 37, Para 3.17 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

They feel concerned to learn that a substantial part of the export obligation of the party in respect of manganese ore was taken over by the M.M.T.C. for which the party was required to pay 25 per cent more value. The Chairman, M.M.T.C. explained that this was because of the policy decision taken subsequently that the export of manganese ore should be taken over by M.M.T.C. after December, 1964. Even so, the Committee are of the view that the export obligation under barter deals must invariably be fulfilled by the party concerned. They hope that such cases will not recur.

[Sl. No. 40, Para 3.23 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

In regard to the fixation of import prices, the Chairman, S.T.C. had stated during evidence: "We do not fix the prices; but we do see that the prices are reasonably competitive..... We also have a general knowledge as to the price at which things get imported". The Committee were, however, informed by the Chairman, M.M.T.C., that after barter deal was approved and the letter of intent issued,

a detailed barter contract was entered into, which stipulated the quantity, quality and price of the bartered commodities. This enabled the M.M.T.C. to exercise proper check over the value of imports and exports involved in the barter deals. Committee however, find that there is no such system obtaining in the S.T.C. In the case of jute goods or tobacco, the Chairman, S.T.C. stated: "We mentioned only the value and not the quantity either in the exporter's contract column or the implementation column". The Committee feel that unless the quantity and quality of the goods to be exported and imported are also mentioned in the contract, there is scope for the traders to get unintended benefit by the manipulation of prices. They are, therefore, of the view that the practice followed by M.M.T.C. should also be introduced by S.T.C.

[Sl. No. 42, Para 3.27 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendations

The Committee are surprised to note that while M.M.T.C. have considered it desirable and have introduced duplicate checks to ensure that the commodities exported under the system of barter strictly conform to the terms of the agreement, the S.T.C., a sister organisation, have no such system. The Committee consider this to be anomalous. It is not quite understandable how the S.T.C., in the absence of any such machinery exercise any control on the quality of the goods exported under a barter.

[Sl. No. 43, Para 3.29 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

The Committee suggest that Government should consider the question of introducing a proper system of checks by the S.T.C. regarding the specifications etc. of the bartered commodities in the same lines as by the M.M.T.C.

[Sl. No. 44, para 3.30 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

The observations, and suggestions for action contained in these paragraphs, have later been summarised by the PAC in Recommendation Number 52 (Para 3.45), in reply to which a detailed note is being submitted to the Committee. Accordingly, separate replies are not being offered in respect of these recommendations.

[Ministry of Commerce O.M. No. 7(12)-Br. A/66 Dated 12-4-1967].

Recommendation

The Committee regret to observe that while the note in question gave details about the deals no information/explanation has been given as to why high priority was given for the import of staple fibre except stating "Government had considered the import of staple fibre as an essential item against the exports of Indian sugar". The Committee feel that the import of staple fibre is not strictly consistent with one of the guiding principles for the barter deals viz. 'essentially of imports' and by importing staple fibre in a barter deal the Ministry have violated this principle.

It should be remembered that the export price of sugar (to be sold in the international market) is in the neighbourhood of Rs. 50 a bag whereas its internal controlled price is in the neighbourhood of Rs. 120 to Rs. 130 a bag. So in view of the fact that sugar is being highly subsidised for export, care should be taken by the Ministry of Commerce that commodities like staple fibre etc. are not imported in lieu thereof. The Committee would also like to impress upon the Ministry that they should be more strict in adhering to the twin principles of the barter deals viz. essentiality of imports and additionality of exports.

In this connection attention is also invited to the observation of the Committee made in para 1.38 of this report.

[Sl. Nos. 45 & 46, paras 3.34 & 3.35 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

At the commencement of the sugar year 1961-62 (November—October), there was a stock of 11.83 lakh tons of sugar in the country. The production during the year was estimated at 26.5 lakh tons and the consumption at 24.5 lakh tons. Thus, at the close of the year, sugar stocks in the country were expected to rise to about 13.8 lakh tons. After providing for an essential carry-over of about 7 lakh tons, it was estimated that we would be left with surplus of about 5 lakh tons of sugar during that year. The question of disposing of this sugar through exports by all available methods (including barter) had to be explored.

2. On an average, the f.o.b. cost of sugar worked out to Rs. 800 per ton after allowing for full drawback of excise duty and cane purchase tax. Against this, the export realisation then worked out to Rs. 550 per ton on exports to USA, Rs. 350 per ton on exports to preferential markets (Malaya, Singapore, Canada and the U.K.) and Rs. 295 per ton to other international markets. The supply price of sugar was fixed by Government and sugar could not therefore, be

exported below these basic minimum prices. During this period the basic minimum prices had been indicated as £ 23 & £ 20, (which if necessary could even be £ 22 & £ 26 respectively) for preferential and non-preferential markets. These prices were even then considered about 20 per cent higher than the world market prices. So losses could not be avoided in the export of sugar and had to be made up if we had to have worthwhile business proposition, *vis-a-vis* disposal of surplus sugar stocks. In respect of cash sales the exports were subsidised; in the barter transactions they have to be made up by counter imports.

3. There had been very little exports to Canada in the past and we had to make a break-through in the matter of exports to Canada. Even at competitive prices, it was unlikely that a substantial demand would be built up for sugar as supplies were available in plenty from other sources which had their financial and other interests. It will thus be seen that we had a large surplus of sugar whose disposal *via* exports bristled with difficulties.

4. During this period, there was on the other hand an acute scarcity in the availability of cotton in the country. As a result, it was apprehended that there might arise a "cloth famine" and in any case a fall in the exports of textile from the country. The demand for cotton had to be satisfied not only in the aggregate but also in terms of specific varieties of cotton required by the mills, since they are unable to substitute one variety for another at short notice in their mixings. One of the sectors in which the scarcity was particularly noticed was in respect of long staple cotton. After taking into consideration all the factors involved, it was *inter alia* decided to import on an urgent basis about 50,000 bales of cotton under barter.

5. The price of long staple cotton during that period was in the neighbourhood of 30 to 35 d. per lb. The international price for staple fibre was reported to be 21 d. per lb. *c.i.f.* for the 1.5 denier and 1.5 staple, which the cotton industry was willing to accept. This staple fibre was cheaper to import than long staple cotton; the staple fibre was as good as long staple cotton, and its spinning could be done with the same machinery in the cotton spinning mills.

6. The f.o.b. realisation on the sale of sugar was expected to be of the order of £9,06,500 which would get as counter-import about 4,625 tonnes of staple fibre (equivalent to about 23,000 bales of cotton). Besides, the barter importers were also able to get a discount in the international prices of the staple fibre.

7. The losses involved in the exports of sugar could be made up only by making appropriate loading on the internal price of the im-

ported item after its import at international price. While there was a point beyond which loading on internal price could not be made on cotton, such loading was more practicable on staple fibre in view of the high cost of the indigenous product as compared to the imported price. The difference in prices provided sufficient operational flexibility, which could help in wiping out the losses involved in the export of sugar.

8. It was in these circumstances that it was decided to permit the import of staple fibre in the context of the urgent necessity to provide the mills with sufficient raw materials to enable them to function uninterruptedly.

[Ministry of Commerce O.M. No. 7(12)-B & A/66, dated 12-4-1967].

Recommendation

From the cases cited in para 3.38 the Committee observe that the principle of barter viz. "essentiality of imports" has not been strictly followed. They regret such deviations and hope that adequate care would be taken to follow the principle of 'essentiality of imports' more strictly in future.

[Sl. No. 48, Para 3.39 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

Since, according to evidence, the import licences are operative only to the extent to which a party earn foreign exchange, the Committee fail to understand how the possibility of issuing import licences in excess of the amount of shipments effected by a party could exist. They would, therefore, suggest that the Ministry should consider whether the present practice could be replaced by a system where the import licences are issued only to the extent of foreign exchange earned and the element of unreality which is inherent in the present system is removed.

[Sl. No. 49, Para 3.41 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

The Sub-Committee hope that both the Corporations ensure that the CIF value of imports does not under any circumstances exceed the FOB value of exports in any barter deal. As a matter of fact, the Committee would like the Ministry to examine whether it would be advisable to fix CIF value of imports slightly lower (say by 20

per cent) than the FOB value of exports under every barter deal, so that each barter deal may generate some free foreign exchange for the country.

[Sl. No. 50, Para 3.42 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Recommendation

From the statement II of Appendix XX, the Committee find that in a number of barter deals, the items of export consisted of 'sweetening agents' or 'cushions' only (e.g. jute goods, jute bags, tobacco etc.). While the Committee agree to the principle that a small proportion of exports may consist of traditional items, to make a barter deal attractive, they are of the view that the larger principle of additionality of exports should be observed to a greater degree than has been the practice so far.

[Sl. No. 51, para 3.44 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

The observations and suggestions for action contained in these paragraphs have later been summarised by the PAC in Recommendation Number 52 (Para 3.45), in reply to which a detailed note is being submitted to the Committee. Accordingly separate replies are not being offered in respect of these recommendations.

[Ministry of Commerce, O.M. No. 7(12)-B&A/66, dated 12-4-1967].

Recommendation

In the light of the detailed examination of the barter deals, mainly from the point of export promotion, the Committee would like to make the following suggestions:—

(a) There should be a clear formulation of the policy in regard to the acceptance of barter proposals and this should be made widely known to the public.

(b) The healthy principle of additionality of exports and essentiality of imports should be adhered to as far as possible.

(c) List of items acceptable for Imports and Exports for barter deals should be determined and announced each time with the Import Policy (six monthly).

(d) Quantity, quality and price of items to be imported/exported should be clearly stipulated in each barter contract to avoid the possibility of their manipulation to get unintended benefits.

(e) S.T.C. and M.M.T.C. should have proper and adequate machinery to know the prevailing internal and international prices of commodities.

(f) Suitable monetary limit should be fixed for each barter contract.

(g) C.I.F. value of imports should be 20 per cent lower than the F.O.B. value of exports in a barter deal to generate free foreign exchange for the country.

(h) In every barter deal, export should precede import.

[Sl. No. 52, Para 3.45 of Appendix XLV to the 50th Report (3rd Lok Sabha)].

Action taken by Government

These suggestions were made by the Public Accounts Committee prior to the devaluation; the changed situation created by the devaluation has to be taken into account in examining or implementing these suggestions.

2. Because of our relatively small volume of foreign trade and so as to retain the maximum flexibility in the realisation of foreign exchange earnings from our exports, we have resorted to barter or link or parallel deals only to the minimum extent possible. But barter is one of the oldest forms of trade and its nature as distinguished from other forms of trade has first to be recognised. In a sense, it is a method of obtaining leverage to sell goods (*i.e., exports*) where in any case some goods have to be purchased (*i.e.*, imports). In a country which has enough exports to pay for its imports, or generous foreign exchange reserves otherwise, there might be no hesitation to undertake imports without imposing an obligation to generate foreign exchange for repayment, our case is very far from that. Similarly, while imports can be financed also through credits or loans or other forms of aid, in effect the obligation to earn foreign exchange to repay such aid is passed generally on to the community without any obligation having been linked, at the time of imports, to generate exports and thereby help towards repayment of the imports bill. It is against this background that barter or link or parallel deals have to be considered when we are faced with considerable surpluses in any export commodity or find them difficult to sell on cash or find that the direct sale on cash brings us lower prices in terms of foreign exchange than could be available through special arrangements like barter. Like-wise, the need for such deals can arise in an effort to raise the level of trade with particular countries or where, otherwise, the trade despite

best efforts continues at a very low level or there is a chronic adverse balance of trade against us and the changing of such a situation is found to be in the national interest.

3. Our experience in this field shows that the situations in which barter/link/parallel deals have to be considered may thus be classified into the following three broad categories, and the criteria under each category will have to conform to the central objective which the category in question is intended to achieve:—

(1) *Commodity based deals*:

These are deals where the main aim is to promote the exports of certain commodities which are difficult to sell on normal cash basis.

(2) *Country based deals*:

In this category of deals, the central objective is to raise the level of trade, particularly exports to a particular country or region.

(3) *Country-cum-import-commodity based deals*:

The principal object of entering into this type of deal is to finance the import an essential commodity, which India is importing from a country, through exports of specified commodities. Opportunity is taken under these deals to include along with items of normal exports a limited proportion of new or difficult items.

4. It follows that, in the context of the broad objective of each of the three broad categories mentioned above, the suggestions made by the Public Accounts Committee would apply in varying proportions. Keeping that, and the foregoing analysis in view, the eight specific suggestions of the Public Accounts Committee are dealt below in the succeeding paragraphs; for facility in presentation, they are taken up in an order slightly different from the order in which they have been given in the Report of the Committee:—

1. "(b) The healthy principle of additionality of exports and essentiality of imports should be adhered to as far as possible."

To take the imports first, it is agreed that essentiality is the crucial test that the commodity list as regards the import leg of any deal of this nature must pass. As stated earlier, barter etc. is only a method to obtain leverage, to push exports, by linking them to imports which are otherwise essential and inescapable in any case.

The concept of additionality of exports, however, presents more difficulty in practice. The content and the nature of such additionality, firstly, would differ both in character and degree in their application depending upon the category of the deals in question; in commodity based deals, the bulk of the export packet should be additional. In the country based deals, where the central objective is to raise the level of trade between the two countries, both the concepts—of additionality of exports as well as essentiality of imports—have to some extent to be conditioned by the basis of reciprocity between the two countries. Regarding the country-cum-import commodity based deals, the import items by definition would be of essential items, the export packets might have to include a larger proportion of items which are normally exported to that particular country, but with a certain portion of our "difficult to sell" items also added. Lastly the concept of additionality has to be viewed flexibly and not only by taking into consideration the overall exports from this country which might fluctuate, item to item and from year to year, for a variety of other reasons. Additionality has also to be judged from the angle of our being able to sell the "difficult to sell" items in new markets, where the particular item of that quality has not been sold before, or sold only to a negligible extent, and where there is potential such new markets offer for building up future exports of that item.

2. "(h) In every barter deal, export should precede import".

This is accepted as being the salutary general principle which should normally be followed, and which has in fact been followed so far. There have been, however, situations—which might recur again—where, having no other source or means of finding foreign exchange to meet imminent physical shortage of an essential import item, in our own interest we have had to negotiate for the import items to arrive even in advance of generation of funds through exports from India. In such cases, however, it will be necessary to take adequate safeguards so as to ensure that the exports do materialise, even if subsequently, and the requisite foreign exchange is earned through the exports. One method suitable in such cases is stipulate that remittance against such pre-imports would not be allowed until the foreign exchange is generated through the exports. In such cases, the party has to be persuaded to outlay considerable foreign exchange, involved in making those shipments through pre-imports, and pay interest charges etc. on such outlay, because of which some compensation has to be provided to enable them to recover all or part of those expenses. Another alternative method could be to insist on the foreign buyers, against the export contract, to open a "red Letter of Credit" under which we can be permitted to draw certain percentage of the sale price, which will be in foreign

exchange, if after 30 days, of declaration of load readiness of export cargo, the buyers fail to nominate the vessel and lift the cargo. To conclude, if may be reiterated that the general rule should be that export should precede import and any departure therefrom should be justified only by the urgency of the import item becoming physically available and safeguarded by suitable stipulations so as to ensure that the exports do materialise.

3. "(g) C.I.F. value of imports should be 20 per cent lower than the F.O.B. value of exports in a barter deal, to generate free foreign exchange for the country".

The desirability of such a target, while negotiating deals of this nature, is accepted. It would, however, be seen that in practice this may be very difficult to implement particularly if certain other desirable objectives have at the same time to be secured For instance, if under such deals, both exports and imports are to be made at internationally competitive prices, obviously the other parties would not agree to the C.I.F. value of imports being thus limited. In fact, when export is made on F.O.B. basis and import is to be made on C.I.F. basis, the other party has already to undertake the responsibility of paying the freight both ways and has to reimburse themselves for the freight on the import commodity by taking additional goods from India. If imports permitted against barter deals are to be for a value substantially less than 100 per cent, it would inevitably mean that there will be some loading, visible or invisible, on the imports. If it is intended to raise the obligation of the bartering party to more than earning the transport cost both ways in addition to the generation of foreign exchange for payment of F.O.B. value of imports, the problem would arise as to the source from which he has to meet the additional expenses. In these circumstances, it is submitted, while efforts should certainly be made during negotiations of any fresh deals so as to limit the imports to 90 per cent of even 80 per cent of the F.O.B. export value, this cannot be made a break point if the deal in question is found to be in the interest of the country in other respects. As regards country based deals, where we wish to increase our exports both in traditional and non-traditional items, there would also be the question of reciprocity and equality of nations. In such cases, at best, the deal could only be on the equation of F.O.B. value of exports to the F.O.B. value of imports.

4. "(f) Suitable monetary limit should be fixed for each barter contract".

This suggestion is accepted, and is in fact already being followed. In negotiating such deals, monetary ceilings are determined after

taking into account the status and standing of the firm in international trade, their past performance, and their contracts with the overseas interests both in regard to items of exports as well as of imports. The monetary ceiling fixed for export obviously limits the ceiling for import. Moreover, in such deals the firms are usually required also to execute a Bank Guarantee for a certain percentage of the overall value of the deal and that by itself acts as an indirect check on the monetary value of the deal.

5. "(d) Quantity, quality and price of items to be imported/exported should be clearly stipulated in each barter contract to avoid the possibility of their manipulation to get unintended benefits".

The procedure followed by the M.M.T.C. in respect of barters is, after obtaining the approval of the Government in principle for a deal involving export of certain commodity/commodities and likewise for import of certain essentially needed material/materials, a letter of intent is issued to the firm by the M.M.T.C. with the stipulation that firm contracts should be negotiated within a certain specified period which is subject to the approval of the M.M.T.C. Such contracts when established are commercial contracts in which quantity, quality, price, delivery etc., are clearly out and there is thus no possibility of any manipulation.

In cases where the M.M.T.C. itself is the direct importer of steel, the prices and quantities to be imported are also specifically mentioned in the barter approval. In cases where prices are to be fixed by the Iron & Steel Controller and where the foreign exchange is to be generated in the first instance before such import, it is not possible to fix the prices of steel in advance as the prices of steel fluctuates over a fairly wide range. In case of non-ferrous metals, it is also not possible to stipulate the prices in advance. In such cases the barter approvals provide that the prices should be internationally competitive and are subject to approval of the M.M.T.C. before the import contract is finalised.

The procedure in respect of barters against bulk items of exports like sugar in the case of S.T.C. is that, after obtaining the approval of the Government in principle for a deal involving export of certain commodities and likewise for import of certain essentially needed materials, a letter of intent is issued to (for a general agreement arrived at with) the firm by the S.T.C. as the case may be with the stipulation that firm contracts should be negotiated within a specific period subject to the approval of the concerned Corporation. Such contracts when established are commercial contracts in which

quantity, quality, price, delivery etc. are clearly spelt out and there is no possibility of manipulation. In regard to export packet, however, all that can be done is to state the f.a.o. value of exports that would match the c.i.f. value of imports. The purchases of the several items included in the export packet would be made under specific contracts during the course of the period for which the deal is to run. The purchases are to be made from the manufacturers or exporters in the open market at workable prices prevailing at the time of entering into the contract. The fixation of prices would have to be negotiated between the parties concerned. The public corporations in such cases, however, register the contracts and see to it that the prices at which the contracts have been entered into are reasonable in the circumstances and are not such as would be capable of manipulation.

6. "(e) S.T.C. and M.M.T.C. should have proper and adequate machinery to know the prevailing internal and international prices of commodities."

M.M.T.C. has fairly adequate machinery to study the market trends, both internal as well as international, and such data are available to be taken advantage of during negotiations. The S.T.C. has also some machinery of that nature. The suggestion is accepted and, to the extent necessary, such machinery both in the S.T.C. and M.M.T.C. will be strengthened so as to discharge its responsibility in relation to the increasing volume and complexity of business that the respective Corporations have to handle.

7. "(a) There should be a clear formulation of the policy in regard to the acceptance of barter proposals and this should be made widely known to the public.

(b) List of items acceptable for Imports and Exports for barter deals should be determined and announced each time with the Import Policy (six monthly)".

These two suggestions are being dealt together, as they are very closely inter-related. It is accepted that wide publicity about the policy in regard to barter deals is as such a healthy and desirable proposition, in its application to particular cases, however, it might have to be qualified by canons of business prudence as explained below.

Normally, exports and imports of commodities take place on account of their qulity and competitiveness in price. If a commodity is notified in advance as a barter commodity, then it is quite likely that the exporters in India may hold back cash sales in order to link it up with some profitable item or items of import. The

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

The Committee fail to understand how the Ministry of Commerce could decide without even consulting the Ministry of Finance, not to enforce the bonds, the non-forfeiture of which has resulted in a loss of revenue to the extent of Rs. 1.51 crores. Moreover, the Ministry of Finance, were also not consulted in regard to the foregoing of the foreign exchange earnings to tune of Rs. 5.29 croves though the Rule of Business made it clear that in financial matters there should be consultation with the Ministry of Finance. The Committee view such lapses with great concern and recommend that the Ministry of Commerce should be more careful and vigilant and consult the Ministry of Finance in matters involving huge financial implications.

[Sl. No. 10 para 1.34 of Appendix XLV to 50th Report (3rd L.S)]

In view of the facts stated in para 1.35 the Committee are unable to accept the arguments put forward by the Secretary, Ministry of Commerce, that the intention in this case was that the obligation to export would lapse and therefore the bonds need not be enforced when the scheme was suspended.

In view of the large amounts involved, the Committee desire that the whole matter should be thoroughly investigated without any loss of time with a view to fixing responsibility, taking appropriate action against the defaulting officers, adopting suitable preventive measures against the occurrence of such cases in future and retrieving the loss caused to foreign exchange/public exchequer to the extent possible.

[Sl. No. 11 para 1.36 of Appendix XLV to 50th Report (3rd L.S)]

Action taken by Government

Recommendations made in paragraph 1.11 and 1.13 are accepted by Government for compliance.

2. The observations made in paragraphs 1.6, 1.8, 1.16, 1.18, 1.24, 1.32 and 1.34 have been noted.

3. Government would like to respectfully point out that the apparent irregularities or defaults in this matter have really arisen out of what the Committee have termed as an anomalous position, namely, that an exporter of a commodity should be categorised and regarded both as a prospective exporter and an established exporter. It will be appreciated that in relation to exports and export realisation of the same product, it would not be correct or justifiable for Government to prescribe differing facilities or obligations. The point which was stated before the committee by the officials of the Ministry was that there cannot be discrimination, at the same point of time, as between two classes of exporters of the same product with regard to their undertakings or obligations, more so if the more onerous obligations are imposed on exporters with actual performance to their credit than on those who had to export at a later point of time. Thus, the initial stipulation which was later found to be mistaken and defective one of prescribing differing facilities, conditions, obligations and prescriptions in relation to exports and export realisations of the same product had, in equity, to be rectified. It is in this context that the question arises as to whether the letter of any undertaking or bond could or should, in equity, be enforced against the spirit of the schemes as a whole. The concept of contingent losses of foreign exchange or rupee realisations for the public exchequer has also reference to this basic issue. However, in deference to the recommendations of the committee, Government agrees that the whole matter and particularly the points mentioned by the Committee in para 1.36 should be examined and investigated. Government have already undertaking such an investigation. The result of this investigation will on its completion, be submitted to the Committee.

Government would like to add that the decision of policy in this case was taken at the level of the then Commerce and Industry Minister It would also therefore, have to be considered as to what extent and in what manner any individual officers who implemented this decision can be held responsible for the results following on the decision.

4. It is mentioned for the information of the Committee that this particular export scheme was withdrawn and wound up by Government early in 1959 after it had run for about 25 months since 1957. Also, all the former export promotion schemes stand abolished from the 6th June, 1966 after devaluation.

[Ministry of Commerce O.M. No. 7(3) Tex. F./66 Dt. 4-11-1966]

Further Information

Paras. 1.35 *and* 1.36: The export of art silk fabrics in 1956 was valued at Rs. 59·73 lakhs. In 1957, the total export was valued at

Rs. 49.97 lakh. In 1958, however, the exports increased to Rs. 9·13 crores.

The scheme of import entitlements to off-set losses on the export of art silk fabrics was introduced in January, 1957. Various modifications, in the light of experience, were introduced on 18th March 1957, 28th August 1957 and 26th May, 1958

If the Notifications introducing the changes are studied, it will be seen that modifications had been made primarily with a view to (a) expanding the scope of the scheme to cover items, such as, garments, hosiery, embroidered and hand stitched goods, braided thread, laces, ribbons, shoe laces etc. (b) to prescribe documentation and procedures to tighten up checks on the qualities exported and proceeds realised, and (c) to plug loop holes through which unintended gains were attempted to be secured by certain exporters.

The quarterly break-down of export performance for 1957 and 1958 is not readily available. But it seems clear that after the introduction of the scheme for the grant of import entitlement licences against actual exports, manufacturers and exporters started some time early in 1957 to study foreign markets, develop contacts, and enter into export contracts. The result of the efforts made in 1957 are seen in the figures for 1958. This export effort would not have been made except on the basis of the expectation entertained by exporters that the losses which they would incur in effecting exports would be made good by the gains they would make on the import of artificial silk yarn. The gains were sufficient in their view to persuade them to incur losses in the first instance and to make offsetting gains from the imports which they thought they would be able to make against import licences for artificial silk yarn which had been promised by us.

Since this was the first import entitlement scheme introduced by the Ministry of Commerce and since the import facility related to a highly profitable item, it was not easy to anticipate the difficulties which were experienced or to deal with them, when these came to notice. It was because of the dffiiculty of plugging the loopholes and the fear that if the scheme is continued, exaggerated claims of exporters for import of a profitable item could continue to mount up, that the scheme was suspended in March 1959.

When the scheme was suspended, the question arose as to what should be done in reganrd to (a) claims in regard to import licences against the exports effected previously, and (b) undertakings taken from the exporters in regard to further exports. The claims were

dealt with through special Committees which were required to examine export performance very closely. The undertakings given by prospective exporters were enforced fully. The undertakings given by exporters, whose claims to import licences on the basis of past performance were settled through committee procedure were, however, not enforced. Since in the case of such exporters the undertakings had been taken merely to ensure that they continue to remain in the export business on the basis of the scheme which was suspended, the best point at which the chain of the suspended scheme could be terminated was at the stage of the completion of the transaction beginning with the first export, motivated by the expectation of gain on imports, and the fulfilment of the expectation by the receipt of an import licence. If these undertakings had been enforced, a further claim to an import licence would have developed and it would have become impossible to terminate the scheme on any equitable basis.

[Ministry of Commerce O.M. No. DS(KS)/7720 dt. 21-12-1967].

Recommendation

The Committee regret to note the incidence of malpractices particularly in the cases of Export Promotion Schemes for Zari goods and art silk ready-made garments. The total amount of loss due to malpractices including those mentioned above amount to Rs. 8.03 crores (Rs. 469.71 lakhs for Zari goods in 1963 and Rs. 333.85 lakhs for other goods from the year 1960 to 31st August, 1965). Perhaps much of the loss could have been avoided if the Ministry had been a little more careful and vigilant.

Though this amount of loss when compared to the total amount of export between 1960-1965, may appear to be a small percentage, yet in a actual figures, the loss of foreign exchange involved is very large. The Committee, therefore, feel that the Ministry should not relax efforts to ensure, as far as possible, that the export obligations are fulfilled by the devaluating parties, apart from taking penal action, as necessary.

[Sl. No. 22, para 2.30 of Appendix XLV to the 50th Report (3rd Lok Sabha)]

Action taken by Government

The recommendation of the Committee has been noted and is being acted upon.

The amount of foreign exchange awaiting repatriation has come down from Rs. 8.07 crores on 31.8.1965 to Rs. 5.77 crores on 1.7.1966.

When parties fail to repatriate foreign exchange within prescribed time limits, penal action such as, blacklisting and de-registration is taken in addition to forfeiture of bond.

Where parties fail to fulfil their export obligations, proceedings for penal action are initiated well in time and pursued vigorously and concluded expeditiously.

[Ministry of Commerce & Industry, O.M. No. 22(10)/66-EAC, dated 16-1-1967].

FURTHER NOTE ON S. No. 22

(PARA 2.30 OF APPENDIX XLV TO THE 50TH REPORT OF PAC—3RD LOK SABHA)

A note on the subject was submitted with this Ministry's O.M. No. 22(10)/66-EAC, dated the 16th January, 1967 (vide pages 12 & 13 of the note enclosed therewith). It was stated therein that the recommendation of the Committee had been noted and is being acted upon. Further information in regard to the action taken by the Government on the said recommendation is furnished below:—

A rigorous drill has been laid down in order to keep a close and strict watch in respect of all cases involving fulfilment of export obligations by the parties concerned. Necessary instructions (copies enclosed) in this regard have been issued by the CCI&E to all the Licensing Authorities. The amount of foreign exchange defaults has come down to Rs. 5.11 crores, as on 1st July, 1967.

[D.O. No. 22(10)/66-EAC, dated 16-2-1968 from Shri P. B. Saltagopan, Dy. Director, Export Promotion]

GOVERNMENT OF INDIA

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS AND EXPORTS

(MINISTRY OF COMMERCE)

New Delhi, the 19th January, 1967.

Office Order No. 4/67

SUBJECT:—*Procedure for dealing with cases where import licences have been issued subject to export obligation, subsequently not fulfilled.*

Attention is invited to Office Order No. 35/66 dated 19th November, 1966 regarding the procedure for dealing with cases involving contravention of import and export trade control regulations. In paragraph 4 of the said Office Order, it has been stated that the licensing authorities should follow the guide-lines indicated in the

minutes of the meeting held on the 29th September, 1966 while dealing with cases of contravention of imports and exports trade control regulations. A copy of the minutes of the said meeting was appended to the said Office Order.

2. Paragraph 2-A of the aforesaid minutes indicate the guide-lines to be followed in cases where import licences have been issued subject to export obligation, but where the importer has subsequently failed to fulfil his obligation. In modification of these instructions, it has been decided that, while dealing with such cases, the licensing authorities shall follow the procedure indicated below: —

(a) A close watch should be kept on the export performance and in cases where the period of export obligation is one year or less, instead of putting the firm's name straight in the abeyance list as contained in 2A(ii) of the minutes attached to the Office Order No. 35/66 dated 19th November, 1966, the party should be alerted two months prior to the date of maturity of the bond in respect of his export obligation. In the cases where the period of export obligation is more than one year, the party should be alerted at the end of every year and also two months prior to the expiry date of the bond.

(b) By "Export obligation", what is implied is the receipt of the export proceeds. The extent of fulfilment of export obligation should be judged with reference to the date fixed for this purpose in the bond. A month's time from such last date should be given to the party to produce the requisite documents.

(c) It should be ensured that the bank guarantee is valid for a period of 12 months beyond the date of expiry of the period allowed for fulfilment of the export obligation as given in the bond.

(d) If the default in the fulfilment of the export obligation is less than 10 per cent, the bond amount should be forfeited in proportion to the default, as at present. No other punitive action need be taken in such cases. The amount of shortfall, however, should be adjusted against the future licences due to the party in any category.

(e) If the shortfall in export obligation is between 10 and 50 percent, the case should be referred to the Headquarters (by name to Shri B. D. Bhattacharya, Deputy Chief Controller of Imports and Exports, Enforcement and Vigilance Division) for orders regarding the extent of forfeiture to be made. Such references should give a self con-

tained account of the total time that was available to the party to fulfil the export obligation, the actual extent of fulfilment by the due date, the reasons given by the party for the shortfall, the Port Office's own judgment as to the willingness and capacity of the party to fulfil the obligation within a reasonable period of time after the due date etc.

(f) If the shortfall is more than 50 per cent, the bond amount should be forfeited in full. Simultaneously, the party should be informed that he would be well advised to fulfil the obligation (adjusted for devaluation) within six months from the date of forfeiture of the bond, failing which punitive action under the Impex Act and Orders would be taken against him.

(g) If within the six months period mentioned in (f) above the party produces evidence to show that he has fulfilled the obligation in full in terms of the foreign exchange he was committed to realise or fulfilled it to the extent of at least 90 per cent, the case against the party should be closed except for setting off the marginal shortfall against the party's other eligibilities. In all other cases, the party should be placed on suspension under clause 8(A) of the Imports (Control) Order for a period of six months and the papers should be submitted to Head-quarters for taking such punitive action as is considered appropriate.

Sd/- P. D. KASBEKAR,

Chief Controller of Imports & Exports,

(Issued from file No. 22(24)/66-O&M).

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS AND EXPORTS

New Delhi; the 2nd March, 1967.

OFFICE ORDER NO. 15/67

SUBJECT:—*Procedure for dealing with cases where import licences have been issued subject to export obligation, subsequently not fulfilled.*

Attention is invited to Office Order No. 4/67 dated 19th January, 1967 on the above subject.

2. The position in regard to the rupee value of the export obligation as shown in the bonds has been further examined for the purpose of redemption of the bonds and for taking punitive action against the defaulters.

3. The export obligation for the purpose of redemption of the bond will be the amount as shown in the bond; and the export earnings for the satisfaction of the export obligation will be the amount shown in the bank certificate. In other words, for determining whether the party has defaulted in discharging his obligation in terms of the bond, the rupee values given in the bond *i.e.* without any escalation for devaluation etc., and the bank certificates will be relevant as they are. The percentages of default as mentioned in paragraph 2 of the Office Order No. 4/67 dated 19th January, 1967, are also with respect to the export obligation as shown in the bond.

4. For the purpose of taking punitive action against the defaulting parties, the amount of default will, however, be determined by taking into account the 'real' export obligation having regard to the devaluation, and not the obligation as merely shown in the bond. The 'real' export obligation will be the amount as shown in the bond, plus 57.5 per cent of the amount of export realisation outstanding on the date of devaluation.

5. In view of the position stated above, the licensing authorities should take the following action in types of cases referred to in sub-para 2(d) of the Office Order No. 4/67 dated 19th January, 1967, where the amount of nominal default in the fulfilment of export obligation is less than 10 per cent of the amount of the obligation as shown in the bond.

(a) The bond amount should be forfeited in proportion to the default, as at present;

(b) Thereafter the real shortfall in the export obligation should be calculated. The real shortfall will be the difference between the export obligation as expressed in post devaluation rupees and the actual export realisation also expressed in terms of the post devaluation rupee. If such short fall is less than 10 per cent of the export obligation, the case should be closed and no punitive action may be initiated against the party. In such cases, the amount of shortfall need not be adjusted against the future licences due to the party. However, if it is more than 10 per-

cent, the party should be informed about the shortfall and given six months' time from the date of forfeiture of the bond, to make it good. They should further be advised that, in the event of their failure to make good the shortfall within the period mentioned above, the question of taking punitive action for the default against them would be considered. If the party fails to make the exports within the stipulated period of six months, the case should be referred to the headquarters office (Enforcement Division) for instructions. Simultaneously the party may be placed on suspension under Clause 8A of the Imports (Control) Order, 1955, for a period of 6 months.

6. In the cases where the amount of the default in the fulfilment of export obligation is between 10 and 50 per cent of the amount of the obligation shown in the bond, the licensing authorities should take action as already indicated in sub-para 2(e) of the Office Order No. 4/67 dated 19th January, 1967.

7. Where the amount of the default in the fulfilment of export obligation is more than 50 per cent of the amount of the obligation shown in the bond, the licensing authorities should take action as indicated in sub-para 2(f) and 2(g) of the Office Order No. 4/67 dated the 19th January, 1967 except that if, after the expiry of the period of six months given to the party, the 'real' shortfall in the export obligation is more than 10 per cent of the 'real' export obligation, the case may be referred to the headquarters office (Enforcement Division) for instructions; and the party may be simultaneously placed under suspension under clause 8A of the Imports (Control) Order, 1955, for a period of six months. The amount of the shortfall need not be adjusted against the future licences due to the party.

8. The Office Order No. 4/67 dated 19th January, 1967 may be deemed to have been amended accordingly,

Sd./- P. D. KASBEKAR,

Chief Controller of Imports & Exports.

(Issued from file No. 22(24)/66-O&M).

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS AND EXPORTS

(O. & M. Branch)

New Delhi, the 6th Oct., 1967.

OFFICE ORDER NO. 60/67

SUB:—*Conditions imposed on licences/customs clearance permits—follow-up action to watch fulfilment of.*

In certain types of cases Customs Clearance Permit or licence is issued subject to 'export' condition, but no bond is taken from the licencee for fulfilment of the condition. In such cases the licensing authorities take declarations or undertakings from the parties before issuing C.C.Ps. or licences.

2. In order that, in the absence of the bond, there should be a proper and effective follow-up of such cases, it has been decided that the Enforcement Sections at the Headquarters and the regional offices at Bombay, Madras, Calcutta, New Delhi (CLA), Ernakulam, Panjim and Kanpur should maintain registers in the prescribed proforma (enclosed) in which the particulars of all such CCPs or licences should be entered.

3. To facilitate upto date maintenance of the registers, the Statistical copies of all the CCPs should, hereafter, be routed to the Statistical Division at Headquarters through the Enforcement Section of the respective licensing officers which will on receipt of such copies from the licensing sections, enter the required particulars in the register before forwarding the Statistical copies to the Statistical Division at Headquarters.

4. The Deputy Chief Controller incharge of Enforcement Section should ensure proper and timely follow-up action in these cases.

5. If any such CCPs or licences happen to be issued by minor port offices, they should report the particulars thereof to the office

of the JCCI & E in the respective zone for being entered in the register and for further follow-up action.

Sd/- TAKHAT RAM,

Senior Administrative Analyst,

For Chief Controller of Imports & Exports.

(*Issued from File No.* 10(99) 67-*O&M*).

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS & EXPORTS

ENFORCEMENT DIVISION

(i) Name and full address of the licencee:	_____
(ii) C.C.P. No. & Date	_____
(iii) File No.	_____
(iv) Value of CCP	_____
(v) Brief description of goods for import	_____
(vi) Brief description of the goods for export	_____
(vii) Value of export obligation.	_____
(viii) Date of final fulfilment of the export conditions.	_____

(i) Full details of the export conditions imposed:

(ii) Progress of fulfilment of condition:

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS TO WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES.

Recommendation

From the notes furnished by the Ministries as also from the evidence tendered, it appears that a mill in collusion with its agent not only succeeded in purchasing import entitlements for staple fibre worth about Rs. 68 lakhs from 54 mills but also managed to get the licences which were issued for non-viscose staple fibre converted into import licences for the "non-viscose staple fibre and/or synthetic yarn" and imported nylon fillament yarn which is not permissible within the rules.

It is very unusual that as many as 54 mills should have thought of selling their import entitlements to one mill within a short period. It is still more curious that the agent of the mill purchasing the entitlements, who was admittedly a firm against whom investigations were made in the past on more than one occasion by the S.P.E. and whose activities were not free from suspicion could get endorsements changed on the spot at the counter in the JCCIE's office, without being questioned either by the Textile Commissioner or by the issuing authority whether the transferee mill had the requisite capacity to utilise it.

The Ministry have tried to argue that the present case involved only a question of misuse of entitlements and there was no question of loss to the Government. The Committee cannot appreciate this attitude on the part of the Ministry because:

- **(a) this irregularity involves a very serious abuse of the scheme;**
- **(b) whether the export obligation attached to the imported yarn was completely fulfilled is doubtful; and**
- **(c) the purchasing mill and the firm who was acting as the authorised agent seem to have made profits by resorting to serious irregularity and subterfuge.**

The Committee feel that Textile Commissioner's Office and Jt. CCIE's office should have been more careful in dealing with this firm which had come to adverse notice on more than one occasion.

The Committee are of the opinion that instructions regarding the transfer of entitlements, the circumstances under which sales can be effected etc. should be so clearly endorsed on the licence itself that there would be no scope left for unscrupulous traders to indulge in such nefarious activities. The requests for transfer of entitlements should not be considered mechanically as at present, vis-a-vis, the rules, but the consequences of such an act should also be taken note of. Changes in procedure if necessary should be effected forthwith to achieve this end. The Committee would also like the Ministry to examine and evolve measures whereby the misuse of Actual Users Licence i.e., passing through many hands without proper authority becomes an impossibility and to introduce more effective checks to ensure that export obligations are achieved. The Committee would like to be informed of the results of the investigations now being made and action taken against the delinquent officials.

[Sr. No. 24, Para 2.38 of Appendix XLV to 50th Report (3rd L.S.)].

Action taken by Government

The observations of the Committee on the particular case in question have been noted. The malpractice to which attention has been drawn could probably have been prevented if the official(s) dealing with applications for amendment of licences had been more careful. The negligence on the part of the official(s) has been enquired into by SPE, but some aspects of these enquiries are not yet complete. A further report will be submitted to the Committee.

The recommendation of the Committee regarding endorsements on licences being more clearly worded has been noted for compliance.

The recommendation of the Cmomittee that transfer of entitlements etc. should not be considered mechanically has also been noted for compliance.

As regards misuse of Actual Users Licences, the conditions enforced on the licences have been amplified. These now provide as follows:

> "This licence is issued subject to the condition that all items of goods imported under it shall be used in the licence holder's factory, or may be processed in the factory of another manufacturing unit but no portion thereof will be sold to any other party. The goods so processed in another factory will, however, be utilised in the manufacturing processes undertaken by the Scheduled unit to whom the

licence has been issued. The licensee shall maintain a proper account of consumption and utilisation of the goods imported against the licence."

and

"This licence is issued subject to the condition that all items imported under it shall be used only in the licence holder's factory at the address shown in the application against which the licence is issued and no portion thereof will be utilised by the licensee for a unit/purpose other than the one for which the licence in question is issued, or will be sold or be permitted to be utilised by any other party. The licensee shall maintain proper account of consumption and utilisation of the goods imported against the licence."

The following steps have been taken to introduce more effective checks to ensure that export obligations are fulfilled:

(a) continuous watch is kept over export performance;

(b) if such performance is not satisfactory during the first 2/3rd of the period allowed for fulfilment of the export obligation, the concerned parties are put on the "abeyance list";

(c) if defaults continue at the expiry of the above period, apart from forfeiture of the bond, the licensing authorities may also initiate action under the Import Control order for debarment of such parties from receiving further licences;

(d) names of such debarred parties are now being published in the weekly bulletin published by the Department;

(e) subsisting import entitlements of permissible import values under the new import policy for registered exporters are adjusted against the defaulted export obligation; and

(f) in cases where values involved are large or defaults are persistent licensing authorities have been authorized to initiate proceedings for prosecution of the parties concerned.

As a result of investigations so far conducted, seven licensee mills have been prosecuted under section 5 of the Imports and Exports Control Act. Prosecutions have also been launched against partners and directors of Messrs* * * *. Other cases, including those of delinquent official, are still under investigation. Further action taken will be reported as soon as this investigation is complete.

[Ministry of Commerce & Industry O.M. No. 22(10)/66-EAC Dtd. 16-1-1967].

Further Note on S. No. 24.

(Para 2.38 of Appendix XLV to the 50th Report—3rd Lok Sabha)

A note on the subject was submitted with this Ministry's O.M. No. 22(10)/66-EAC, dated the 16th January, 1967. It was stated in the note that the negligence on the part of the official(s) had been enquired into by SPE but some aspects of these enquiries were not yet complete. It was further stated that a further report would be submitted to the Committee.

2. The enquiry by the CBI into the conduct of the officer(s) has been completed. However, the CBI are withholding action against them till the finalisation of the prosecution already launched under Section 5 of the Imports & Exports Control Act and under Section 420 and 120 B-IPC against M/s.***.

[D.O. No. 22(10)/66/EAC, dated 6-10-1967 from Shri J. Banerjee, Director, Export Assistance].

NEW DELHI;
August 20, 1968.
Saravana 20, 1890 (*Saka*).

M. R. MASANI,
Chairman,
Public Accounts Committee.

APPENDIX I

GOVERNMENT OF INDIA

MINISTRY OF IRON & STEEL

New Delhi, September 12, 1968

RESOLUTION

SC (II)-14(19)/66.

In Chapter IV of its Fiftieth Report (1965-66), the Public Accounts Committee pointed out certain defaults, lapses and irregularities in relation to some transactions relating to barter deals in steel and semi manufactured steel entered into in 1960 by certain firms. These barted deals involved the import of finished steel against the export of billets, ingots and slabs produced in India. The Committee recommended that the lapses which have taken place in those deals, both in the offices of Government as well as on the part of the parties should be investigated by a high powered Committee constituted as recommended in para 4.167 of its 50th Report. After further consideration of these and ancillary matters, the Committee recommended in para 2.30 of its 56th Report that the high-powered Committee should hold a thorough and comprehensive enquiry in all aspects of the working of the Ministry of Iron & Steel with reference to the parties mentioned in the 50th Report and should further, similarly enquire into transactions relating to other parties to whom large licences|permits have been issued from 1951-52 onwards.

2. Government, after carefully considering these recommendations, has decided to accept these recommendations. Government has accordingly appointed a committee consisting of the following persons:—

(1) Shri A. K. Sarkar, former Chief Justice of India.

(2) Shri V. S. Hejmadi, former Chairman of the Union Public Service Commission.

(3) Shri P. C. Padhi, former Chiarman of the Central Board of Revenue and former Deputy Comptroller & Auditor General of India.

3. The Committee shall—

(a) investigate into the transactions relating to the Iron & Steel Ministry, referred to in the 50th Report of the P.A.C., and also the transactions concerning other parties to whom

large licences/permits have been issued from 1951-52 onwards;

(b) enquire whether any irregularities or defaults were committed by any person in authority or any other person, firm or company connected with the said transactions and, if so, whether such irregularities or defaults have resulted in loss to the Government or any undue advantage to the party or parties concerned;

(c) recommend in the light of their findings, what action, if any, departmental, civil or criminal, should be taken against any person; and

(d) make a report or reports, interim or final, to Government.

ORDER

Ordered that a copy of this resolution be communicated to all concerned. Ordered also that the resolution be published in the Gazette of India for general information.

Sd./- T. SWAMINATHAN,

Secretary to the Government of India.

APPENDIX II

Summary of Main Conclusions/Recommendations

S. No.	Para No. of Report	Ministry/Deptt. Concerned	Conclusions/Recommendations
1	1·5	Commerce	The Committee hope that a final reply duly vetted by Audit in regard to the Recommendation/observation to which only interim reply has so far been furnished will be submitted to them early.
2	1·9	Commerce	The crux of the argument of Government is that the bonds not forfeited were those given by established exporters and that the enforcement of the bonds would have placed on them a heavier export burden *vis-a-vis* prospective exporters. The Committee are not however, fully convinced with the explanation given by Government. It is no doubt true that an established exporter had already an export record to his credit and that in consideration of the grant of an import licence, he had to effect a second export, as against a prospective exporter who had only to make one export against a licence. However, the quantum of export obligation was generally heavier in the case of prospective exporters (133.1/3% of the value of imports) as compared to established exporters (100% of the value of imports). Besides, established exporters were given preferential treatmnet in the matter of bonds executed, in that they were not required to support it with

1	2	3	4
		Commerce	bank guarantee, which were invariably required of prospective exporters. In fact, even the bonds were ultimately waived in the case of established exporters and replaced by simple undertakings. The Committee also find that the conditions for the issue of import licences in the period July, 1957-March, 1959 specifically provided "In the case of established exporters who have already effected the exports without seeking any earlier import licence under this Scheme, the bond would be required only for the value of the import licence which is in excesss of the prescribed percentage." This would imply that the bond was required from an established exporter only in respect of that portion of the import licence which was not covered by import entitlement earned on previous exports. The series of transactions under the E.P. Scheme would thus become:
			I-1 E-1; I-2 E-2; I-3 E-3 .....In En.
3	1·10	—do—	On this showing it would appear that the most appropriate point for stopping operation of the Scheme was after the fulfilment of the export obligation undertaken because of the import licence issued in advance. In the circumstances, the Committee feel that sufficient weightage was given to established exporters in the Scheme in consideration of their past export record. The Committee are therefore, unable to appreciate the Government's decision to release the established exporters from export obligation for which they had given an undertaking/bond.

4	1·11	—do—	In fact, the Government should have taken care to incorporate in the Scheme, for the Export Promotion of Art Silk, which was revived after an interval of only a few months in July, 1959, a suitable provision by which the undertaking/bond executed by the established exporters would have been automatically carried forward and given effect to.
5	1·14	—do—	The Committee would again like to stress that there was a grave lapse on the part of the Ministry of Commerce in not consulting the Ministry of Finance at various stages of formation and implementation of the Scheme and that effective steps should be taken to avoid recurrence of these lapses.
6	1·1	—do—	The Committee are constrained to observe that the progress in this case has not been satisfactory. Over a period of one year from 1-7-1966, the parties concerned have repatriated foreign exchange of only Rs. 0.66 crores out of Rs. 5.77 crores. The Committee reiterate the recommendations made by them in Para 2.30 of their 50th Report (Third Lok Sabha) and desire that vigorous steps should be taken to ensure repatriation of the foreign exchange earning and fulfilment of export obligations by defaulting parties.

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4	I·II	—do—	In fact, the Government should have taken care to incorporate in the Scheme, for the Export Promotion of Art Silk, which was revived after an interval of only a few months in July, 1959, a suitable provision by which the undertaking/bond executed by the established exporters would have been automatically carried forward and given effect to.
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