

HUNDRED AND FIFTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1981-82)

(SEVENTH LOK SABHA)

**CUSTOMS RECEIPTS—DELAY IN THE REVISION OF
TARIFF VALUES AND EXEMPTION ORDERS ISSUED
UNDER THE CUSTOMS ACT, 1962**

MINISTRY OF FINANCE
(DEPTT. OF REVENUE)



Presented in Lok Sabha on 29-4-1982

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*Ceased to be a Member w.e.f. 2-4-1982 consequent on his retirement from Rajya Sabha.

INTRODUCTION

1. the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this 105th Report on Paragraphs 1.23 and 1.24 of the Report of the C&AG of India for the year 1979-80—Union Government (Civil) Revenue Receipts, Vol. I—Indirect Taxes relating to Delay in the revision of Tariff Values and Exemption Orders issued under the Customs Act, 1962.

2. The Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes was laid on the Table of the House on 17 March, 1981.

3. In Chapter I of the Report the Committee have examined a case where the Tariff Values of dry fruits fixed in 1975 were not revised for a period of 4 years till 1979 which resulted in less realisation of customs duty to the extent of Rs. 22.40 crores. The prices of dry fruits were continuously rising during the year 1975 to 1979 and the non-revision of the tariff values during this period was unjustified. The Committee have, therefore, recommended that the tariff values should be kept under constant watch to make sure that they do not, at any point of time, lose their relationship with the actual values.

4. The Report in Chapter II highlights some of the basic deficiencies/weaknesses noticed in the exercise of powers vested in the Executive for grant of exemption under Section 25(2) of the Customs Act, 1962 from payment of duty. Finding the number of exemption notifications involving a duty effect of over Rs. 25,000/- as 248, 301, 198 and 100 during the years 1976-77, 1977-78, 1978-79 and 1979-80 respectively, the Committee have concluded that the powers have been exercised too liberally by the Ministry of Finance and in some cases in utter disregard of the intentions of Parliament. The Committee have expressed the view that the power to grant exemptions is an unusual, extraordinary and exceptional power given to the executive and it is imperative that adequate safeguards should be taken to ensure that these powers are used sparingly and there are no chances of their being misused.

5. The Committee have pointed out that although there was a perceptible fall in the price of edible oils in the international market after September, 1979, the imported edible oils continued to enjoy concession in customs duty and the prices at which these edible oils were supplied to the consumers were not reduced. The result was that while the Ministry of Finance had foregone customs duty to the extent of Rs. 40 crores during 1980-81, the surplus available with the State Trading Corporation on account of edible oil imports was to the tune of Rs. 80 crores in that year. The Committee have pointed out that had the prices of the edible oils been reduced, the consumers could have got some relief in this period of spiralling price rise. The Committee have concluded that all these facts clearly demonstrate the scant regard Government displayed towards the interest of vast multitudes of helpless consumers in the country. The Committee have expressed their deep anguish at this lapse on the part of the Government.

6. The Committee have also expressed concern at the difficulties being experienced by the people in the Capital in obtaining vanaspati at fixed price particularly in loose and malpractices prevalent in the distribution system of vanaspati. If this is the condition in the Capital, the Committee have pointed out, the plight of the poor consumers in far off and remote areas in the country can well be imagined. The Committee have recommended that Government should take effective measures under the Essential Commodities Act in coordination with State Governments to plug all loopholes in the network of actual distribution of vanaspati and take stern measures against the offenders in order to ensure that the vanaspati is actually made available to the consumers at the fixed price even in the remotest corner of the country.

7. The Committee have pointed out that in order to meet the gap in the demand and supply of steel in the country and to supply imported steel items to the indigenous consumers at a reasonable price, a number of exemption orders relating to import of steel were issued between 1978 and 1981. However, there was a considerable time lag between the grant of exemption and the actual import of these steel items with the result that the shortage of steel items continued, black-marketing in these items flourished and the consumers continued to be fleeced defeating the very purpose for which the exemptions were granted. The Committee have expressed their serious concern at this failure on the part of the Ministry of Steel in arranging the import of such steel items in respect of which exemption has been granted within a reasonable time.

8. The Committee (1981-82) examined the above paragraphs at their sittings held on the 14, 15 and 22 October, 1981. The Committee considered and finalised this Report at their sitting held on the 23 April, 1982. Minutes of the sittings form Part* II of the Report.

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

10. The Committee would like to express their thanks to the Ministry of Finance (Department of Revenue), Ministry of Civil Supplies, State Trading Corporation, Ministry of Steel and Steel Authority of India Ltd., for the co-operation extended by them in giving information to the Committee.

11. The Committee also place on record their appreciation of the assistance rendered by the Office of the Comptroller and Auditor General of India in the examination of these paragraphs.

NEW DELHI.

SATISH AGARWAL,
Chairman
Public Accounts Committee

28 April, 1982

8 Vaisakha, 1904 (S)

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REPORT

CHAPTER I

Audit Paragraph

DELAY IN THE REVISION OF TARIFF VALUES

1.1 Section 14(2) of the Customs Act, 1962, empowers the Government to fix tariff values for any class of imported goods having regard to the trend of value of such or like goods for the purpose of levying customs duty on *ad valorem* basis.

1.2 Fresh and dry fruits when imported into India are liable to customs duty on *ad valorem* basis. Tariff values of fresh fruits were revised upward last in July 1969 (grapes) and September, 1971 (pomegranates). Tariff values of dry fruits were last revised upwards in June 1975; those of almonds, raisin and dates were revised upwards on 27 June, 1979.

1.3 It was noticed in audit that the invoiced values of 18 varieties of fresh and dry fruits imported through a Land Custom Station during the period January 1975 to 26 June, 1979 in respect of fresh fruits, and from 30 June, 1975 to 26 June, 1979, in respect of the dry fruits, were much higher than the tariff values which had not been revised. The non-revision of the tariff values in accordance with the invoice values resulted in a short realisation of duty to the extent of Rs. 22.40 crores.

1.4 The Ministry of Finance have stated that the system of commercial invoicing in the exporting countries in this case was not very reliable. They have not, however, stated whether the international prices of fresh and dry fruits or their local market values, or both, had actually remained stable during the period 1975—79.

[Paragraph 1.23 of Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Civil)—Revenue Receipts—Volume I, Indirect Taxes].

Trade between India and Afghanistan

1.5 India's imports of dry fruits, fresh fruits etc., are mostly from Afghanistan which were based on a modified system of barter. The trade Agreement/trade arrangement between India and Afghanistan provided for a system of counter-balancing trade where imports of fresh fruits, dry fruits, as afoetida etc. from Afghanistan have to be counter-balanced by exports made to that country. The first treaty entered into between India and Afghanistan was signed on 4.4.1950. The treaty had a validity period of three years extendable by two years after which it could be terminated any time by either contracting party after giving notice to the other party at least 6 months before the date on which it wished to terminate the treaty. Article 15 of this treaty which continued to be in force provided for trade exchange between the two countries as under :—

"The contracting parties agree that with respect to exchange of specific commodities of one contracting party against specific commodities of the other party, they may enter into trade agreement with each other. To facilitate such agreements they may also agree to enter into agreement for methods of payment for such arrangements or for such surplus goods so exchanged and delivered."

1.6 All subsequent "arrangements" and Agreements have flown out of the above article 15. Until 1957, trade was regulated by the provisions of the treaty of 1950 and no separate "Arrangement" or "Agreement" was concluded. The first trade Arrangement with Afghanistan was concluded in 1957 which provided for balanced trade subject to a fixed monetary ceiling for import of dry fruits, fresh fruits etc. and customs clearance permits were issued to the registered approved Importers. Payment for imports effected by each importer was made by him by exporting Indian goods of equal value to Afghanistan. Exports were made by the importers themselves or on their own behalf. This pattern was continued till 1968, when at the instance of Afghanistan, it was decided to switch over from monetary ceiling to quantitative ceiling for dry fruits and fresh fruits w.e.f. 1-8-1969. Under the revised system, it was found that Indian exports were of higher value than that of imports. The system of quantitative ceiling was therefore replaced by advance licensing system by issue of customs clearance permits.

1.7 Even though the Indo-Afghan trade was a modification of the barter system and was based on counter-balancing exports, the need for introducing the banking system of commercial invoicing was felt in order to remove the malpractices that had cropped in. The entire trade was based on an informal Hundi System. The private Hundis which were exchanged between merchants on each side gave the value of the goods which had no relationship with the value declared for purposes of check by customs and licensing authorities. This practice led to over/under invoicing.

1.8 For the period 1972—75 a new trade Arrangement came into force on 1st March, 1972 and provided for import of Afghan fresh fruits, dry fruits etc. to be counter-balanced by export of specified India goods. However, payments for imports of Asafoetida from Afghanistan and counter exports from India were for the first time channelised through Banks. For this purpose a special Rupee Account was opened by Le-Afghanistan Bank with the State Bank of India, New Delhi.

1.9 On the expiry of the trade arrangement for the period 1972—75, a fresh trade and payment agreement for 1975—78 was entered into on 3 September, 1975, according to which trade was to operate through banking channels. The system evolved contemplated that a single account in non-convertible rupee is maintained by the State Bank of India through which all imports and export obligations are met. From 1975-76, it was extended to cover imports of dry fruits and fresh fruits also.

Valuation of dry and fresh fruits imported into India.

1.10 Upto 2 September, 1978 the Indo-Afghan Trade agreement provided for counter-balancing trade, in terms of which imports of dry fruits from Afghanistan were to be counter-balanced by exports of specified commodities from India to that country. Thus every importer was under export

obligation equivalent to the value of the imports made from Afghanistan. From 3.9.78, import was thrown open under Open General Licence and thus import could be made by any person without any export obligation.

1.11 The manner in which counter-balancing trade with Afghanistan was regulated before 3.9.1978 has been spelt out in the following Public Notices and corresponding General Licensing Instructions (GLIs) :—

- | | |
|---|-----------------------|
| (i) Public Notice No. 125-ITC(PN)/75 dt. 29-11-75 | } for 1975-76 period |
| (ii) GLI No. 39/75 dt. 18-12-75 | |
| (iii) Public Notice No. 109—ITC (PN)/76 dt. 3-11-1976 | } for 1976-77 period |
| (iv) GLI No. 43/76 dt. 19-11-76 | |
| (v) Public Notice No. 114-ITC (PN)/77 dated 8-12-77 | } for 1977-78 period. |
| (vi) GLI No. 1/78 dt. 7-1-78 | |

1.12 Under these Public Notices/GLIs, import licenses were issued to approved importers on the basis of their past imports in a prescribed base period. Import licences were also issued to other importers. Such licences carried an export obligation under which the importer was to export goods of equivalent value to Afghanistan. The goods to be exported were also spelt out. A prescribed percentage of the exports had to be of non-traditional goods. The importers were to execute export bond for discharging the obligation within a stipulated period.

1.13 Enquired as to how it was ensured that each importer exported goods of the same value as value of imported dry fruits, the Ministry of Commerce have drawn attention to para 20 of Public Notice No. 114 dated 8.12.1977 which reads as under :

“The value of the imported items for the purpose of debit to the CCPs (Customs Clearance Permits) and for remittance to the suppliers through the Bank, as also for the purpose of determining counter-balancing exports in respect of such imports will be the value as declared in the supplier's invoice and appearing in the Bill of Exchange.”

1.14 The Ministry of Commerce have further stated that the importers were required to furnish export bonds. For redemption of such bonds, they were required to produce evidence of exports made in the discharge of the obligation. It has been added that the invoice value of exports was subject to check by the Customs, as in the case of other exports from India.

1.15 Asked about the prescribed procedure and the machinery available with the Government to ensure that each importer fulfilled his export obligation, the Ministry of Commerce stated that the importers were required to give export bonds with bank guarantee or ECGC's (Export Credit and

Guarantee Corporation) guarantee particularly in the case of newcomers in the line, which was liable to forfeiture in the event of default in the fulfilment of export obligation. Further, the defaulters could also be de-registered or debarred from receiving further import licences under the import control regulations.

1.16 At the instance of the Committee, the Ministry of Finance have furnished particulars of average C.I.F. prices of dry fruits during 1975-76 to 1979-80 (Appendix I). The Ministry have, however added :

“Although a record, purporting to be that of the C.I.F. values of dry fruits imported from Afghanistan is being maintained in Chandigarh Collectorate, it cannot be said that the figures represent the CIF values of the dry fruits. There has been no system of regular commercial banking arrangements in Afghanistan for the purposes of financing or negotiation of the instruments pertaining to foreign trade, nor a proper system of invoicing. Although the particulars of the invoices that accompany the goods are noted down by the Chandigarh Collectorate there is no assurance of the correctness of the values indicated in these invoices. In fact, it is for this reason that these prices even though noted down in the Collectorate, are not used as the basis for fixing tariff values and instead the market values obtaining in India are taken for the purpose.”

1.17 The Committee enquired if the Ministry were aware of the fact that the value declared in the invoice is the value for the purpose of payment for imports and for the counter-balancing exports also and was not the correctness of invoice value significant from the angle of Indo-Afghan Trade. In reply, the Ministry of Finance (Department of Revenue) have stated in a note :

“Ministry is aware of the position as reflected in the Public Notices issued by the CCIE from time to time notifying that the value of the imported items for the purpose of debit to the CCPs and for remittance to the suppliers through the bank as also for the purpose of determining counter-balancing the exports in respect of such imports will be the value as declared in the suppliers invoices. Invoice values are significant and relevant in the context of the Public Notice.”

1.18 Asked if the invoice values were not relevant in the context of fixation of tariff values, the Ministry of Finance have stated :

“The invoice values have no relevance because of fixation of tariff values under section 14(2).”

1.19 The Committee desired to know whether cases of over-invoicing of imports and under-invoicing of exports of goods in the Indo-Afghan trade were noticed and if so, whether action was taken under Foreign Exchange Regulations Act. In a note the Ministry of Finance (Department of Revenue) have explained the position as under :

“Invoice values have been accepted as per public notice issued by the CCIE. This, however, should not create an impression that the manipulative remittances have gone unchecked. The Directorate of

Enforcement which has the primary responsibility in this regard is reported to be having quite a number of cases under investigation."

Revision of tariff values of dry and fresh fruit

1.20 Section 14 of the Customs Act, 1962 which deals with the determination of value of goods for purposes of assessment to duty reads as follows :

"14(1) For the purposes of the Customs Tariff Act, 1975 (52 of 1975) or any other law for the time being in force whereunder a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be :—

(a) the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or offer for sale :

Provided that in the case of imported goods, such price shall be calculated with reference to the rate of exchange as in force on the relevant date referred to in sub-section (1) of section 15.

(b) where such price is not ascertainable the nearest ascertainable equivalent thereof determined in accordance with the rules made in this behalf.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is satisfied that it is necessary or expedient so to do it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value."

1.21 The Committee wanted to know when and how the tariff values of various imported items were fixed from time to time. The Member (Customs) stated during evidence :

"There was a system of fixation of tariff values under the old Tariff Act of 1934, which was done by the Commerce Ministry because they were in charge of the operation of the Tariff Act. After the new Customs Act came into force from 1st February 63, the work of fixation of tariff values become the responsibility of the Finance Ministry. Under the old Tariff Act tariff values were fixed according to detailed instructions. They used to be fixed once a year and it was laid down that statistics would be passed on to the Director General of Commercial Intelligence and Statistics, chambers would be consulted, etc. and tariff values notified. There were at that time a very large number of items ranging from ivory to various other products of the animal kingdom, products of the vegetable kingdom, spices, oil and oilseeds, chemicals, dyes.

petroleum products and so on. With the passage of time the number of items became smaller and smaller until in 1966 all tariff values were abolished except in respect of three items from Afghanistan and in 1969 even these three tariff values were abolished. In this context, the instructions issued from time to time with regard to fixation of tariff values largely lost their relevance. Government went on abolishing one or other of the tariff values and also adopted certain criteria for certain compulsions. We fixed tariff values every year upto 1964, then in 65 and then the next fixation was in 69. Thereafter, an attempt was made to fix these values in January, 1971. In July, 1971 these were revised downwards very drastically. Having fixed them downwards in July, 1971 they were again revised in 1975. Thereafter, they were revised in 1979 and 1980. For various reasons, the instructions in the manual somehow, and in my own personal opinion probably rightly, lost significance lost relevance.

And there is no recorded conscious decision that it should be done once in a year."

1.22 When asked if the instructions contained in the manual lost their relevance because of some considerations, why were fresh guidelines not included in the manual, the witness replied :

"It is more a case of correction of the manual or instructions then coming to the conclusion that there is some kind of deliberate attempt or default which has resulted in a loss."

1.23 Enquired in regard to the criteria for the fixation of tariff values from time to time, the witness deposed in evidence :

"When we fixed these in 1969 we largely went by the market value. There was some kind of protest, when we changed it again in 1971. Therefore, there was a slight divorce from the market value fixation because we revised them drastically downwards within six months. Within six months the data could not have changed. In 1975 we fixed it without any serious political consideration and on market value. Fortunately, there was no strong protest; again in 1979 we fixed it on the market value. There were some protests, but they were taken care of by persuasion or otherwise. In 1980 we fixed it on the market value. So, in regard to these items of dry fruits from Afghanistan, we are fixing tariff value with reference to market value, at least from 1975 onwards, except that on the question of whether we should abolish these or retain these there have been some political considerations. So, far as fixation of tariff value is concerned, we have been going by the market value and we have not been guided by political considerations in 1975, 1978 or 1980."

1.24 At the instance of the Committee, the Ministry of Finance have furnished information regarding the local market prices of dry fruits for the years 1976-77 to 1979-80 (Appendix II).

1.25 Enquired in regard to the data on the basis of which tariff values of fresh and dry fruits imported into India were fixed, the Ministry of Finance (Department of Revenue) have furnished two statements (Appendices III &

IV) showing the data on the basis of which tariff values were fixed in the years 1975 and 1979. It will be seen there from that the tariff values were fixed in these years after reducing from the average market value the post-importation expenses and duty element.

1.26 When asked about the method adopted for ascertaining average market price of dry fruits, the Ministry of Finance (Department of Revenue) have in a note stated :

"The prevailing market prices (i.e. average monthly prices) are called for from the concerned field formations and tariff values are deduced by allowing for the post-importation expenses and duty discount. The field formations are associated inasmuch as the statistical information on the basis of which tariff values are fixed is furnished by the field formations."

1.27 The Committee desired to know the old tariff value, the new tariff value, the local market price and the international price of fresh and dry fruits which prevailed at the time of each revision of tariff value. In this connection the Ministry of Finance (Department of Revenue) have furnished five statements which are annexed as Appendices V to IX.

Delay in revision of Tariff values

1.28 The Committee wanted to know the reasons for the non-revision of tariff values between 1975 and 1979. In a note, the Ministry of Finance have stated as follows :—

"The question here seems to presuppose that the revision of Tariff Values has to be made with a fixed periodicity and that this periodicity has not been observed.

There is no periodicity laid down in the law for the fixation of Tariff Values nor has there been any such periodicity observed in practice during the last, say, 10 years. Tariff Values fixed in 1971 were revised in 1975 and these fixed in latter year were revised in 1979. Thereafter there was a revision in 1980."

1.29 When asked as to what prompted the Government to revise the Tariff Values fixed in 1979 within one year in 1980 whereas the earlier revisions were done after a gap of a number of years, the Ministry of Finance (Deptt. of Revenue) have in a note intimated as follows :—

"In June, 1979 when the proposals for revision of tariff values fixed in the year 1975 were submitted, the then M.R.E. (Minister for Revenue and Expenditure) while approving the proposals, had observed that there should be a yearly or six monthly revision in all such cases. In pursuance of this direction the next revision was undertaken in November, 1980."

1.30 The Committee wanted to know whether any specific procedure has been prescribed in the Appraising Manual for annual review of the C.I.F. prices of goods subject to tariff values and whether this procedure was followed in the instant cases. In a note, the Ministry of Finance (Deptt. of Revenue) have stated as under :—

"The Manual provides for a procedure for fixation of tariff values. However, as a result of various factors and developments, this procedure in course of time, lost relevance.

The procedure laid down in the Appraising Manual was being observed till 1965 when a large number of items were placed on tariff value. However, from 1966 onwards, tariff values on all items except dry fruits were abolished and in the year 1969, tariff values even on dry fruits were done away with. As such, the need for having a fixed frequency for revision of tariff values was not felt. As a result, the elaborate machinery and the prescribed drill which had been fixed for annual revisions in the past fall into dis-use and with this the old instructions contained in the Appraising Manual also lost their relevance. The departmental instructions were mainly meant for Collectors and the DGCIS who in the past were entrusted with these exercises and could not be taken as binding on the Government."

1.31 The Committee enquired if any decision was taken in the years 1975—79 not to revise upward the tariff values of such goods every year and whether the Commerce Ministry was associated with such decisions. In reply, the Ministry of Finance have informed as under :

"No conscious or deliberate decision was taken not to revise upward the tariff values every year during the years 1975—1979. In practice, however, the values were not fixed yearly. After 1965, the values were refixed in 1969, again in 1971, 1975, 1979 and 1980. Commerce Ministry was by and large associated with the revision of tariff values periodically undertaken and also consulted on the question of abolition of the tariff values from time to time."

1.32 Regarding the periodicity for the revision of tariff values of dry fruits, the Member (Customs) stated in evidence :

"May be, a period of one year in a seasonal commodity is too short a period to provide an indication of trend of values. Trend can be over a year. If there is regular importation it can be one year. If it is a seasonal variety whether one year will give a trend, is a debatable point. One year may give a trend, two years may give a trend. So far as performance here is concerned, I admit, without there being a conscious decision, somehow it has been going once in four years."

1.33 Enquired if the local market price of dry fruits had remained stationary during the years 1975—79, the Ministry of Finance (Deptt of Revenue) have in a note stated as under :—

"Local Market prices of dry fruits did not remain static during the years 1975—79."

1.34 Asked if there was continuous increase in the market prices of dry fruits every year and if so, was it not necessary to revise the tariff value every year, the witness stated in evidence :

"From 1965 onwards there has been continuing rise in prices. In 1969 the tariff values were higher than those fixed in 1965. The value in 1975 was higher than the value in 1969. We do not deny the rising trends. Whether it was to be done every year is according to me, a debatable point. If it is to be done once a year there is

no doubt that there has been a loss. If we take a view that it has to be done in four years, then there is no loss. If it has to be done once in two or three years, it is in-between the two extremes I am not denying that there is a rise in the c.i.f. or the market prices."

1.35 According to the information submitted to the Committee by Audit, the total invoice value of imports during the years 1975—79 was Rs. 82.63 crores while the tariff value came to Rs. 35.92 crores. The Committee wanted to know whether the difference of Rs. 46.70 crores was the amount held abroad illicitly by the exporters in this country. In reply the witness stated:

"I am not aware of these figures. But the basic point seems to be that there has been an excessive remittance over the assessable values. This is not peculiar to this. We never go by the assessable value for purposes of remittance when there is an import licence given for some importation of any item. That there should be continuing and complete synchronisation or harmony between the assessable values and remitable values it would neither be a practicable nor an acceptable proposition."

1.36 Enquired in regard to outgo of foreign exchange in such cases, the witness replied:

"Under the then arrangements there must be synchronisation between exports and imports."

1.37 Adding further in regard to the exports made against these imports, the witness deposed :

"So far as exports are concerned, the Customs in regard to exports check the export value. They will not allow any exaggerated values or under-rated value goods to go. Therefore, exports go exactly in accordance with the value that should be the value under the Customs Act."

1.38 The Committee wanted to know why the same rationale was not adopted in regard to valuation of imports, the witness stated :

"There are instructions on imports that we should take the suppliers invoice value for the purpose of counter-balancing the trade. This was a deliberate decision."

1.39 The Committee wanted to know whether Government have issued any guidelines for the review of tariff value based goods. In a written reply, the Ministry of Finance (Department of Revenue) have stated as under :—

"In an inter-departmental meeting convened by the Finance Secretary on the 10th October, 1980 which was attended among others by the Commerce Secretary, the following decisions were taken :

- (a) It would be desirable for the time being to retain the existing tariff values on the dry fruits to ensure that the volume of imports of certain items of dry fruits from certain friendly countries continued at the usual level;

- (b) It would be desirable to review the tariff values every year;
- (c) Tariff values should be reviewed by a group of representatives of Department of Revenue and Ministry of Commerce."

Loss of revenue due to delay in revision of tariff values

1.40 According to Audit Paragraph non-revision of the tariff values for a period of 4 years between 1975 and 1979 with reference to invoice values had resulted in short realisation of duty to the extent of Rs. 22.40 crores. In this connection the Member (Customs) stated in evidence :

"The Audit Para says, on account of the four years, gap, the loss has been about Rs. 23 crores. We do not accept that the invoice value is the basis for arriving at this difference. Without accepting it as loss, for the information of the Committee, I can say that 1979 tariff value fixation was correct unless the Audit now says that 1979 tariff value fixation was wrong. But that is a different matter. Even if we apply 1979 values and assume that Tariff values of 1975 were operative at least till the middle of the next year the loss or difference would not be as much as the Audit has said. Even accordingly to the Audit, the 1979 values could not have become inoperative in 1979 itself. They could have been operative at least for a year or one and a half years after that. If we take 1979 values and apply them retrospectively to the years 1976 or a part of 1976, 1978 and a part of 1979, and assume that the rise between 1975 and 1979 in the values was a uniform rate of increase if we assume that, the difference will not come to more than Rs. 5 crores or Rs. 6 crores."

1.41 Enquired in regard to the figures of additional revenue which would have occurred in case tariff values were revised every year subsequent to 1975, the Ministry of Finance (Department of Revenue) have in a note intimate as under :

"Since data on the average market prices and total quantity of dry fruits imported from all sources is not available, the exact amount in case tariff values were revised in 1976, 1977 and 1978 cannot be quantified. However, assuming that the tariff values fixed in 1975 would have been in operation at least for a year or one and a half years and that the rise between 1975 and 1979 in tariff values was of a uniform order, additional revenue which would have accrued on the basis of national tariff values would be Rs. 6.072 crores approximately during the aforesaid period.

1.42 The Committee enquired about the provisions in the Customs Act for fixing tariff values and with reference to what values of such goods are to be fixed. In reply, the Ministry of Finance (Department of Revenue) have stated in a note :

"Section 14(2) of the Customs Act, 1962 empowers the Government to fix tariff values for any class of imported goods having regard to the trend of value of such or like goods for the purpose of levying customs duty."

1.43 Enquired if the fixation of tariff values with reference to market value was in accordance with the Law, the Ministry of Finance (Department of Revenue) have in a note intimated :

"A reference has been made to the Law Ministry on this question."

1.44 The value of goods for purposes of assessment to customs duty is determined under section 14 of the Customs Act, 1962. Sub-Section (2) thereof empowers the Government to fix tariff values for any class of imported goods having regard to the trend of values of such or like goods for the purpose of levying customs duty on ad valorem basis. Accordingly, Government have fixed tariff values in respect of dry fruits, fresh fruits and other specified goods. These values are revised from time to time. The tariff values of dry fruits as fixed in 1975 were not revised till 1979. According to the audit paragraph, the invoice values of dry fruits imported during the years 1975 to 1979 were so much more than the tariff values fixed in 1971 that the non-revision of tariff values during these years resulted in short realisation of Customs duty to the extent of Rs. 22.40 crores.

1.45 The Ministry of Finance have not accepted the above figure of Rs. 22.40 crores. They have stated that assuming that the tariff values fixed in 1975 would have been in operation at least for a year or one and a half years and that the rise between 1975 and 1979 in tariff values was of a uniform order, additional revenue which would have accrued on the basis of national tariff values would be Rs. 6,072 crores approximately during the aforesaid period. It is not, however, the Ministry's case that the prices of dry fruits remained stable during the years 1975-79; they have, in fact, accepted that the prices did continuously rise during these years. Whatever, therefore, be the exact quantum of loss of revenue between the two extremes of Rs. 6 crores and Rs. 22 crores, the fact remains that the non-revision of the tariff values over a long period of 4 years when the actual prices were going up did result in a very substantial loss of revenue.

1.46 The authority given to the Central Government to fix tariff values in Section 14(2) of the customs Act is subject to the guidelines that the tariff values should be fixed "having regard to the trend of value of such or like goods". It is, thus incumbent on the Central Government to ensure that the tariff values fixed by them do keep pace with the trend of actual values. The Committee are, therefore, unable to accept the wide statement that there is no periodicity laid down in the law for the fixation of tariff values; the aforesaid provision apparently implies a periodicity in consonance with the movements of actual values of the particular goods. In the Committee's view, the basic principle of valuation under Section 14 is the value in the course of international trade and a tariff value is only a value of convenience which can be adopted in the case of goods whose value fluctuates within narrow limits. Such tariff value has to keep pace with the trend of actual values and a tariff value which loses its relation with the actual value is no more a proper value within the meaning of Section 14.

1.47 The Appraising Manual of the Customs department specifically provides for an annual review of tariff values. During oral evidence on 22nd October 1981 the Member (Customs) argued that these provisions of the Appraising Manual had, over the years, lost their relevance and in his personal opinion, probably rightly so. He also stated before the Committee that there was "no recorded conscious decision that it (revision) should be done once a year". From the written notes sent by the Ministry of Finance, however, the Committee find that the Minister for Revenue and Expenditure had given orders in June 1979 that there should be a yearly or six monthly revision of tariff values. Further, in a inter-departmental meeting convened by the Finance Secretary on 10th October, 1980, which was attended among others by the Commerce Secretary, it was formally decided that the tariff values

should be reviewed every year. The statement made during the oral evidence on 22-10-1981 that there was no recorded decision for annual review/revision of tariff values was, therefore, apparently incorrect. The conclusion is inescapable that during evidence before the Committee the representative of the Ministry of Finance was arguing only for the sake of argument in an attempt to cover up a rather serious lapse that had taken place.

1.48 The Committee would recommend that in this as well as in all other cases where tariff values are fixed, such values should be kept under constant watch to make sure that they do not, at any point of time, lose their relationship with the actual values. The Committee would reiterate that this is an essential requirement of Section 14(2) of the Customs Act 1962.

1.49 The Ministry of Finance have been fixing tariff values with reference to the prevailing market prices. When asked whether this was in accordance with the provisions of law, which mentioned only the value in the course of international trade, the Ministry of Finance have stated that a reference has been made to the Law Ministry on this question. The Committee would recommend that the question should be sorted out quickly and the requirements of the law should be fully complied with in fixing tariff values in future,

1.50 According to the public notice issued by the Ministry of Commerce in December 1977 the value of the imported dry fruits for the purpose of debit to the CCP's (Customs Clearance Permits)) and for remittances to the suppliers through the bank, as also for the purpose of determining counter-balancing exports in respect of such imports, would be the value as declared in the suppliers' invoices. According to the information given by audit the invoice values of imports during the year 1975—1979 amounted to Rs. 82.63 crores. In terms of the aforesaid public notice the counter-balancing exports would be of the same order. The Ministry of Finance also deposed during the evidence that so far as exports are concerned the Customs would not allow any exaggerated values or under-rated values and exports would go exactly in accordance with the values that should be the values under the Customs Act. If, therefore, the invoice values of the imports were not truly representative of the actual values, as stated by the Ministry of Finance, but the counter balancing as exports were correctly valued, it would only mean that a sizeable portion of the export earnings were illegally retained abroad. The Ministry of Finance have contended themselves with the statement that "this, however, should not create an impression that the manipulative remittance have gone unchecked. The Directorate of Enforcement which has the primary responsibility in this regard is reported to be having quite a number of cases under investigation". The Committee would like to have a detailed list of the importers in whose case the totals of invoice values of imports, and hence of counter-balancing exports, during the said years, exceeded Rs. fifty lakhs each, the details of cases booked against them by the Directorate of Enforcement, the amounts involved and the results of inquiries so far completed.

CHAPTER II

Audit Paragraph

EXEMPTION ORDERS ISSUED UNDER THE CUSTOMS ACT, 1962

2.1 Section 25(2) of the Customs Act, 1962 empowers the Central Government to exempt, in the public interest, and under circumstances of an exceptional nature to be stated in such order from the payment of customs duty, any goods on which duty is leviable. The number of exemptions issued and acted on during the past four years is indicated below :

	1976-77	1977-78	1978-79	1979-80
(i) Number of exemptions issued and acted upon	248	301	198	97
(ii) Total duty involved (in crores of rupees)	9.44	15.52	59.98	204.54
(iii) Number of cases having a duty effect above Rs. 10,000	138	191	125	75
(iv) Duty involved in the cases at (iii) above (in crores of rupees)	9.35	15.48	59.95	204.53

[Paragraph 1.24 of the Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Civil) Revenue Receipts, Volume I, Indirect Taxes]

Powers of the Government to grant exemption

2.2 The Committee wanted to know the powers of the Government to grant exemption from the payment of duty under the Customs Act, 1962. In a written note, the Ministry of Finance (Deptt. of Revenue) have furnished the following information :—

“The Central Government is empowered to grant exemption from payment of customs duty under Section 25 of the Customs Act, 1962. Under sub-section (1) of Section 25, the Central Government is empowered to grant general exemptions. This sub-section reads :—

“If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, goods of any specified description from the whole or any part of duty of customs leviable thereon.”

Under sub-section (2) of section 25 *ibid* the Central Government may grant exemption on *ad hoc* basis in circumstances of exceptional nature. This sub-section reads :—

“If the Central Government is satisfied that it is necessary in the public interest so to do, it may by special order in each case, exempt from payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.”

2.3 Exemption granted under section 25(1) *ibid* are available to all, subject to fulfilment of the conditions, if any, mentioned in the notification.

Such exemptions are given having regard to various factors such as our international commitments, bilateral agreements, requests from the trade or concerned Ministry that the reduction in duty is justified on the basis of differential in international and domestic prices or shortage of the commodity, to encourage/give filp to a particular industry, encourage R&D efforts in India, to carry out economic and social programmes, or importations made by charitable institutions, hospitals, handicapped persons. These general exemption notifications may or may not have a limited validity. These notifications with a limited period of validity are reviewed from time to time and extensions granted wherever the continuation of the exemption is considered necessary.

Ad-hoc exemptions under section 25(2) *ibid*, on the other hand, are granted to meet particular situations. By and large, orders for such exemptions are issued in respect of imports to meet immediate shortage of a particular commodity in the country and imports made by individuals, religious or charitable institutions, hospitals, educational institutions, mountaineering expeditions etc. In respect of exemptions granted on *ad hoc* basis to individuals, organisations etc., the examples are artificial limbs imported by handicapped persons, articles of religious sanctity imported by religious institutions, mobile vans/ambulances imported by hospitals etc.

“Exemptions, either general, under section 25(1), or special orders under section 25(2) *ibid* are not granted so as to have retrospective effect.”

2.4 Unquired in regard to the grant of exemption under Section 25 (1) (a) Ministry of Finance (Deptt. of Revenue) have stated in a note :—

“The main basis for granting general exemption is that the exemption is necessary in the public interest. Any conditions required to be fulfilled, either before or after the clearance of the goods in question, are imposed with a view to carrying out the objectives of the exemptions sought to be granted by the Ministry.”

2.5 Explaining the conditions which warrant the grant of special exemption under Section 25(2) the Ministry of Finance (Department of Revenue) have intimated :—

“The conditions for granting special exemption under Section 25(2) are :—

- (1) the exemption should be in public interest and
- (2) circumstances of exceptional nature should exist.”

2.6 The Committee desired to know as to how was it ensured that the aforesaid conditions are satisfied in all cases where exemptions are granted. The Ministry of Finance (Department of Revenues) have in a note furnished the following information :—

“There are two broad categories of special exemptions granted under section 25(2) of the Customs Act, viz. exemptions to trade and exemptions granted to individuals, institutions or organisations.

In respect of imports for trade, the public interest is taken care of by ensuring that the exemption is justified on broad economic considerations such as the difference in international and domestic prices. The exceptional circumstances may vary from case to case. However, in most of the cases exemptions are recommended by the administrative Ministry and considered by this Ministry to meet the scarcity of a particular commodity at the relevant time.

The exemption to individuals and institutions are granted keeping in view that socio-economic objectives of the State so as to subserve the public interest. Thus, imports for charitable purposes, for the benefit of the sick and invalid, for meeting natural calamities, specialised equipment required for preservation of old manuscripts, equipment for mountaineering expeditions etc. are considered for exemptions. The circumstances of exceptional nature may vary from case to case. However, by and large, the exemptions in such cases are granted only where the articles have been gifted and no foreign exchange is involved. Further, articles of general use such as camera, typewriter, video equipment, airconditioners, etc. which have general use, are not considered for exemption.

The status of the recipient organisation and genuineness of the request of an individual are taken into account by obtaining expert advice wherever felt necessary. In some cases where there may be a possibility of misuse, conditions are imposed (to be fulfilled before or after the clearance) to ensure that the exemption is utilised for the avowed objective.”

2.7 Enquired in regard to the procedure followed for the periodical review of the exemptions, the Ministry of Finance (Department of Revenues) have in a note stated :—

“Some exemption notifications are issued with a limited period of validity, where it is apparent that there may be the need for

the exemption only for a limited period. There is a regular procedure for review of such notifications. Such a review is undertaken prior to the expiry of validity of the notification in question in consultation with the administrative Ministry wherever necessary.

The above practice would not apply to those notifications which do not have a limited period of validity. However, if in the case of a particular notification it is felt necessary that the exemption should be reviewed the case is taken up for reconsideration of continuation of the exemption in consultation with the administrative Ministry. The review may also be taken up in such cases on a reference being made by the administrative Ministry/or by the Trade. In the recent past a set of exemptions have been reviewed as part of the annual Budget exercises."

2.8 The Committee enquired if the Ministry could say that the current exemptions were necessary in the public interest as on date. In reply, the Ministry of Finance (Department of Revenue) has stated in a note :—

"The procedure indicated earlier would ensure by and large that any notification which is no longer necessary in the public interest gets identified and is modified or withdrawn. It may, however, be mentioned that there would normally be some time gap between the change of circumstances rendering an exemption unnecessary in the public interest and consequential action resulting in its modification or withdrawal. With these qualifications, it could be said that all the current exemptions are necessary in the public interest."

2.9 The Committee wanted to have detailed particulars of the 97 exemptions granted during the year 1979-80 wherein duty involved was over Rs. 25,000 in each case. In a written note, the Ministry of Finance (Department of Revenue) have furnished the following information :—

"To be exact, 100 special exemptions were granted during the year 1979-80. A statement of 68 cases of special exemptions out of 100 referred to above, involving duty effect of over Rs. 25,000/- is placed at Appendix X."

2.10 The Committee pointed out that in the Audit Report presented to Parliament, the number of exemptions under Section 25(2) were shown as 97 with a revenue effect of Rs. 204.54 crores whereas in reply to advance questionnaire both the number of exemptions and the duty amount were changed. When asked in regard to the factual position, the Member (Customs) stated during evidence :—

"The Audit paragraph mentions 97 orders; and the amount of duty foregone in these 97 cases as Rs. 204.54 crores. This was the information which was communicated to the Audit. But with a proviso that there were three cases which had still to be reported—because the revenue implications of those three cases had not until then been worked out. These three cases were subsequently reported to the Audit; and the number,

therefore, would go to 100 and the revenue effect of those three cases was of the order of Rs. 40.64 crores. The total revenue implications as communicated to Audit in 100 cases were, therefore Rs. 245.57 crores."

2.11 The Committee desired to know the number of individuals exemptions with duty effect of over Rs. 10 crores during the last 8 years. In a written reply, the Ministry of Finance (Department of Revenue) have stated as under :—

"It has not been possible to collect details of special exemptions with duty effect of over Rs. 10 crores in each case in the last eight years. However, the details available from the year 1975-76 and the number of such cases in each year are as follows :—

1975-76	..	Nil
1976-77	..	Nil
1977-78	..	Nil
1978-79	..	Nil
1979-80	..	11

The details of the 11 cases for the period 1979-80 are enclosed as Appendix XI."

2.12 Enquired in regard to the number of exemptions and duty effect in respect of STC, SAIL and MMTC, the Member (Customs) stated in evidence :—

"The total number of cases where duty effect is more than 10 crores is 11 and the first two pertain to SAIL and No. 5 also pertains to SAIL, and the duty effect is Rs. 22.70 crores and Rs. 62.74 crores. For STC there are two cases, Sr. No. 3 and 4 with a duty effect of Rs. 23.83 crores and Rs. 16.80 crores. For MMTC there are two cases Sr. No. 6 and 8 with a duty effect of Rs. 10.81 crores and Rs. 13.08 crores. Then there is the National Dairy Development Board with a duty effect of Rs. 19.24 crores and the number of cases is three. There is one case of Government Medical Stores, Madras which involves a duty effect of Rs. 15.28 crores. The total is Rs. 184 crores and there are 11 cases."

2.13 The Committee wanted to know the total number of notifications issued during the period 1979-80 and 1980-81 for grant of exemption from customs duty under Section 25(1) of the Customs Act. In a written note, the Ministry of Finance (Department of Revenue) have intimated as follows :—

"During the financial year 1979-80, the total number of notifications issued under section 25(1) of the Customs Act, 1962 is 158. Out of these, 8 are rescinding notifications and 48 make modifications in procedure.

During the year 1980-81, the total number of notifications issued under section 25(1) of the Customs Act, 1962 is 228. Out

of these, 7 are rescinding ones and 86 make modifications in procedure."

2.14 Enquired in regard to the revenue effect of these notifications, the Additional Secretary, Ministry of Finance (Department of Revenue) stated during evidence :—

"when an exemption under Section 25(1) is issued, a notification is laid on the Table of the House alongwith the explanatory memorandum. In the memorandum the estimated revenue effect of the notification per year is indicated. I do not have the compilation of figures. They have to be collected."

2.15 Subsequently in a written note, the Ministry of Finance (Department of Revenue) have furnished the following information :—

"The estimated overall revenue effect in respect of exemption granted under section 25(1) of the Customs Act during 1979-80 was of the order of Rs. 205 crores in one full year. The estimate revenue effect in respect of similar exemptions granted during 1980-81 was of the order of Rs. 147 crores.

The aforesaid figures do not include the revenue implications of those notifications in respect of which the revenue effect was negligible or could not be worked out at the time these notifications were issued. However, the figures include revenue implications of notifications issued in connection with the annual budgets."

2.16 The Committee wanted to know the mechanism available with the Ministry of Finance to ensure that the exemptions granted were properly utilised in the public interest. The Chairman, Central Board of Excise and Customs explained in evidence :—

"We would say that there is a small distinction between the actual amount of revenue foregone and whether the exemption has served the purpose for which it is given. One is the question of keeping an account and the other is the proper question, whether the action taken by the Government served the purpose. So far as the second question is concerned, the need for exemption, even before the exemption is granted, a good deal of scrutiny is there by the Board. The revenue angle is very much in mind. In the case of most exemptions the Board does take a strict view. These exemptions are given by the Government, not the Board, in the overall interest on the basis of various balance of considerations.

Another question is : what is the mechanism for seeing that these notifications continue to be necessary and whether they are serving the purpose for which they are issued? This is a very large question of policy. A review of some kind, particularly of the important notifications, does take place from time to time. For instance, if in one or two cases it appears to us in the Board that a notification is no longer necessary, we would take it up with the administrative Ministry whether the justification still holds good. So, we are quite conscious

of the revenue interest and the Government interest in seeing that the notification continues to serve the purpose for which it is intended. But this is done by a process of consultation with others concerned."

2.17 Elucidating the position further, the witness deposed :—

"Such exemptions fall in two categories. One is non-commercial types, where the principles are laid down, like charitable stores where the question of policy does not really arise and the revenue commitment is not of that order. The other would be the type of cases dealt with in Annexure B, which would be of importation of large volume of canalised items and raw materials and the like. Even at the time of giving exemption some estimate is made of the scope of exemption, of the quantum of imports and the likely loss of revenue, so that the scope of the exemption can be said to be under control."

2.18 The Committee wanted to know the direction given by the then Minister of State for Finance at the time of grant of exemption to SAIL for duty free import of steel. The Member (Budget) stated in evidence :—

"M.S. (E & C) also pointed out that while the proposal of the Ministry of Steel for duty free import of steel may be agreed to, we should request the Ministry separately to streamline the arrangement for distribution so that the traders do not exploit the consumer of steel and make enormous profits. In other words suitable arrangements should be devised to ensure that the benefit of exemption from import duty is passed on to the real consumer of steel."

2.19 Asked if the same was complied with, the witness replied in the affirmative by saying that the same was communicated :—

2.20 Enquired in regard to the direction given to streamline the arrangement for distribution, the witness stated :—

"MS(E&C) also directed that we may separately obtain and keep on record information regarding the consumption of various categories of steel as between private and public sector so that we may assess in due course the relative benefits accruing to the private and public sectors from the proposed exemption from import duty. M.S. also desired that by way of abundant caution we should get formal confirmation of the c.i.f. prices on the basis of which the proposals for exemption have been processed."

2.21 The Committee wanted to know whether the Ministry of Finance was aware as to how the imported material was actually being distributed. To this the witness replied in the negative and stated that "we have not got anything."

2.22 The Committee asked whether in the absence or any follow up with regard to the conditions laid down for exemption, was it not necessary to devise some sort of mechanism to monitor if the purpose

for which the exemptions were granted was achieved. To this, the Finance Secretary replied :—

“What you have stated is of great value because after all whatever exemptions are being given, they do involve loss in revenue. Since they have been given in public interest it is absolutely necessary that not merely one tries to assess the public interest at the time of giving exemptions but also at subsequent stages. The subsequent stages in certain cases get determined by themselves. For instance in an exemption is given for a particular quantity to be imported—whether it is of edible oil or of steel or it is of aluminium, after all the quantity has been imported and if the Ministry comes up for a further continuance of that exemption, naturally at present also some sort of review is being made and questions are asked from the Administrative Ministry as to whether a particular quantity was imported or not, what sort of arrangements were made for distribution and whether the benefits accrued to the beneficiaries concerned? In some other cases a time limit is also laid down, i.e. the period is laid down when the exemption is for a particular period. When the period was to be renewed, at that time also, the assessment of public interest is made. But what you have in mind is appreciated that wherever it is necessary we should further strengthen our machinery and make a complete review where it is a continuing exemption and, if it is a continuing exemption, we should be able to have a system by which periodically a review can be made as to whether the purpose which the Government had in mind while granting an exemption is being served, continues to be served or whether any modification is necessary.

Another factor which has to be appreciated and has to be taken note of is that it is true that the Ministry of Finance will leave that work to the administrative Ministry just as in this particular case, you have noticed that whatever directions were given, these were passed on to the administrative Ministry concerned. One would expect that the administrative Ministries also will in turn have to keep in view this position that whatever public interest was there, whether it is being served, and they will also have to continue making a periodical review. It is with the help of the administrative Ministries that the Finance Ministry can do this job. I am very sure that we shall certainly take note of your suggestion that this sort of review should be undertaken and it should be undertaken periodically particularly in those cases where it is a continuing exemption.”

2.23 The Committee wanted to know what was the concept of ‘public interest’ for grant of exemption from duty. The Finance Secretary explained during evidence :—

“So far as ‘public interest’ is concerned, it has to be seen with reference to the circumstances prevailing at a given time and the determination of ‘public interest’ will vary also with the circumstances of the cases and the provisions of the law with which we are dealing. In this particular case, we are dealing

with the question of exemptions which are given from customs duty.

The customs duty, when it is levied, it is intended no doubt to get revenue. But at the same time, one has to take into account the total fiscal position as well as the requirements of the situation. To give a concrete case, take edible oil which I think, is the uppermost in the minds of the members. It has been imported on the basis of an exemption which has been given and it also forms the subject matter of adjudication in the cases which have been filed in various courts. There the test of public interest is very simple—is edible oil an essential commodity, is supply of edible oil suffering from shortage or surplus, is it that by giving exemption one can sell it at a lower price than one would have been able to sell? Again, what type of distribution system has been evolved: is the edible oil going to be used for monopolising by some parties or is it going to be distributed through fair price shops system or is it going to be used for the purpose of maintaining prices and pegging the prices at lower levels. All these questions arise at the time when exemption is given and an assessment, not legalistic I would say, but not a very general and pragmatic basis is made whether this exemption would serve the public interest or not.

As it is, on that basis a decision was taken. The Board would take a very strict view of the matter. The Central Board of Excise and Customs would not like the duty to be foregone, they would like more revenue to be collected but it is the Government that takes a final view in the matter. That is why, if you see section 25(1) and 25(2), the powers are not delegated to the Board. The powers are with the Government and the Government as a whole—that is the Finance Ministry, taking into account the points of view put forward by the various administrative Ministries and taking into account the agency which is importing—whether it is a public agency, whether it will function on profit motives or whether it will be again indulging in black-marketing, etc. All these factors are taken into consideration when one wants to satisfy himself whether public interest is being served or not. On this basis a satisfaction was made.”

2.24 The Committee desired to know whether there were guidelines under which the powers to grant exemption was exercised to ensure that the same served the public interest. To this the Finance Secretary replied in the negative.

2.25 The Chairman, Central Board of Excise and Customs stated during evidence :

“I think that when the Customs Act was amended or re-enacted in 1962, the question arose whether certain guidelines would be necessary. At that stage, no specific guidelines were put into the section. Possibly, it was felt that there might be various situations which could not fall within any particular guidelines except the one, namely, the public interest concept.

I may point out that these exemptions are to be ordered by the Central Government which are at the level of the Minister-in-charge. Usually, it is not only the Ministry of Finance which is concerned in all commercial types of importation. The administrative Ministries would also be associated so that a view is taken at a high level where one can reasonably expect to look into the public interest aspect of the matter."

2.26 The Committee wanted to know whether it was not feasible to lay down some guidelines to enable Parliament to examine and ensure that the power to grant exemption is being exercised correctly. The Finance Secretary replied in evidence :

"I personally feel—so far as public interest is concerned, it will be very difficult to lay down any guidelines—particularly in the circumstances which we are considering in the context of the law which relates to either the customs duty exemption or the exercise duty exemption. That is the first submission I wish to make. There are various safeguards which are already provided to ensure that whatever exemptions are given are in accordance with the wish and with the desire of the Parliament. And when the law was enacted, the Parliament, after due consideration,—has given the power to the executive, to exercise that power. That being so, now the question arises this way—whether this power is being exercised properly or not. There can be various ways of judging it. One way of judging it is this : whether this has been challenged in the Court and the Court has upheld it. Otherwise has the court held either in an individual case or in a group of cases that Government has erred ? That would be one way of judging it.

The other way is this : Power is not given to the Board; power is given to the Government itself, which is an elected Government. The question whether public interest is served or not has to be seen not merely by individual officers, but it has to be seen by the Minister also. No exemption is given unless a proper representative duly elected by the public approves this before granting the exemption; and there is no delegation of power given in this case as far as I am able to see it. On the individual case, whether it falls under section 25(1) or 25(2) or similar section under Excise Act, and so on, the judgement has to be applied by officers; the case has to be put up to the Minister; then alone the notification or the order is issued. Whatever notification is issued is placed before Parliament. It is not a mere formality as such. Each MP is entitled to know whether this power is properly exercised or not. Since the number of such notifications are quite large it is just possible that it is not humanly possible for a Member to go through all of these. But there has been no case where the bonafides of the Government has been challenged either by the Court or by Parliament. We have to take into consideration our own socio-economic conditions in judging public interest. It is not feasible to lay down guidelines."

2.27 The Committee felt that simply placing of exemption notifications before Parliament was not enough and wanted to know whether it was not necessary to lay down some guidelines whereby precise limits could be prescribed on the exercise of the powers by the Executive. The Finance Secretary replied in evidence :

"The general point which you are raising cannot be served by merely making an amendment to a particular individual law because this sort of formation of public interest has been used in a number of other cases. When the question of laying down the guidelines arises, there are laws where the Parliament itself gives direction about necessary guidelines to be laid down. But there the Parliament in its superior judgement has given the power to the Executive."

2.28 Elucidating the position, Member (Customs) stated in evidence :

"If I was able to assess the problem that you are trying to pose, I am quite one with you. This is the problem and the solution to this does not lie at our hands. Of course, if we make some guidelines, they would be useful. We had framed certain guidelines for issuing instructions with regard to Section 25(2). But the public interest is the main determination. It is as much a political decision as a bureaucratic decision. Now, in the context of particular political philosophy, the colour of public interest would change. Here the Parliament could and should have done something. They could have said that having regard to (a), (b), (c), (d) upto (z), the Government may grant exemption and then the Government would be bound by these guidelines for consideration of all exemptions. Such an Act by Parliament by way of guidelines would be binding on any political party and binding on bureaucrats as well. Now, this problem also could have got resolved if we were dealing with a situation like the Preventive Detention Act. But there the term has been so adequately judicially pronounced upon in various pronouncements, because the citizen has been affected, his rights have been affected. Here the situation is that because of essential conservatism of the Board, we have been very reluctant to grant exemptions."

Secondly, when an exemption is given, it is given for a very limited kind of situation where the challenges have been almost nil or free from any objection on grounds of discrimination. There has been no judicial pronouncements which would have acted as guidelines not only to the bureaucrats but also Parliament. But as it is you will have to leave it to us or leave it to the political masters, to the Parliament and to this Committee. The Section requires satisfaction of the Central Government before any exemption order is issued."

2.29 The Committee wanted to know whether any exemption granted under section 25(1) or 25(2) was challenged in a court of Law. In a

note, the Ministry of Finance (Department of Revenue) have furnished the following information :

“As far as the Department of Revenue is aware, there has been no Court case challenging Government's competence to issue order or exemption under Section 25(1) or 25(2) of the Customs Act. However, there have been a number of writ petitions on the ground of discrimination challenging notification No. 65-Cus dated 1-4-1980 and by the National Dairy Development Board. Similarly, ad hoc exemption order No. 81 dated 17-3-1978, and its subsequent replacements, in terms of which specified quantities of soyabean oil, sunflower oil, rapeseed oil, palm oil and palmolein are exempt from customs duty in excess of 5% *ad valorem* when imported by the S.T.C. has been challenged on the ground of discrimination.

In the case of imports of edible oils where discrimination has been alleged *vis-a-vis* the National Dairy Development Board, the Court have passed interlocutory orders for release of goods on payment of 50% of duty in cash and on furnishing a bond with bank surety for the balance. Similarly, in the cases of writ petitions filed in the Supreme Court, the Court has in most of the cases passed into locutory orders for release of goods on payment of duty of 5% *ad valorem* in cash and bank guarantee for the balance.

As regards the writ petitions regarding import of Palm oil etc. challenging discrimination *vis-a-vis* the State Trading Corporation of India, the Delhi High Court has decided that the private importers and the State Trading Corporation were not similarly situated and hence there was no discrimination and directed the petitioners to pay the balance of duty. It may, however, be mentioned that S.L.P's have been filed in the Supreme Court against the Delhi High Court orders and the Supreme Court has issued show cause notices and stayed the operation of the Delhi High Court's orders.”

2.30 Section 25(2) of the Customs Act, 1962 empowers the Central Government to exempt, in the public interest and under circumstances of an exceptional nature, from payment of customs duty, and goods on which duty is leviable. These exemptions as fall into two broad categories, viz., exemptions to trade and exemptions to individuals, institutions or organisations. The Committee are informed that exemptions to trade are allowed on broad economic considerations such as the differences in international and domestic prices. The exemptions are recommended in most of the cases by the administrative Ministries and considered by the Ministry of Finance to meet the scarcity of a particular commodity at the relevant time. The exemptions to individuals and institutions are granted keeping in view the socio-economic objectives of the State so as to subserve the public interest. By and large, the exemptions in such cases are granted where the articles have been gifted and no outgo of foreign exchange is involved. The status of recipient organisation and genuineness of the request of an individual are taken into account. Conditions are imposed for fulfilment either before or after clearance of goods to ensure that the exemption granted is utilised for the avowed objective.

2.31 Exemption notifications are issued either with a limited period of validity where the need for exemption from duty is for a limited period or without limitation of any validity period. The Committee are informed that the review of the former type of notifications is undertaken by the Ministry of Finance prior to the expiry of validity in consultation with the administrative Ministry but this practice is not followed in the latter type of cases where the continuation of the exemption is reviewed in consultation with the administrative Ministry only when it is felt necessary in case of a particular notification.

2.32 The Committee were informed during evidence that it is not possible to define "public interest" in precise terms to spell out the exceptional circumstances under which *ad hoc* exemptions could be granted under section 25(2) of the Customs Act, 1962. According to the procedure vogue, each case for grant of exemption is examined by the Ministry of Finance in consultation with the administrative Ministry and the exemption notification is issued after obtaining approval of the Minister-in-charge. All such notifications are laid before Parliament.

2.33 The number of exemption notifications issued under section 25(2) of the Customs Act, 1962 was 248, 301, 198 and 100 during the years 1976-77, 1977-78, 1978-79 and 1979-80 respectively. The duty foregone as a result of these exemptions was Rs. 9.44 crores, Rs. 15.52 crores, Rs. 59.98 crores and Rs. 245.18 crores respectively during these years.

2.34 A break up of 11 cases where exemptions (duty effect—Rs. 184.52 crores) were granted during the year 1979-80 and the amount of duty forgone was more than Rs. 10 crores in each case is given below :

- (i) To SAIL for import of mild steel plates and structurals: duty effect Rs. 22.71 crores and Rs. 62.75 crores.
- (ii) To STC import of edible vegetable oil: duty effect—Rs. 23.84 crores and Rs. 16.80 crores.
- (iii) To MMTC for import of aluminium ingots : duty effect—Rs. 10.82 crores and Rs. 13.08 crores.
- (iv) To National Dairy Development Board, Boroda for import of refined soyabean : duty effect—Rs. 19.25 crores.
- (v) To Government Medical Store, Madras for import of mobile medical clinics and spare parts : duty effect—Rs. 15.29 crores.

2.35 Section 25(1) of the Customs Act, 1962 empowers the Government to grant in the public interest exemptions generally from payment of customs duty. The Committee have been informed that revenue effect of exemptions granted under section 25(1) was of the order of Rs. 205 crores in 1979-80. As against this, the revenue effect of advance exemptions granted under section 25(2) during 1979-80 was Rs. 245.18 crores in 100 cases. Considering the list furnished to the Committee giving details of 68 cases in which exemption involving a duty effect of over Rs. 25,000/- were given during the year 1979-80, and the cases of grant of exemption to STC for import of edible oil and to SAIL for import of steel, dealt with in this report, and the fact that the number of such notifications issued were 248, 301, 198 and 100 during the year 1976-77, 1977-78, 1978-79 and 1979-80 respectively, the Committee cannot but conclude that the power vested in the executive to grant exemptions only in "Public interest" and "under circumstances of an exceptional nature" has been exercised too liberally and in some cases in utter disregard of the intentions of Parliament.

2.36 The Committee have been informed that no guidelines have been laid down spelling out the circumstances under which exemptions from duty are granted. In the absence of any such guidelines, the exercise of such powers has, in the opinion of the Committee, become a matter of arbitrary exercise of discretion and Parliament and the people are not able to judge whether such powers have been properly exercised. The need for some guidelines is still more necessary in view of the fact that the revenue foregone as a result of these exemptions has increased from Rs. 9.44 crores in 1976-77 to as much as Rs 245.18 crores in 1979-80. The Committee feel that the power to grant exemption is an unusual, extra-ordinary and exceptional power given to the executive and it is imperative that adequate safeguard should be there to ensure that these powers are used sparingly and there are no chances of their being missed. Further, the Committee expect that occasions on which powers under section 25(2) have to be exercised will be rare and stand the test of these being in the public interest and satisfy the circumstances of an exceptional nature as intended by Parliament.

2.37 The Committee observed that after the grant of exemption by the Ministry of Finance, on the recommendation of the administrative Ministry, the Ministry of Finance has no feed-back from the latter to evaluate whether the exemption has served the purpose for which it was granted. It is left to the administrative Ministry to evaluate whether the condition laid down in the exemption notification have actually been fulfilled. The Committee consider this arrangement to be totally unsatisfactory because except for assessment of public interest at the time of grant or renewal of the exemption, the Ministry of Finance does not get any information from the administrative Ministry nor the Finance Ministry cares to find out from the administrative Ministry as to whether the purpose for which an exemption has been granted has actually been achieved. The Committee therefore recommend that the Ministry of Finance should evolve some mechanism to establish a monitoring system to review periodically how far the objectives behind the grant of exemption have been achieved. On the basis of the requisite data obtained from the administrative Ministry in regard to each exemption granted under section 25(1) or 25(2) of Customs Act and after ensuring that the intended public interest has been served and the revenue foregone by grant of exemption has not been misused, the Ministry of Finance should decide whether the exemption should be allowed to continue.

Exemption granted to S.T.C. for import of edible oils

2.38 The Committee wanted to know the details of the exemptions granted to S.T.C. in the year 1978-79 from payment of duty. In reply the Member (Budget) in the Central Board of Excise and Customs stated in evidence :

"The first order was issued on 17 March, 1979 for a quantity of 3 lakh tonnes for soyabean oil, sunflower oil, rape-seed oil, palm oil etc. Then the second order was issued on 26th June for 6 lakh tonnes of the same varieties of oil, but that included the exemptions given earlier for 3 items and the third order for 5 lakh tonnes on 31st October".

2.39 Enquired about the reasons advanced by the concerned Ministry for seeking exemption, the witness deposed :

"Just prior to 1st March, 1979, there was no duty on these oils, but we introduced 12½% duty in the budget of 1979. Civil

Supplies and Commerce Ministry came up and mentioned about the increase in the international prices of these oils and how it would affect their working of supply of these oils to Vanaspati industry and distribution in the public distribution system at particular prices. They thought, they would not be able to bear this duty and keep the prices at lower level. They asked for a total exemption. Finally, it was agreed that 5% duty would be borne by them."

2.40 The Committee wanted to know as to when the 3 lakhs tonnes of oil exempted from duty by order dated 17-3-1979 was actually imported. The Secretary, Department of Civil Supplies stated in evidence :

"The decision to import edible oils for the entire oil year commencing from November till and of October next year is taken much in advance. When this duty was imposed in March, 1979, at that time we had already taken a decision to import the required quantity of edible oils, which at that stage was estimated to be around one million tonnes—gap between demand and supply. Since the edible oil import had already been canalised from December, 1978, we had taken up the matter with the Ministry of Finance for reconsideration of the decision on the ground that import of edible oil has been canalised. Secondly, the international prices were showing a tendency of going up, and domestic price situation required some kind of a moderating influence to prevail, and for which the landed cost should not be increased. Enhancing the price of vanaspati at that stage was also felt not to be in the best interest. We also felt that the prices fixed for public distribution of edible oils should also be retained at the same levels. On these socio-economic considerations, we submitted our proposal and after discussions, it was decided that 5% duty should be possible for us to accommodate within the price structure. Subsequently, orders were issued for the entire quantity of oil imported by S.T.C.

2.41 Asked when the shortages of oil within the country were assessed by the Government, the witness deposed :

"In 1976-77, a decision was taken to allow import of edible oil on OGL. That was the year of acute shortage. Even thereafter the gap continued. This gap was estimated by a Study Group and also by various other technical agencies and it is fairly well known that the groundnut production has remained stagnant for the last one decade around 6 million tonnes. The production of another important oil, i.e. mustard seed has also remained stagnant. This gap is unfortunately a widening gap and is ranging between 1 million and 1.3 million tonnes, depending on domestic production and other factors."

2.42 The Committee wanted to know the total production of edible oils in the country. The witness stated in evidence :

"We have got oil mills, solvent extraction plants, crushing capacity, etc. more than adequate to deal with even 10 to 20% more of oil seeds because in the production of oils from the oil

seeds, there is no difficulty. What we are suffering from is the shortfall in the production of oil seeds and in this area there are two main reasons. One is the stagnancy in groundnut production. Groundnut is the main oil seed which has remained stagnant for the last 10 years. There is no improvement. So also, mustard production has remained stagnant."

2.43 Asked in regard to the reasons for the sluggishness in the production of groundnut and mustard oilseed, the witness explained :

"The area of production of groundnut has not gone up very significantly. From 6.46 million hectares in 1955-56, it has gone up to only 7.2 million hectares in 1979-80. But virtually the total area has remained more or less stagnant over a long period. Secondly, another factor is that groundnut productivity was 752 Kg. per hectare in 1955-56. It was 747 Kg. per hectare in 1976-77, 797 Kg. per hectare in 1979-80. So productivity has remained constant. Production-wise, groundnut was 6.1 million tonnes in 1970-71, 6.18 million tonnes in 1971-72, 4.09 million tonnes in 1972-73, 5.93 million tonnes in 1973-74, 5.11 million tonnes in 1974-75, 6.75 million tonnes in 1975-76, 5.25 million tonnes in 1976-77, 6.09 million tonnes in 1977-78, 6.21 million tonnes in 1978-79 and 5.77 million tonnes in 1979-80. So, production has been virtually stagnant."

2.44 Asked in regard to the imports of edible oils made in the month of December, 1978 January and February 1979 after its canalisation in December 1978, the witness replied :

"I do not have the monthly figures, but during the entire year, 1978-79—financial year, the total quantity of oil imported by STC on Government account was 5.7 lakhs tonnes."

2.45 Subsequently the Ministry of Civil Supplies have furnished the following information in regard to the imports of edible oils by S.T.C. from December 1978 to February 1982 :

"Month-wise import of edible oils by STC from December 1978 (2-12-1978) till February 1982 is as follows—These figures are provisional.

Year	Month	Qty. (M.T.)
(1)	(2)	(3)
1978	DECEMBER	19,291
1979	JANUARY	50,504
	FEBRUARY	40,304
	MARCH	56,011
	APRIL	69,231
	MAY	1,30,790
	JUNE	77,430
	JULY	36,471
	AUGUST	1,22,443
	SEPTEMBER	72,168
	OCTOBER	86,487
	NOVEMBER	75,049
	DECEMBER	59,473

Year	Month	Qty. (M.T.)
(1)	(2)	(3)
1980	JANUARY	75,429
	FEBRUARY	67,097
	MARCH	1,61,347
	APRIL	1,43,940
	MAY	1,30,025
	JUNE	70,290
	JULY	1,03,670
	AUGUST	1,06,731
	SEPTEMBER	78,929
	OCTOBER	77,143
	NOVEMBER	1,48,447
	DECEMBER	32,600
1981	JANUARY	65,871
	FEBRUARY	56,356
	MARCH	89,825
	APRIL	81,204
	MAY	46,678
	JUNE	83,865
	JULY	1,41,998
	AUGUST	92,991
	SEPTEMBER	1,38,991
	OCTOBER	95,433
	NOVEMBER	1,33,172
	DECEMBER	1,27,613
1982	JANUARY	83,235
	FEBRUARY	44,416"

2.46 The Committee wanted to know the details of the imports made by private parties after the canalisation of edible oils. The C.C.I.&E stated in evidence :

"In the public notification of 2-12-1978 there was a clear provision in which it was stated that applications for grant of import licence against firm commitment under Open General Licence for import prior to public notice should be made to the Chief Controller within a period of fifteen days and import will be allowed in accordance with individual import licence issued by the CCI in this regard. In accordance with the provision, applications were received for grant of licence from parties who said that they had pre-canalization commitments and in this process in the year 1978-79, 219 licences were issued covering a total quantity of 1,70,232 metric tonnes, in the year 1979-80, 150 licences were issued covering a total quantity of 1,16,738 metric tonnes. This would cover the year of canalisation and 1979-80."

2.47 Subsequently in a note the CCI&E has furnished the following information :

- "1. Total number of applications made under Public Notice No. 21/78, dated 2-12-1978—636.
2. Total number of licences issued—476.

3. Year-wise break-up of licences issued :

Year	No of licences	Total quantity
1978-79	219	1,70,232 M.T.
1979-80	150	1,16,738 M.T.
1980-81	99	67,707 M.T.
1981-82	8	1,999 M.T.
Total	476	3,56,676 M.T.

Total value : about Rs. 189 crores.

4. The remaining claims out of 636 applications referred to above were rejected.
5. In addition, there were 117 cases in which the parties claimed that they had applied within the stipulated period in December, 1978, but neither the office records showed any such applications having been received nor the parties could produce acceptable evidence in support of their contention. These claims were also, therefore, rejected.
6. Some of the parties, whose claims have been rejected as referred to in paragraphs 4 and 5 above, have either filed writ petitions in the High Court or have preferred appeals to the Department in accordance with the prescribed Appeals procedure. The final outcome of these cases would depend on the decisions that may be taken in the writ petitions/appeals."

2.48 Asked if all these applications, where the import licences were granted for the year 1979-80, were submitted within a period of 15 days of the public notice, the witness replied in the affirmative and added that :

"Licences were issued even for the subsequent two years, but against the same provision i.e. against claims for pre-canalisation commitments."

2.49 Enquired whether the parties had made commitments even in 1979-80, the witness replied in the negative and clarified that the commitments were in respect of the period prior to 2nd December, 1978.

2.50 Asked whether all the commitments made prior to December 1978 were honoured by imports during the year 1979-80 and, the witness replied :

"No Sir. Licences were issued against those commitments after due scrutiny. There are people who went to the Court and obtained Court orders. Therefore, the process of issue of licences against those commitments continued apart from 1978-79, during 1979-80. During 1980-81 also 99 licences were issued for a quantity of 67,707 metric tonnes and during 1981-82, eight licences were issued for 1999 metric tonnes. I may say, Sir, some of the cases are still pending in the Courts where parties have made applications that they have applied for licences in time. A large number of requests made have also been rejected and this is, of course, not covered in the figures I have mentioned."

2.51 The Committee wanted to know the number of requests or applications received within 15 days after 2-12-1978 for the grant of import licences on the basis of prior commitments before canalisation, the number of applications rejected and the number of cases which went to the Court of Law. The witness stated :

"In the initial phase a number of cases were rejected in the CCIE's Office. Those parties went to the Court. The Court set aside the grounds on which rejection order was passed and in this process the total number of those who had gone to the Court in respect of whom the orders were passed in different stages was about 60. But the decision was taken by the then Government that even in the case of parties who have not gone to the court provided the facts and circumstances were similar, should also be given the benefit of the decision taken in the court cases. That is why though only 60 cases went to the Court, large number of cases were there where the licences were issued."

2.52 Asked if there was any judgment of the Supreme Court in such cases, the witness replied in the negative. Giving the details of High Court judgments, the witness stated :

"There were two groups of High Court judgments. One set of judgments came in May 1979. Immediately the Law Ministry was consulted on the point whether we should go in for appeal to the Supreme Court against orders of the High Court. The Law Ministry categorically advised in the negative. Therefore, those orders of the High Court were granted and similar other cases were also granted."

In the second lot of cases, there were other grounds of rejection. Those also were rejected in the High Court. Since the grounds of rejection were different, we again went to the Law Ministry to ask whether we should go on to Supreme Court on these grounds. Again the Law Ministry advised that this is also not a fit case for going in appeal. Therefore, cases which were similar in nature to this lot were also granted. We had obtained the opinion of the Law Ministry here in Delhi. The papers, I think, were seen by the Law Secretary, but opinion given on the file was that of the Joint Secretary, Law Ministry."

2.53 The Committee wanted to know whether according to the prescribed procedure, commitments for import of oil under OGL could be dishonoured after its canalisation. The C.C.I&E stated in evidence :

"In so far as the imports are concerned when a canalisation order is issued, as it happened in this case in the middle of the licensing period, then a specific decision is taken on the file by the Government and the CCIE whether pre-ban commitments should be honoured. In other words, if a ban or canalisation order is issued today and no mention is made in the public notice in regard to pre-ban or pre-canalisation commitments, then the position that emerges is that such commitments are not to be honoured. There is no question of honouring them. In this case on 2-12-1978 in the public notice a specific paragraph was there and protected the pre-canalised commitments subject to certain conditions. Therefore we

were bound by that. It is not the case that every time the ban or canalisation orders are issued pre-ban items are excluded. Recently for instance we canalised the import of pig iron. In that canalisation, no provision was made for pre-canalisation commitments. Thus I would say, in the case of imports such protection is not always given, but in this particular case the Government has taken a conscious view since OGL was to be terminated. In regard to exports Government recognized that there should be no loss of credibility or loss of orders. If we suddenly withdraw a particular item then it may become necessary that for this item the pre-ban commitment should be honoured. So, we lay emphasis on the policy that we should protect our exports. There is no provision of a similar nature or an automatic general provision for protection of pre-ban commitments on imports. It is a fact that in the case of edible oil many specific provisions were incorporated in the public notice."

2.54 The Committee wanted to know the justification for the continued exemption of duty at 5% on imports of oil by STC. The Finance Secretary stated in evidence :

"Ultimately, the decision was taken by Government when the STC and the Ministries of Commerce and Civil Supplies came up before the Ministry of Finance for renewal of the exemption which had been granted to them in the past. At that time, it was known that the STC would be able to bear even a higher rate of duty than what they were bearing. Instead of bearing five per cent, they might bear 12½% which was being charged as the duty from the private traders. Of course, all the imports were canalised at that time. Private traders were in picture in respect of limited imports only where the Ministry of Commerce was being forced to give licences on account of the commitments which had already been entered into by the importers. Though the private-traders were bearing 12½% duty still, there was a disparity between the customs duty that was being charged from the STC and the customs duty that was being charged from the private traders.

In view of the fact that the international prices were showing a downward trend—not that the trend had been established—we examined the whole matter. So when the examination was done it was thought that there were two options open before the Government. One was we charge higher customs duty from the STC—it becomes 12½. Now, this option was analysed in great detail to see whether this itself can lead to a push in prices so far as domestic market was concerned. The private imports, as had been indicated, were not to be taken into consideration. They were arising on account of extraneous factors. One was also not sure as to what extent the private imports were taking place. It was really the quantity which was being imported by the STC which was being taken into account and it was quite substantial being of the order of one million tonnes or so as compared to the domestic production of 2.4 millions or so. So it was felt that if the Government were to raise the customs duty in case of STC it might give a further push to the domestic prices. So, a deliberate decision at that time was taken that so far as customs duty was concerned, this might continue at 5%.

2.55 Thus, since 17-3-1978 the S.T.C. has been allowed import of edible oils as per specified quantities and at the concessional rate of duty of 5 per cent under exemptions notifications issued by the Ministry of Finance from time to time. The latest exemption order No. 28 dated 28-2-1982 for import of 2 lakhs tonnes of edible oils at the concessional rate, which will be in force upto 31-7-1982, is reproduced below :

"SUBJECT : IMPORT OF VEGETABLE OILS BY THE STATE TRADING CORPORATION OF INDIA—Exemption from duty.

I am directed to say that for meeting the situation arising by reason of the current demand-supply gap in vegetable oils in India and consequent inadequate availability of vegetable oils in the markets in India at reasonable prices, it is necessary in the public interest not only to import vegetable oils, but also to ensure that such vegetable oils are procured at as cheap a rate as possible and made available at reasonable prices to the public and manufacturers of vanaspati so that the vegetable oils and vanaspati are available to the people at reasonable prices in the country. For, this purpose it is proposed to import certain specified vegetable oils on Central Government Accounts through the State Trading Corporation of India Limited a body corporate wholly owned and controlled by the Government of India on a 'No-profit no loss' basis to that Corporation and thereby ensure—

- (a) supply of such imported oils to the public distribution system through the State Government at such time and in such areas as may be determined by the Central Government from time to time; and
 - (b) fair distribution of such imported oils to manufacturers of vanaspati throughout India at such price or prices as may be fixed or approved by the Central Government.
2. It has, therefore, become necessary to reduce the Customs duty on the import of such oils for the purpose of making available such oils through the public distribution system at reasonable prices and also for keeping the cost of production of vanaspati and the vanaspati prices at reasonable levels.
 3. Having regard to the circumstances of exceptional nature as mentioned above and in exercise of the powers conferred by sub-section (2) of section 25 of the Customs Act, 1962 (52 of 1962), read with sub-clause (4) of clause 44 of the Finance Bill, 1982, which clause has, by virtue of the declaration made in the said Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931), the force of law, and in supersession of the *ad-hoc* Exemption Order No. 92 dated the 12th November, 1981, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts in all a total quantity of 2 lakh tonnes of soyabean oil, sunflower oil, rapeseed oil, palm oil and palm-olein falling within Chapter 15 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), and to be imported by the State Trading Corporation of India Limited from—
 - (a) that portion of the duty of customs leviable thereon which is specified in the said First Schedule as is in excess of 5 per cent. *ad valorem*;

(b) the whole of the auxiliary duty of customs which is leviable thereon under sub-clause (1) of clause 44 of the said Finance Bill or under any other law for the time-being in force; and

(c) the whole of the additional duty of Customs leviable thereon under section 3 of the said Customs Tariff Act.

4. This exemption order shall be in force upto and inclusive of the 31st day of July, 1982."

2.56 The Committee wanted to know whether the public interest was served by grant of exemption in duty to STC on imports of oil. The Chairman, Central Board of Excise and Customs stated in evidence :

"This is asking for a value judgment and not for a question of fact. All that I may say with great respect is—you will kindly permit me to add a little—in this particular case we had not given exemption for unlimited quantities and for unlimited time, but in the context of circumstances placed before us from time to time we extended the exemption for a particular quantity and for a limited time. Each time when the Ministry of Civil Supplies came up to us there was a consideration whether the purpose for which the exemption was given continued to be served and a view was taken at the governmental level that this purpose still existed and that further exemption deserved to be given. Beyond that, in the sense of monitoring in great detail what our sister Ministry did, we did not go to that extent. If something comes to our notice that something is going wrong, we certainly take note of that and we bring it to the notice of the Ministry. Otherwise we leave it to them and we take it that they will discharge their responsibility."

2.57 The Committee wanted to know as to why the STC could not bear the duty of 12.5% when private parties even after paying a duty of 12.5%, and purchasing at the international prices were going to the courts and fighting with the Department to get import licences. In reply the Additional Secretary, Ministry of Commerce stated in evidence :

"In so far as the oils imported through the agency of the STC are concerned, they were meant primarily for two purposes: one for the public distribution system; and secondly for supply to the Vanaspati industry. In regard to the private parties who imported the edible oils by paying import duty of 12.5% after March 1979, they were not required to make available oils to public distribution system or to Vanaspati industry. These were available for sale in the free market where substantial profit margin was available. In the earlier case of STC, the oils supplied to PDS and to the Vanaspati factories were at fixed prices, with a view to serving the socio-economic purpose. Sales were being made, in the case of PDS through fair price shops and cooperative stores and to the vanaspati industry, with a view to containing the price. The proportion was broadly 60-40 in 1981-82. In 1979-80, the quantity for vanaspati industry was 5.02 lakh tonnes, and for PDS 1.54 lakh tonnes. In 1980-81 for vanaspati it was 6.96 lakh tonnes, and for PDS 4.31 lakh tonnes. In the current year for the first four months it was 2.12 lakh tonnes for vanaspati and 1.73 lakh tonnes for PDS."

2.58 The Committee desired to know the quantity of imported edible oils supplied for Public Distribution System and to vanaspati industry every year in 1979-80, 1980-81 and 1981-82, the prices at which these were supplied and if any changes were made in these prices as well as the prices at which these edible oils were imported in 1979-80, 1980-81 and during 1981-82. In a note, the Ministry of Civil Supplies have furnished the following information :

“The State Trading Corporation of India imports edible oils on Government account as per instructions of the Government for supply to the vanaspati industry for the manufacture of vanaspati and to the State Governments/Union Territories for supply to consumers through fair price shops under the Public Distribution System. For supply to the vanaspati industry, the STC imports crude soyabean oil, crude rapeseed oil and crude palm oil/neutralised palm oil. For supply to States/Union Territories for the purpose of Public Distribution System, the STC imports RBD palm oil, RBD palm-olein and also rapeseed oil. Rapeseed oil is imported in crude form and refined before it is delivered to the State Governments/Union Territories for issue to the consumers through the fair price shops.

Imports are made by the STC on the basis of the oil year which is from November to October. During the last three oil years, the quantities of edible oils imported by the STC along with their costs are given below :

Year	Quantity (in lakh tonnes)	Cost (Rs. in crores)
1978—79	8.24	479.83
1979—80	11.49	617.18
1980—81	10.74	516.00

3. The quantities of imported oils supplied to the State Governments/Union Territories for supply to consumers through the Public Distribution System during the last three oil years were as follows :—

Year	Quantity distributed through PDS
1978—79	93,000 tonnes
1979—80	3,50,000 tonnes
1980—81	4,15,000 tonnes (provisional)

During the oil year 1981-82, it is estimated that approximately 4.50 lakh tonnes would be allocated to the States/Union Territories for Public Distribution System.

4. These quantities were supplied to States/Union Territories at the following prices :—

Date	Type of imported edible oils	Issue price
25-4-79	Rapeseed oil (crude)	Rs. 6300/- per MT
to till	Rapeseed oil (Refined)	Rs. 8000/- per M.T.
date		
26-6-79	RBD Palm Oil—(bulk)	Rs. 6400/- per M.T.
to till		
date	RBD Palm Oil—(in tins)	Rs. 7750/- per M.T.
	RBD Palmolein (bulk)	Rs. 6400/- per M.T.
	RBD Palmolein (in tins)	Rs. 7750/- per M.T.

5. There has been no change in these prices so far since they were fixed in April and June 1979.

6. The quantities of imported edible oils supplied to the vanaspati industry during the last three oil years were as follows :—

1978—79	4,45,000 tonnes
1979—80	6,04,000 tonnes
1980—81	6,00,000 tonnes

During the oil year 1981-82, it is proposed to maintain supply to the vanaspati industry during more or less at the same level as that during the last oil year i.e. 6 lakh tonnes.

7. These supplies to vanaspati industry were made at the following prices :

Date	Type of imported edible oils	Issue price
13-3-79	Soyabean Oil (crude)	Rs. 7585/- per MT
	Rapeseed Oil (Crude)	Rs. 7585/- per MT
14-3-79	Soyabean Oil (crude)	Rs. 7250/- per MT
	Rapeseed Oil (crude)	Rs. 7250/- per MT
26-4-79	Soyabean oil (crude)	Rs. 7110/- per MT
	Rapeseed Oil (crude)	Rs. 7110/- per MT
2-5-79	Crude Palm Oil	Rs. 6960/- per MT
	Neutralised Palm Oil	Rs. 7110/- per MT
4-7-79	RBD Palm Oil	Rs. 7110/- per MT
15-9-79	Soyabean Oil (crude)	Rs. 7210/- per MT
to till	Rapeseed oil (crude)	Rs. 7210/- per MT
date	Crude Palm Oil	Rs. 7060/- per MT
	Neutralised Palm Oil	Rs. 7210/- per MT

2.59 The Committee wanted to know what were the socio-economic objectives behind the import of edible oils and grant of customs duty exemptions and how far were these have been achieved. In a note the Ministry of Civil Supplies have furnished the following information :

“Apart from meeting the demand and supply gap of edible oils in the country, the socio-economic objectives to be achieved may be stated as follows :

- (i) Improving availability of edible oils to consumers at reasonable prices.
- (ii) Stability in the prices of edible oils in the country.
- (iii) Ensure steady production of vanaspati and stabilise prices of vanaspati.
- (vi) Encourage public distribution of edible oils by the State Governments.

It was in January 1977 that the Government decided to import through the STC large quantities of edible oils to bridge the gap between the total demand for edible oils in the country and the availability for indigenous sources. This would be clear from the following statement :

Year	Indigenous production of edible oils (in lakh tonnes)	Quantities of edible oils im- ported through the STC (in lakh tonnes)
1978—79	27.37	8.24
1979—80	24.40	11.49
1980—81	25.03	10.74

2. The imports were canalised through STC from 2-12-1978. The imported edible oils have been utilised for two purposes—(a) for supply to the vanaspati industry for manufacture of vanaspati and (b) for supply to States/Union Territories for public distribution system. Allocations both for the manufacture of vanaspati and for public distribution system are made by the Ministry of Civil Supplies every month.

3. Apart from allocations to the vanaspati industry, distribution of imported edible oils to States/Union Territories for Public Distribution System has also been increasing from year to year as would be seen from the following :

Year	Quantity
1978-79	98,000 tonnes
1979-80	3,50,000
1980-81	4,15,000 tonnes (approximately)

During 1981-82 approximately 4,50,000 tonnes of imported edible oils are expected to be distributed through the Public Distribution System.

4. The import of edible oils through the STC is intended to moderate the prices of indigenous oils. It has also been possible to maintain the prices of vanaspati at reasonable levels. With these imports through the STC, it has become possible to operate a Public Distribution System for edible oils and thereby to make available to the common man a cooking medium at reasonable prices through the public retail outlets. A pragmatic oil usage policy was adopted which helped in reaching higher production of vanaspati and its availability throughout the year in various parts of the country. It has also been possible for the vanaspati industry to announce

a voluntary price restraint because of the supply of edible oils by the Government. Thus the imports and supplies of edible oils have helped in making available an essential cooking medium at a low price to a large number of low-income consumers all over the country.

5. In this connection, it may be pointed out that the prices at which imported edible oils are available to the final consumer through the Public Distribution System have been ranging between Rs. 8.50 to Rs. 9.50 per kg. as against the market price of approximately Rs. 15 to Rs. 16 per kg. and above for indigenous oils. The quantity of edible oils made available through the Public Distribution System accounts for nearly 20 per cent of the total household consumption of edible oils. It will, therefore, be observed that the policy of import of edible oils has improved the availability of edible oils to the common consumer. The *per capita* availability of edible oils in India is less than 5 kgs. per annum. This is much below the world average.

6. As regards exemptions from payment of higher customs duty on edible oils imported by the STC, it may be pointed out that STC is the largest single buyer of edible oils and its purchase and landed cost of edible oils greatly influence the international prices of these edible oils. Exemption from payment of higher customs duty has enabled Government to supply imported edible oils for public distribution system and for supply to vanaspati industry at reasonably low prices. Considering the sensitive nature of the commodity which is liable to fluctuations in prices in the international market it was considered prudent to see higher duty exemption. The surpluses generated have helped to maintain issue prices unchanged and provided an insurance against possible sharp increase in edible oil price in the international market. Even though the prices of indigenous edible oils have increased during the last two years, the issue prices of imported edible oils both for vanaspati industry and for the Public Distribution System have remained unchanged. The Customs duty exemptions have thus helped the STC to manage the edible oil operations on behalf of the Central Government and also contributed to the generation of surplus in its imported edible oil operations. These surpluses are credited to the Central Government and are therefore, available to the Government as resources for development activities."

2.60 The Committee wanted to know the price charged by the vanaspati industry in the year, 1979 and thereafter. The Secretary, Ministry of Civil supplies stated in evidence :

"About the vanaspati industry, since we decided to supply imported oil to them, we had prolonged discussions with the manufacturers, and thereafter it was decided that the industry would agree to observe a voluntary price control. The voluntary control was introduced in May 1977. The ex-factory price of vanaspati at that time was fixed at a rate not exceeding Rs. 158/for a 16.5 kg. tin. Thereafter following the reduction in the issue price of oil, the vanaspati industry brought the voluntary price still at a lower level; it was Rs. 140 per 16.5 kg. tin ex-factory with effect from 1st November, 1977. This arrangement continued, and despite some increase in the price of imported oil by suitable adjustment of the oil policy, we were successful in making the industry to observe voluntary

price discipline. Currently again under the same arrangement, the vanaspati price ex-factory is fixed at Rs. 192 per 16.5 kg. tin."

2.61 Asked in regard to the position from April 1979 onwards, the witness deposed :

"At that time, the voluntary price agreement was at the level of Rs. 168, and this continued despite several difficulties and opposition from the manufacturers and two associations. Then to get a proper appreciation of the correct cost of production of vanaspati, the Bureau of Industrial Costs and Prices was requested to submit a cost structure for the industry. From September 1980 onwards, there has been a constant dialogue between the Industry and the Ministry to ensure that the prices are maintained at a reasonable level. Then finally in April 1981 the final figure of Rs. 192 was agreed upon and this would remain in operation till the end of October. After the end of October, we will again be discussing with the Industry to ensure that the prices are maintained within reasonable limits."

2.62 Subsequently in a note the Ministry of Civil Supplies have furnished the following information in regard to production and price of vanaspati during the last 3 years :

"The production of vanaspati during the last three oil years (November to October) was as follows :—

1978-79	6,46,809 tonnes
1979-80	79,338 tonnes
1980-81	8,26,903 tonnes

Vanaspati Prices

During the past three years in response to appeals made by this Ministry from time to time the vanaspati industry observed by and large, voluntary price restraint as per details given below :—

Period	Voluntary price control by the industry Ex-factory price of vanaspati per tin of 16.5 kg.
1978-79	
April 1978 to March 1979	Rs. 140/-
1979-80	
16th September 1979 to 31st October 1979	Rs. 168/-
1980-81	
21st January 1981 to 28th February 1981	Rs. 192/-
1981-82	
12th April 1981 to date	Rs. 192/-

To this voluntary price of Rs. 192/- (inclusive of excise duty) for a tin of 16.5 kg, the industry is permitted to add the incidence of transport and distribution charges and wholesalers' and retailers' commission."

2.63 The Committee wanted to know whether there were manufacturers of vanaspati who imported edible oil for their use after payment of duty @12½%. The CCI&E replied in evidence :

“Licences were issued to a number of parties. Some of them might be vanaspati dealers; some of them might be traders also. We go by the name of the party. It looked that some of them were vanaspati manufacturers.”

2.64 Enquired as to why it was essential to supply oil to vanaspati manufacturers imported by STC @ 5% of duty, the Secretary, Ministry of Civil Supplies stated during evidence :

“Under the law, the vanaspati industry can use only imported oil supplied by STC and no other imported oil. That was one of the restrictions imposed to cover this type of contingency. Roughly 50 per cent was meant for supply to them and 50 per cent was for public distribution system, which means issue of oil to the State Governments for sale through fair price shops. What the FA mentioned was that in one or two years, it was 60 and 40 per cent. In fact, when the scheme started it was mainly for vanaspati. The issue of oil to public distribution system at that time was insignificant. Subsequently, as the public distribution system picked up, our emphasis has been on giving more to public distribution system and see that the entire demand of the State Government as assessed was fully met.”

2.65 The Committee wanted to know the average import or purchase prices of STC during 1979-80. The Secretary, Ministry of Civil Supplies stated in evidence :

“For the relevant year viz. 1979-80, the range of STC's purchase prices has been oil-wise for RBD palm oil for the period April to June 1979—Rs. 5559 to Rs. 5950 per metric tonne and for palmolene Rs. 5644 to Rs. 6035. July to September 1978 for soyabean oil price was Rs. 6188 to Rs. 6358, and for rapeseed oil Rs. 5993 to Rs. 6058. For palmolene it was Rs. 6018 to Rs. 6133. For October to December 1979; soyabean oil Rs. 5661 to Rs. 6035, for rapeseed oil Rs. 5823 to Rs. 5865, and for RBD palmolene Rs. 5738 to Rs. 5780. For January to March 1980 Rs. 5117 to Rs. 5559 for soyabean oil, and for palmolene Rs. 5823 to Rs. 5993.”

During this year, the rupee equivalent of the US dollar was about Rs. 8.50.”

2.66 Asked about the comparative prices in the international market during varying periods, the witness deposed :

“Take, for instance, July to September 1979. Soyabean oil was ranging between Rs. 6188 and Rs. 6358. During July-September 1980, the price was between Rs. 5206 and Rs. 5396. Similarly, during October-December 1979 soyabean oil price ranged from Rs. 5661 to Rs. 6035. During October-December 1980, the price was between Rs. 4544 and Rs. 5488. During January-March 1980, the price was between Rs. 5117 and Rs. 5559. During January-March 1981, it was between Rs. 4230 and Rs. 4760.”

2.67 The Committee wanted to know the profits made by S.T.C. on import of oil. The witness deposed in evidence :

"On this may I clarify one thing? This STC's profit as a corporate entity would be different from the profit i.e. the surplus acquired under this specific transaction taken by STC on an agency basis from the Government of India, because STC has been operating as an agent of the Government of India. Surplus or deficit would be either appropriated by Government or reimbursed to STC depending on the circumstances on oil account. The surplus in 1979-80 was Rs. 70 crores."

2.68 Asked about the position in regard to surplus available with S.T.C. in 1980-81 on oil import account, the witness informed during evidence :

"The operating account subject to further confirmation by Audit, would be around Rs. 80 crores."

2.69 The Committee asked as to why the S.T.C. was granted exemption from duty in 1980-81 when they had surplus in their account, the witness explained :

"In the context of edible oil policy formulated by Government and after we obtained exemption, the Government decided that STC should pay only 5 per cent customs duty on imported oil. This policy is being continued as a part of the overall edible oil policy, because we are not very sure at what point of time due to fluctuations in the international edible oil situation, STC would be required to be reimbursed a substantial amount. So, the present policy according to the best information, is being continued till today as a part of the overall policy of management of edible oil economy in the country."

2.70 The Committee wanted to know the precautions exercised on the price charged by S.T.C. The Secretary, Ministry of Civil Supplies, stated in evidence :

"STC was conducting the entire operation on behalf of the Govt. of India. There has been an established system of Government of India sanctioning the price at which STC should sell oil to Vanaspati industry and State Governments for their public distribution system. This decision was taken by Government and it was communicated to the STC. STC has been operating on the basis of those decisions communicated from time to time."

2.71 Asked how the Government continued to approve of the higher prices when STC was making profits, the witness deposed :

"No. I will put in it a different way. STC was conducting the operation on behalf of the Government of India. The understanding as, that, they will get their agency commission; for doing various work, i.e., physical work of import, financing, so on and so forth. They will have the commission and profit or loss is to be on Government account. If there had been loss, STC would be entitled to reimbursement by the Government. If STC by adopting a particular price which had generated some surplus, at that price, after deduction of agency commission, the

amount would be transferred to the Government. The normal concept of profit as we understand it in the business sense, was not available here. This account was kept separately by the STC. This was kept separately in the STC's books, regardless of surplus or deficit emerging from time to time. This was communicated to Govt."

2.72 Since the international prices of oils had shown a downward trend during 1980-81, the Committee desired to know why the issue price for the local consumers was not reduced. The witness stated in evidence :

"The consumers all over India since the inception of public distribution system in edible oil have been getting oil at a steady price ranging between Rs. 8 and Rs. 9 per kg. at the consumer level. About this price, according to the discussion we had with the State Governments, we were told and this position was confirmed that it is a reasonable level compared to the prices prevailing in the domestic market. Although we may not strictly compare the prices of imported edible oils with that of our indigenous oils, like groundnut and mustard, but we may mention here that when the groundnut oil price was around Rs. 14 per kg. to the consumers, Palm oil which is a near equivalent to groundnut oil was available for Rs. 8.50 to Rs. 9 per kg. We think the consumer had derived a substantial benefit from the edible oil operation. Secondly, for the country as a whole when 4,00,000 tonnes of oil is available on average price to the consumer ranging between Rs. 8.50 to Rs. 9 per kg. and in the free market edible oils like groundnut, mustard, gingery and coconut are available at prices ranging between Rs. 14 to 16 per kg. I think taking into account that these 4,00,000 tonnes constitute about 20 per cent of the oil consumed in the country a substantial benefit has gone to the consumer. My submission is that even without reducing the prices Government was successful in providing the necessary relief to the consumer."

2.73 Enquired in what way the fall in the international prices of edible oils benefited the consumer since there was no reduction in the issue price of imported edible oils, the witness deposed :

"Benefit of the cheap imports, and what proportion of the surplus should be passed on to the consumer, the indicators in this case, if I may submit are two. The first one is whether the price at which the Government was selling oil was lower and secondly what was the difference between the open market price and the consumer price under the public distribution system. Here, the gap being anything ranging between Rs. 3 to 5 per kg., we thought that this benefit itself was substantial. The second indicator—which I may submit for your information—was the coverage of quantitative distribution of these imported oils. Previously it was about 1,52,000 tonnes and the distribution was stepped up to 4,00,000 tonnes roughly—over the time a much/ larger number of people came within the network of the distribution system, that means, the benefit was given to a much larger population. So, I think that though lowering the price in a given situation perhaps may give some benefit but in this particular situation considering the

wide gap already existing, the policy that was adopted had served the purpose of giving the benefit. But I agree that if it was further reduced perhaps some more people would have been able to buy oil at lower price."

2.74 The Committee desired to know whether it was not incumbent on the part of Government to reduce the price of oil in the public distribution system after evaluating the market trends in regard to the prevailing market price, black-market price and the international price which could act as a lever against exploitation by private traders. The witness deposed :

"This is an area on which there can be different views and opinions. It is a fact that we maintained in the public distribution the same level of prices in order to maintain reasonable stability in consumption. Secondly, we wanted the consumption of oil in the country to be developed through the public distribution system gradually to operate within the total quantity of oil which we had been authorised to import. Supposing in a given situation we had reduced the price to a low level of Rs. 5 or Rs. 6 or Rs. 7 per kg. the demand of oil at that price would have been so great perhaps there would have been a total shift in demand for this oil."

2.75 The Committee desired to know if the management of the edible oil distribution resulted in exploitation of the consumer. The witness stated in evidence :

"I do agree that in the management of not only edible oil put in regard to many other essential commodities the consumers do suffer due to various malpractices indulged in by the trade."

2.76 The Committee wanted to know whether the private importers made huge profits by exploiting the market since the Government did not reduce the selling price of their imported oil despite purchases at lower prices from the international market. The Secretary, Ministry of Civil Supplies, stated in evidence :

"As to how private traders operate and how their profit margin is built up is something on which I cannot express any firm opinion because their methods of operation, their levels and systems are altogether different, because they sell imported oil in the open market. I agree to the extent of the import of the oil by the private trade which they obtained from the appropriate authorities, they marketed it taking advantage of the prevailing domestic prices and they have sold it at a price—I do not know it exactly—but they have certainly made a profit on it—a sizeable amount of profit."

2.77 The Committee wanted to know the checks exercised on the vanaspati units to ensure that the products of these units were not being diverted for sale in the black market. The Secretary, Civil Supplies stated in evidence :

"Under the law, the vanaspati units are required to submit returns of total production. Under the amended order we have made

it obligatory for them to report to us to whom they are selling. These two checks have been introduced to ensure that these malpractices are checked. I do not rule out some malpractices but we have administratively taken steps to prevent this type of malpractices. There are 90 vanaspati units spread all over the country. From my end, I have written to the Chief Secretaries and our Minister has written to the Ministers of Civil Supplies in the States and the Chief Ministers to ensure that the vanaspati units, who have agreed to supply vanaspati under the voluntary price discipline arrangement, to sell vanaspati within the State at the stipulated prices and within the ranges contemplated."

2.78 Enquired in regard to the control exercised over the selling price by the wholesalers, the witness stated :

"Today there is no statutory price control of vanaspati. In the absence of that, we have to ensure that the manufacturers are selling their product at a price agreed upon. This could be effectively implemented by the industry itself. We had emphasized to the industry that they should try to discipline their wholesalers and retailers and review the position periodically. The voluntary price arrangement implies a certain self-imposed discipline on the part of manufacturers and also wholesalers and retailers. Since there is a linkage between them, the responsibility for this has been vested on the manufacturers. On top of that, periodically inspectors of the State Government and Central Civil Supplies Ministry undertake surprise inspection. So, such checks are available. If there are certain malpractices indulged in by them, we have requested the association to bring such cases to our notice when we can take some decision which we are competent to take such as not to supply oil to such parties. This is the only way control could be exercised under the Voluntary price arrangement."

2.79 To a query whether the retailers are required to exhibit the prices under the Display of Price Order, the witness replied in the negative and informed the Committee that according to the reports received from time to time the Price Display Order was being implemented in regard to selected commodities in many States.

2.80 Asked if it will be an offence if a retailer sells vanaspati oil at inflated rate, the witness replied :

"It will not be offence. But it will be violation of the voluntary price practice with the manufacturers and if it is brought to our notice we can compel the manufacturers to take that particular offending wholesaler to task."

2.81 The Committee wanted to know the position which would obtain in case statutory price control was imposed on vanaspati. The Ministry of Civil Supplies stated in evidence :

"It would be merely an expression of my personal opinion. If we have statutory price control, the marketing of the product and its distribution would create a number of problems. There is

lack of manufacturing vanaspati units in some States, while there is surplus production in others and there is deficit in still some other States. Therefore, a series of wholesale prices taking into account various things will have to be worked out for different areas. Administratively, it would be inconvenient. In the past, the statutory control of vanaspati had been tried for several years prior to 1975 and it was found to be extremely inconvenient administratively; it was not very successful."

2.82 Enquired if the profiteers could be booked the witness stated :

"For that there is no problem. Individual cases that come to notice can be prosecuted, but statutory control will have many limitations. The Essential Commodities Act, recently amended by Parliament, provides for punishment, summary trial of offenders etc. Then, there is the Prevention of Blackmarketing and Essential Supplies Act. Statutorily, the State Governments are fully empowered to deal with all persons including vanaspati manufacturers, dealers and traders under law. The State Governments have activated their machinery, but still it needs to be geared up and we have taken up this matter with them."

2.83 Asked if arrests had been made for violation of Essential Commodities Act, the witness stated :

"As a Central Ministry, we have not arrested anyone because we are not empowered but the State Governments have reported a large number of cases where because of the violation of the orders under Essential Commodities Act, they have taken action."

2.84 Subsequently the Ministry of Civil Supplies have furnished the following information in respect of arrests made for violation of the Essential Commodities Act :—

Sl. No.	States/U.Ts.	No. of persons arrested during			No. of prosecution launched during			No. of cases in which conviction secured during		
		1979	1980	1981	1979	1980	1981	1979	1980	1981
1.	Andhra Pradesh	7	36	69	10	2	1	4	—	—
2.	Gujarat	5	—	—	7	7	55	3	14	6
3.	Himchal Pradesh	5	5	5	1	5	6	1	1	—
4.	Madhya Pradesh	9	12	118	9	12	—	3	5	—
5.	Maharashtra	12	118	—	12	107	—	5	3	—
6.	Punjab	20	36	3	10	48	6	—	1	—
7.	Tripura	—	—	3	—	—	3	—	—	—
8.	A & N Islands	—	5	1	—	3	1	—	—	1
9.	Goa, Daman & Diu	—	—	—	—	1	2	—	—	—
10.	Pondicherry	—	—	—	—	—	4	—	—	3
		58	212	199	49	225	78	18	24	10

2.85 The Committee find that due to acute shortage of edible oils in the country in the year 1976-77, the imports of edible oils were allowed under Open General Licence. Due to continued shortages of edible oils resulting from stagnation in the production of groundnut and mustard seed in the country, it was decided to canalise the imports of such oils through State Trading Corporation with effect from 2-12-1978. The S.T.C. imports edible oil on Government account for supply to vanaspati industry for the manufacture of vanaspati and to the State Governments/Union Territories for supply to consumers under public distribution system. For supply to the vanaspati industry, the STC imports crude soyabean oil, crude rapeseed oil and crude palm oil/neutralised palm oil. For supply to State/Union Territories for the purpose of public distribution system, the STC imports RBD palm oil, RBD pelmolein and also rapeseed oil.

2.86 Customs Tariff Act, 1975, vide entry 15.07 imposed a duty of 60 per cent on imports of vegetable oils. However, prior to 1st March, 1979 total exemption from payment of duty on imports of vegetable oils was allowed in pursuance of notification issued under section 25(1) of The Customs Act, 1962. This policy of exemption was modified with effect from 1 March, 1979 and a duty of 12½ per cent was levied on all imports of such oils. Soon thereafter, the Ministry of Civil Supplies sent a proposal to the Ministry of Finance for total exemption from customs duty on imports of edible oils through STC on the grounds that—

- (i) the imports were meant for exercising moderating influence on the prices of indigenous oils because of which the landed cost should not be increased ;
- (ii) it was not in the public interest to raise the cost of vanaspati ; and
- (iii) the prices fixed for public distribution of edible oils were to be retained at the same levels.

2.87 The Ministry of Finance did not agree to total exemption of duty. They, however, agreed to reduction of duty from 12½ per cent to 5 per cent in the case of oils imported by STC consequently an exemption notification allowing STC to import three lakh tonnes of edible oils on payment of concessional rate of duty of 5 per cent was issued on 17-3-1979 under section 25 (2) of the Customs Act, 1962. Since then, notification allowing imports of specified quantities of these oils at the aforesaid concessional rate of duty have been issued from time to time. The latest exemption order No. 28 dated 28-2-1982 is for import of 2 lakh tonnes of edible oils at the concessional rate of duty and is in force upto 31-7-1980.

2.88 During the oil year 1979-80, STC imported 1.49 lakh tonnes of edible oils at a cost of Rs. 617.18 crores. During 1980-81 the quantity imported was .0.74 lakh tonnes at a cost of Rs. 516.00 crores. The indigenous production of edible oils in the country was 24.40 lakh tonnes and 25.03 lakh tonnes during the years 1979-80 and 1980-81.

2.89 The Committee have been informed that there was a perceptible fall in the prices of edible oils in the international market after September, 1979. For example, the prices of soyabean oil in the international market ranged between Rs. 6188 and Rs. 6358 per metric tonne in July-September, 1979. In October-December 1979 the price of this oil ranged between

Rs. 5661 and Rs. 6085 and between January-March, 1980, it ranged between Rs. 5117 and 5559. The prices fell to between Rs. 4544 and 5488 in October-December, 1980 and further fell in the range of Rs. 4230-4760 between January-March, 1981. Similar downward trend occurred in the prices of other edible oils. In spite of this downward trend in the international prices of edible oils, and the continuing concessional rate of duty, the consumers were charged the same rate for these oils.

2.90 The issue price of edible oils per tonne supplied to the States/ Union Territories for distribution through public distribution system since April-June, 1979 has been :

Rs. 6300/-	.	.	rapeseed oil (crude)
Rs. 8000/-	.	.	rapeseed oil (refined)
Rs. 6400/-	.	.	RBD palm oil (bulk)
Rs. 7750/-	.	.	RBD palm oil (in tins)
Rs. 6400/-	.	.	RBD palmolein (bulk)
Rs. 7750/-	.	.	RBD palmolein (in tins)

It will be seen that although STC was purchasing oils at much cheaper rates in the international market and was also availing of duty Concession, no reduction in the aforesaid issue prices was effected by the Government. There was also no change since September, 1979 in the prices of soyabean oil (crude), rapeseed oil (crude), crude palm oil and neutralised palm oil supplied to vanaspati industry. These prices ranged between Rs. 7060 and Rs. 7210 per tonne. The result was that while the Ministry of Finance had foregone customs duty to the extent of Rs. 40 crores during 1980-81 the surplus available with the STC on account of edible oil imports was to the tune of Rs. 80 crores in that year.

2.91 The Committee were informed during evidence that STC was operating as an agent of the Government and the surplus generated on this account would be appropriated by Government and deficit, if any, was to be reimbursed to STC. The Committee are of the view that this makes the position still worse as it indicated that Government resorted to profiteering at the cost of the consumers. The Committee were further informed that imports at concessional rate were being allowed as a part of overall edible oil policy and with the objective of maintaining stability in the prices of edible oils in view of the fluctuations in the international edible oil situation. It was further stated that as there was a wide gap in the prices of imported oils supplied through public distribution system and the open market prices of edible oils, it was felt that any reduction in the price of imported oils would further widen the gap.

2.92 The Committee feel that the plea of the Ministry of Civil Supplies that these prices were not reduced in order to maintain stability in the prices of edible oils and as a part of overall oil policy is totally unconvincing. They would like to point out that the basic objective of granting exemption duty on the imported edible oils was to ensure the supply of these oils to the consumers at reasonable prices. With the fall in the STC's purchase prices of imported oils, the benefit should have been passed on to the consumer so that the consumer could have got some relief at least on one count in this era of spiralling price rise. Since imported oils made available through the public distribution system constituted about 20 per cent of the total household consumption of edible oils in the country, any reduction in the prices of imported

oils would have made an impact on the prices of indigenous edible oils leading to a fall in its prices. Further, as about 50 to 60 per cent of the imported edible oils was being supplied to vanaspati industry, Government by supplying these oils to the industry at reduced price could have prevailed upon the manufacturers to reduce the price of vanaspati thus resulting in some relief to the consumers in the availability of vanaspati. What is still more shocking is that the Government's continuance to charge the same prices for imported oils even after the fall in the State trading Corporation's purchase prices enabled private parties to exploit the situation and make exorbitant profits by selling oil, imported at cheaper prices on the basis of contracts entered into before canalisation at the high prices prevailing in the open market. All these facts clearly demonstrate the scant regard Government displayed towards the interest of vast multitudes of helpless consumers in the country. The Committee cannot but express their deep anguish at this lapse on the part of the Government.

2.93 The Committee are of the view that the Ministry of Finance (Department of Revenue) have also failed in their duty to ensure that the objectives behind the grant of exemption were actually being fulfilled. It was the Ministry of Finance which by granting exemption from customs duty was losing revenue and it was the duty of that Ministry, when requests for continuing the exemption were received from the administrative Ministry from time to time to have ensured that the purposes for which the exemption was given were actually being achieved. The very fact that while the Ministry of Finance lost revenue amounting to Rs. 40 crores in 1980-81 as a result of exemption from duty on imported edible oils, the State Trading Corporation earned a surplus of Rs. 80 crores and still the exemption continued to be granted as and when request was received, clearly shows that the Ministry of Finance continued to issue exemption orders as a matter of routine without examining afresh the propriety of continuing this exemption on the touchstone of conditions as laid down in section 25(2) of the Customs Act, 1962. This further fortifies the observation of the Committee expressed earlier that there was no monitoring or feedback system in the Ministry of Finance to ensure the desirability or otherwise of continuing grant of exemptions. The Committee are firmly of the view that whenever any exemption is granted or a decision is taken to extend it for a further period, the two conditions as laid down in Section 25(2) of the Customs Act, 1962 are fulfilled. The Ministry of Finance must ensure that the extraordinary power delegated by Parliament to the Executive is not exercised in a routine manner but is exercised with due care and caution.

2.94 The Committee find that the import of edible oils under O.G.I. (open General licence) was terminated with effect from 2-12-1978 and from that date all such imports have been canalised through STC. According to the prescribed procedure as and when a ban or canalisation order is issued in the middle of a licensing period, which is from 1st of April to 31st March every year, it is not incumbent upon the Government to honour the pre-ban or pre-canalisation commitments. In the instant case, however, the canalisation order issued on 2-12-1978 in the middle of the licensing period, clearly provided that all firm commitments made prior to that date would be honoured by grant of import licences of receipt of applications within fifteen days. This resulted in receipt of 636 applications by the Chief Controller of Imports and Exports and grant of 476 licences to private parties who imported a total quantity of 3.57 lakh tonnes of edible oils during the year from 1978-79 to 1981-82. A number of applicants whose claims had been rejected have filed

writ petitions in the High Court and the final outcome of these cases would depend on the decisions that may be taken by the Court. The Committee would like to point out that Government were well aware of the high margin prevailing in the market on the imported oils and of the fact that the private importers were under no obligation to make the oil available to the public at reasonable prices. During evidence, the Secretary, Ministry of Civil Supplies, conceded that the private traders took advantage of the then prevailing domestic prices and made a sizeable amount of profit. The Committee would therefore like to be apprised of the precise reasons which promoted the Government to undertake to honour the commitments made by private parties prior to 2-2-1978 for import of edible oils in the country.

2.95 The Committee find that there is at present no statutory price control over vanaspati. The vanaspati units about 90 in number and spread all over the country supply vanaspati under the voluntary price discipline arrangement at the stipulated prices and within the ranges agreed to on mutual consultation between the industry and the Government. Under the existing system about 50 to 60 percent of the edible oils imported by the STC is made available to the vanaspati industry for manufacture of vanaspati. The vanaspati units submit to the Government returns of their total production as also the names of parties to whom the supplies are made by them. The voluntary price arrangement implies a certain self-imposed discipline on the part of the manufacture who are responsible to discipline their wholesale and retailers. If any wholesaler or retailer sells vanaspati at higher than the stipulated price, it does not constitute an offence but only violation of the voluntary price practice and if such an instance is brought to the notice of the Government, the latter can only compel the manufacturers to take action against the particular offender.

2.96 The ex-factory price of vanaspati under the voluntary price restraint by the industry was Rs. 192/- per tin of 16.5 kg. since April, 1981. The Committee understand that his price has now been raised to Rs. 217. To this price, the industry is permitted to add the incidence of transport and distribution charges and wholesalers' and retailers' commission. The Committee have been informed that the prices at which imported edible oils are finally available to the consumers through the public distribution system have been ranging between Rs. 8.50 and Rs. 9.50 per kg. as against the market price of Rs. 15 to Rs. 16 per kg. for indigenous oils. From the large number of complaints being received from the public and voiced in the press, it is clear that the common man, even in the capital, is not getting vanaspati at the so called voluntary price. In fact loose vanaspati is almost never available in the open market, it is diverted to black market and the distribution system is beset with a number of malpractices. There have also been complaints regarding profiteering in imported edible oils by the owners of fair price shops. If this is the condition in the capital, the plight of the poor consumers in far-off and remote areas in the country can well be imagined. The Committee were dismayed to hear the representative of the Ministry of Civil Supplies during evidence who expressed ignorance about any such complaints. Clearly the administration has lost all touch with reality and the Ministry Civil Supplies has completely failed to monitor the actual distribution of the vanaspati in the country. The Committee would recommend that Government should take effective measures under the Essential Commodities Act in co-ordination with the State Governments to plug all loopholes in the network of actual distribution of vanaspati and take stern measures against the offenders in order to ensure that the vanaspati is actually available to the consumers at the fixed price without any difficulty even in the remotest corner of the country.

2.97 The Committee note that the production of oilseeds in the country has remained stagnant during the last about 10 years. On the other hand, demand for edible oils has increased with the result that Government had to spend huge amounts on the import of these oils. The cost of imports of edible oils through STC was to the tune of Rs. 479.83 crores in 1978-79, Rs. 617.18 crores in 1979-80 and Rs. 516 crores in 1980-81. This is a matter of deep concern particularly at a time when the country is facing a large foreign exchange deficit and has been compelled to go in for large scale foreign borrowings. The Committee are distressed that this vital sector of agricultural economy which provides rich protein to the vast segment of our population has been neglected all these years and has been left untouched by the Green Revolution. The Committee are of the firm view that the country cannot afford to spend large sums of scarce foreign exchange on the import of edible oils when with a little effort indigenous production can be stepped up to meet the entire domestic demand. The Committee therefore recommend that Government should immediately chalk out a detailed strategy and time-bound programme to increase the production of oilseeds in the country so as to attain self-sufficiency in this vital field at the earliest.

Exemption granted to SAIL for import of Steel

2.98 The Committee wanted to know how the import plan for a particular year was determined. The Special Secretary, Ministry of Steel stated in evidence :

“The import plan is based on production plan, the actual performance by steel producers, that is, the integrated Steel Plants etc. during the year. As the Committee is aware, the Steel Authority of India (and before it, its predecessor, Hindustan Steel) had been functioning as canalising agents. In respect of import of steel items; this was there from 1970 onwards. Imports were based on specific demands registered with SAIL by end-users and consumers. These were bulked together and imports made. This is known as back-to-back arrangement. In 1978-79 same kind of innovation was made. That was in the context of the situation where production was falling short of estimated demand. Of course there were certain number of reasons which were responsible; and one of the important constraints had been the problem of coal and power. In that context it was estimated that there would be substantial shortfall in the availability of steel items, particularly to the core users and at that stage there was also the programme of 8% estimated increase in the industrial production and it was felt that unless something was done to meet the gap between the estimated demand and the availability from the domestic producers, this could lead to a very difficult situation and the industrial production would suffer. In that context it was considered that we have got to import substantial quantities of certain categories of items which are needed by these consumers.”

2.99 Subsequently in a note the Ministry of Steel have furnished the following information in regard to the procedure followed in preparing the import plan :—

“Import Plan for steel is made annually. Well before the commencement of the financial year, JPC collects the demands from various steel consuming sector. This demand is compiled category-wise. While compiling such demands JPC takes into account past

trend of consumption, likely growth rate of various consuming sectors, general economic conditions and other available relevant information normally used for such short-term forecast. Similarly, main steel producers work out categorywise production plan based on the commitments of supplies of various inputs like coal, power, raw materials etc. Availability from secondary producers such as Mini-Steel Plants, Pig Iron Manufacturing Units etc. is also worked out based on their past performance and the level of production likely to be achieved by them in the course of the following year. The categorywise availability thus arrived is then juxtaposed against the corresponding demand figures. Gaps/ surpluses in availability identified form the basis of import/export plan for the financial year.

On the basis of demand and production assessment, a tentative import plan is prepared by SAIL and sent to Government for consideration and release of foreign exchange. During the last 4 years, Government has been allowing duty exempted buffer imports for specified categories and quantities within the overall imports plan. For canalised items, projections are only indicative and actual imports vary according to the demand registered by the indenting parties."

2.100 The Committee wanted to know why was it considered necessary to seek exemption from duty on import of steel. The Special Secretary, Ministry of Steel explained during evidence :—

"The prevailing international price at that time was substantially higher than the domestic prices. So it was thought that these imports, if they are to be supplied to the producers at the imported price plus the duty etc., which was very much higher, it would really lead to cost push effect on the entire economy. Therefore, it was felt that duty exemption has to be given to enable the Steel Authority to pass on this imported steel to the consumer at the price at which the balance quantity was to be made available by the Steel Plants. In fact the estimates were that even with duty exemption the Steel Authority would have to incur certain extra expenditure to make available steel at the domestic prices that is the SAIL prices. In that context the proposal was really mooted to grant exemption from the import duty.

Now these proposals were made from time to time depending on our assessment of what the likely shortages were and what the international prices would be. On that basis these proposals were examined in the Ministry of Finance and cleared."

2.101 The Committee wanted to know the quantities of steel for which exemptions were granted in the years 1978-79, 1979-80, 1980-81 and

1981-82, the quantities actually imported and the prices paid therefor. In a note, the Ministry of Steel have furnished the following information :—

(A) During the year 1978-79 the following Exemption Orders were issued by the Department of Revenue, Ministry of Finance :—

(1) No. 194 dt. 29-7-1978 : for import of 2,89,000 MT of steel :

Plates	80,000 MT
Structurals	1,30,000 MT
CR Sheets/Coils	14,000 MT
HR Coils	50,000 MT
GP/GC Sheets	15,000 MT

Total 2,89,000 MT

(2) No. 293 dt. 19-11-1978: for import of 1,80,000 MT of steel :

Plates	60,000 MT
Structurals	50,000 MT
HR Coils/Sheets	40,000 MT
CR Coils/Sheets	30,000 MT

Total 1,80,000 MT

(3) No. 308 dt. 23-12-1968 : for import of 75,000 MT of Ingots. (This was not operated during 1978-79. The order was converted into one for import of slabs and billets on 21-4-80).

The quantities shipped during 1978-79 against these exemption orders are indicated below :—

(in '000 tonnes)

Category	Quantity exempted	Quantity shipped	Average C&F prices (Rs./MT)
1	2	3	4
Plates	140.0	90.4	2,809
Structurals	180.0	68.2	2,882
HR Sheets/Coils	90.0	63.9	2,850
CR Sheets/Coils	44.0	9.3	3,308
GP/GC Sheets	415.0	13.4	4,088
	469.0	245.2	

(B) During the year 1979-80, the following Exemption Orders were issued by the Department of Revenue, Ministry of Finance :—

(1) No. 100 dt. 24-4-1979 : for import of 7,40,000 MT of steel :

Plates	1,80,000 MT
Structurals	2,50,000 MT
Ingots	50,000 MT
HR Coils/Sheets	60,000 MT
Tin Mill Black Plates	40,000 MT
GP/GC Sheets	50,000 MT
Others	1,10,000 MT

7,40,000 MT

(2) No. 151 dt. 18-8-1979 : for import of 1,00,000 MT of Billet5.

(3) No. 177 dt. 22-11-1979 : for import of 50,000 MT of CR Coils.

(4) No. 178 dt. 22-11-1978 : for import of 60,000 MT of HR Coils.

The quantities in 1979-80 and those shipped (including spill-overs from the previous year) are as follows :—

Exemption Order issued :

(in '000 tonnes)			
Category	Quantity exempted	Quantity shipped	Average C&F prices (Rs./MT)
1	2	3	4
Plates	180	284.5	2,831
Structurals	250	293.0	3,352
HR Sheets/Coils	120	106.1	2,996
Tin Mill Black Plates	40	23.8	4,591
GP/GC Sheets	50	10.1	4,635
Slabs	50	83.8	2,314
Billets	100	98.9	2,627
CR Coils	50	—	—
Others	110	—	—
	950	900.2	1

(C) During the year 1980-81, an exemption order No. 26 dated 31-5-80 for 6,92,000 MT of steel was issued by the Department of Revenue, Ministry of Finance, Category-wise break-up of the quantity as approved by the Ministry of Finance is given below :

Plates	1,00,000 MT
Structurals	3,34,000 MT
Semis	1,13,000 MT
HR Coils	45,000 MT
Additional	1,00,000 MT
	6,92,000 MT

The quantities exempted and those shipped during 1980-81 (including the spill-overs from the previous years) are as follows :

(in '000 tonnes)			
Category	Quantity exempted	Quantity shipped	Average C&F Price (Rs./MT)
Plates	138.0	46.9	2,898
Structurals	350.8	253.7	2,968
HR Coils	70.0	109.8	2,703
CR Coils	—	42.1	4,445
Tin Mill Black Plates	73.2	43.3	3,521
Bars & Rods	60.0	—	2,706
	692.0	495.8	

(D) Similar information for 1981-82 is as under :

(in '000 tonnes)

Category	Quantity exempted	Quantity shipped during April- Sept. 81*	Average C&F price (Rs M/T)
1	2	3	4
Bars & Rods	—	30.3	2,734
Plates	320.0	72.8	2,708
Structurals	630.0	165.3	2,795
Tin Mill Black Plate	—	30.4	5,010
HR Coils	—	31.9	2,612
CR Coils	—	5.3	3,320
Total : Steel—	950.0	336.0	
Pig Iron	200.0	—	
Total : Iron & Steel	1,150.0	336.0	

* Mainly spill-over from previous years.

2.102 The Committee desired to know the estimated demand for the year 1978-79 and the shortfall against which steel was imported from abroad with exemption from duty. The Special Secretary, Ministry of Steel stated in evidence :—

“The buffer import plan for 1978-79 was 544 thousand tonnes. Under back to back it was 519 thousand tonnes. The total comes to 1.063 million tonnes. As against this Plan, the actual shipments that took place were 0.537 million tonnes under back to back and 0.245 million tonnes under buffer, total coming to 0.782. On the demand side the earlier figure that was mentioned was 8.2 million tonnes against which the production, including the production in the mini-steel plants was 8.059 million tonnes.

2.103 Asked if there was any shortfall the witness replied:

“There was shortfall. But as I mentioned this figure probably was exclusive of what the consumer would want to import under the various import plans on back to back basis.”

2.104 Enquired if the exemption from payment of duty was sought to make steel available at cheaper prices to the end consumers in 1978-79, the witness explained:—

“We did not really want to sell it cheaper than the domestic price. The whole idea was to supplement it. There had been a shortfall in the indigenous production and this shortfall had arisen due to factors beyond the control of the producer, namely, the Steel Authority or other steel plants. It was felt the gap must be filled by importing essential items. After all, the gap might have been much larger than what was proposed to be imported. But this was restricted to those categories which were required mainly by the core sector users.”

2.105 Since the prime objective of seeking exemption was to import steel for supply to end users, the Committee wanted to know why only 50% of the steel exempted from duty in 1978-79 was imported in that year. The witness stated in evidence:—

“This is absolutely correct. The position seemed to be that orders were hooked for 5,58,000 tonnes, but because of certain difficulties it must be realised that this decision to import was actually cleared some time in July. Initially it was 289,000 tonnes. It was done over a period of time. There were three separate instalments. In fact, the last instalment of 75,000 tonnes which related to ingots was not operated at all and eventually a different kind of product was imported against that. By this I am trying to explain that necessarily there will have to be some time lag although efforts were made to avoid it. But the Chairman is absolutely right in saying that the import was not to that extent and it is inherent in any administrative system despite the prompt action taken.”

2.106 The Committee desired to know as to why the exemption was sought at various stages of the shortfall of 1978-79. The representative of the Ministry of Steel stated in evidence :

“The position was that at the time when the letter was written for the duty exemption the shortages expected were about 4.95,000 tonnes; out of which 110 thousand tonnes SAIL had imported on back-to-back basis and 100 thousand tonnes was in the pipeline. Duty exemption was sought for the remaining 289 thousand tonnes or so. Subsequently in October we found after three months experience, that there were further shortfalls in production. The reasons given were that due to unfortunate developments consequent to floods in the Eastern region, Durgapur Steel Limited is limping back to normal, the requirement due to these shortfalls was likely to exceed 180 thousand tonnes within the next few months. That is why exemption for another 180 thousand tonnes was asked. The point I am making is that the original shortfall was not fully covered by the original exemption and subsequently when the production picture changed further exemptions were added.”

2.107 Enquired in regard to the authority which assessed requirement for a year, the witness replied :—

“In 1978-79 SAIL itself was doing the assessment because in the previous year there was a difficulty with the supply. But subsequently the Joint Plant Committee was made responsible for demand and supply plan. In 1978-79 SAIL itself was preparing it. J.P.C. had not evaluated the demand for the year 1978-79. Steel Authority of India evaluated their demand for 1978-79.”

2.108 Asked about the communication sent by SAIL to the Ministry of Steel, the witness stated :—

“All we have is a note which gives category-wise what is the total availability taking account of the quantity already imported by SAIL, that it may be necessary to import 289 thousand tonnes in respect of those categories.”

2.109 Enquired about the data furnished by the Ministry of Steel and the exercise done by the Ministry of Finance before grant of exemption, the Member (Budget) stated in evidence :—

“The Ministry of Steel had indicated the extent of shortfall and that they would need the exemption. They did not mention the indigenous demand or actual availability in the country.

2.110 Asked if the figures of indigenous demand or actual availability were not necessary to determine the necessity for exemption, the witness replied :—

“If a shortfall is accepted to be existing then the consideration for exemption proposed for imports is to meet the full demands of the material for the users. Quantum does not relate to the need for exemption. Exemption is on a different basis. When we need an article, which cannot bear duty, the quantum would not be quite relevant as such even though it will affect the quantum of the revenue foregone.”

2.111 The Committee desired to know why the figures of shortfall are not relevant for grant of exemption. In reply, the witness stated :—

“Exemption is asked for by the Ministry of Steel. We trust that they have taken all the relevant factors into consideration, with regard to the total production for the year 1978-79, their total demand for 1979-80 and the shortfall during 1978-79 etc. and also the fact that the international price being high, duty will add to the domestic pooled price. The quantity needed and the quantity produced in the country were not given, but the quantum of shortfall had been indicated.”

2.112 Asked about the details of the proposal sent to the Ministry of Finance in regard to exemption sought in July, 1978, the Special Secretary, Ministry of Steel stated in evidence :

“In the proposal that was sent, we had actually included a statement which indicated the total import plan for 1978-79 in respect of the six categories of steel for which exemption from import duty was sought. Figures have been given for all the six items put together. The import plan for 1978-79 provided for an import of 554,000 tonnes. This we apparently based on assessment of what the domestic production and what the domestic demand would be in regard to these six categories and the gap naturally has to be met by imports. In the narrative portion, it was made clear that SAIL have already imported and distributed 104,000 tonnes of these materials and another 161,000 tonnes are in the pipeline. So, the difference—289,000 was sought to be imported.”

2.113 Enquired if 410 thousand tonnes of steel imported during 1978-79 by SAIL under back-to-back system bore the duty burden on the international price, the witness replied in the affirmative.

2.114 The Committee desired to know as to why SAIL sought duty exemption when it imported similar steel on behalf of those parties who could afford to bear the duty burden, the representative of the Ministry of Steel explained :

"It is true some material had been imported, but we must recollect that this was year of falling production. Only 245,000 tonnes of buffer had come in 1978-79. During this year we were committed to meet a part of the demand at domestic prices. We found that the production was going progressively down. There is always certain sector of demand which can afford to pay international price. There is another sector of demand which cannot afford those prices which could take steel only if it was supplied at the lower domestic price. It was that sector of demand which was supplied by this."

2.115 Enquired if the duty free imported steel was also supplied to those parties which imported material on back-to-back system, the Special replied in the affirmative.

2.116 Asked is to why the parties who were getting steel on payment of duty were given allotments out of duty-free imports, the Special Secretary, Ministry of Steel stated in evidence :

"The whole rationale of buffer imports arose on account of certain shortfall in the estimated domestic production and on the basis that these categories were required by essential users in the core sector, most of whom were public sector consumers. The idea was, certain shortfall had arisen in domestic production which needed to be supplemented by imports. These imports were to be treated on par with indigenous production and distribution of both was to be subjected to the some guidelines or distribution norms as re-applicable to indigenously produced steel. In fact, the question could well be asked, if these parties were in a position to pay and sustain their use the higher price on back-to-back basis why must they be given any steel from the indigenously produced steel at all. But the whole point is that our distribution norms are such that they take care of the situation where the end user is in a position to use more steel. The basic point is that the imports under the buffer scheme were intended to be treated on par with the domestic production. And they were subjected to the same norms. If, under that scheme, particular party was disqualified he would not get it. But if he was not disqualified, perhaps, it would not be fair to deny him the steel if the steel was available indigenously."

2.117 The Committee wanted to know how the duty free imported steel was supplied to various parties. The Vice-Chairman, SAIL stated in evidence :

"68 per cent of the steel was given to the public sector comprising of SEB and power 20%, irrigation 1%, railway wagon builders 2%, PWD and CPWD 1%, other Government departments 3%, coal 1%, steel plants 28%, Heavy industries 4%, other public sector 0%, SSI Corporation 2%—total 68%. Amongst the private parties, large sector units 30%, SSI units 2%—Total 32%. We have tabulated these figures sector-wise."

2.118 The Committee wanted to know the system followed for the allotment of steel, the procedure for ascertaining the actual requirements of the Parties and the precautions taken to ensure that the steel allotted to them was actually consumed and not sold in the Black-market. In a note the Ministry of Steel have furnished the following information:

“With effect from December, 1975 there was no system of allotment of steel by JPC/Iron and Steel Control. During the years 1978-79 and 1979-80, allocation to Small Scale Industries Corporation (SSIC) & Engineering Export Promotion Council (EEPC) Sectors was approved by the Steel Priority Committee.

Then, based on the demands registered and past off take patterns the allocation to SSIC of each State was done by JPC/Iron & Steel Controller. On the recommendation of EEPC the fabricators/exporters of Engineering Goods were issued release orders by Iron and Steel Controller for supply from the main producers on the basis of allocation to the EEPC Sectors. In addition to the above during 1979-80 billets and H.R. Coils were distributed as follows :—

BILLETS:

Billets were distributed by main producers to the re-rollers on an entitlement formula devised by Department of Steel and also to some specified priority sectors on bulk allocation indicated by Department of Steel. The formula for distribution of billets to re-rollers was Annual one shift capacity X 120% of the best offtake of the previous three years.

Supplies to individual units were made by prorating the availability to the total entitlement of all units.

H. R. Coils/Skelps:

According to the decision of interministerial Committee of Commerce, Heavy Industry and Steel, the Department of Heavy Industry in consultation with DGTD worked out unit-wise allocation of H. R. Coils/Skelp to the Tube makers of large/medium scale sectors. Distribution to Small Scale Sector was done by the main Producers.

Allocation to all priority sectors viz. Railway, Defence, CEA/NTPC, CWC and Heavy Industry, SSIC and EEPC was done from 3rd quarter of 1979-80 in respect of all categories of steel within the purview of JPC.

However, the system for ascertaining the actual requirements of the priority sectors started only from the year 1979-80. The procedure followed for the year 1979-80 is in short as follows:—

1. Four months prior to the start of the concerned year, JPC centrally coordinated and collected the annual demands of the specified priority sectors with sector-wise details for 11 categories of steel within the purview of JPC.
2. Taking into account the demand thus projected and also the data available in respect of demand from other sectors, JPC estimated the aggregate to section-wise/quality-wise demand for 1979-80.
3. Details of the proposed production plan of the main producers on annual basis was obtained by JPC and likely availability from the mini-steel plants and re-rollers estimated. Import requirements were also estimated at this stage.

4. Taking into account the estimated, demand and availability including imports JPC prepared supply plans for specified priority sectors for the quarters III & IV of 1979-80 only.

There was no procedure for allotment of steel to individual units other than the allocation to tube makers and re-rollers was explained above.

To ensure that the steel supplied to the parties is actually consumed by them, the provisions of clause 7 of the Iron and Steel (Control) Order were brought into effect on 10th April, 1978. Pursuant to the provisions of clause 7, Officers of the Regional offices of Iron and Steel Control have inspected industrial units receiving steel materials from Main Producers and taken action and the relevant clauses of Iron and Steel (Control) Order including suspension under clause 11A and debarment of supplies under clause 28B, as and when necessary.

2.119 The Committee wanted to know why 75,000 metric tonnes of ingots needed by Rourkela and Bokaro Steel Plants and exempted from duty by notification dated 23-12-1978 were not imported during the years 1978-79, 1979-80, 1980-81 and 1981-82. The representative of the Ministry of Steel stated in evidence :—

“When we moved the Finance Ministry for 75,000 tonnes, this was on the basis that the Steel Plants would be able to roll these ingots further into finished products. Because there will be shortfall in the availability of ingots, that will be supplementing it by bringing from outside and thereafter the rolling mills will have the capacity. As it happened the rolling mills were not in a position to operate as they were expected to. Had these ingots been imported, they would have had difficulty to convert them. That is why no import of this quantity was made in 1978-79 and it was postponed to 1979-80.

The main reason why earlier exemption order could not be operated was the difficulty in its availability. Then SAIL's proposal was “It was decided to import slabs which also fell in the category of semi-finished product and attracted some Customs Duty.” They had ordered 30,000 tonnes, in addition Rourkela will require 71,000 tonnes.

The ingot which was visualised to be imported and could be available in the international market, that was not there. Secondly the steel ingots would probably require large quantum of power to be converted into finished products.

The ingots would have cost less. As it was not available, there was no point in continuing. Form I modification was made in April, 1980.”

2.120 Enquired in regard to the modification made in the earlier exemption order, the Member (Budget) stated in evidence :—

“The first amendment was dated 5-6-1979. For 75,000 tonnes of steel ingots, 30,000 tonnes of steel ingots and 30,000 tonnes of slabs was substituted from 5th of June.

On 18th September, 1979 it was changed to 75,000 tonnes of slabs. On 21st April, this was again changed to 50,000 tonnes of slabs and 25,000 tonnes of billets."

2.121 Asked as to why the ingots were got converted to slabs, the representative of the Ministry of Steel stated in evidence:

"Because we had seen by experience that ingots of the right size were not available, even the 1979-80 order for ingots was later on got converted into slabs".

2.122 The Committee desire to know whether an item exempted from duty on examination about its justification could be converted into any other item without satisfying about the need for its exemption from duty. The representative of the Ministry of Finance stated that the conversion was agreed to because the rate of duty was the same. The Chairman, Central Board of Excise and Customs further stated in evidence :

"While there cannot be any general order once and for all, there has to be a proper application of the mind; and when they came in for certain amendments, they came in with certain reasons; they said why they could not operate on the earlier orders and so on; on the basis of the reasons brought forward, it was decided to amend the order. It would have been possible to issue a separate order; it is not that whatever request came forward was not individually looked into."

2.123 The Committee desired to know whether the purpose of meeting the shortages was served with the import of only 2.45 lakh tonnes of steel against the exemption granted for import of 5.44 lakh tonnes in the year 1978-79. The Special Secretary, Ministry of Steel stated in evidence :—

"I accept the position that there was time lag and delay. This is somewhat inherent in any administrative action. The point is well taken that shortage continued and import was not really quite commensurate with requirement."

2.124 Enquired in regard to the justification for the time lag, the witness explained :

"Regarding justifiability of the time lag, I would only refer to the information which has already been supplied. For the year 1978-79 there were in fact only two orders which would have been implemented—one issued in July and the other towards the end of November. It is not as if you can straightway go and place orders and import material from abroad. These are large value imports and in fact one has to be extremely careful about observing the necessary formalities and the requirements which are based on rules of prudence and financial procedure. If we are to assess what was actually shipped during the year 1978-79, the figures which we should take into account is 239 thousand tonnes. It was cleared in July and the import action in regard to the concession which was given to us at the end of November would not have been completed that year. Naturally you must allow two or three months towards the end of 1978-79. If we go through the detailed break up in regard to the quantity shipped, the shortfall is mainly under two categories—plates and structurals, where actually the quantity that was imported was less than what was required. In the following year 1979-80, the

gap had moved down very considerably, because the spill-over of the previous year is of the order of 200 thousand tonnes. The dispensation given in the year 1979-80 was of the order of 950 thousand tonnes. Against these too 900 thousand tonnes were shipped including spill-over. By and large it seems that the action that was taken was expeditious. Since 1978-79 was the first year of buffer import policy formulation, there was certain time-lag."

2.125 The Committee desired to know why the exemption order in respect of 1,80,000 tonnes of structurals given in 1978-79 could not be implemented in that year and was carried over to 1979-80. The representative of the Ministry of Steel stated :

"One exemption order came on 29-7-1978, in July. Within two or three months we were able to finalise the orders and place them. The order of 29th November was practically meant for June-July requirements due to production shortfalls. If you see the system under which the global tenders are to be called, the evaluation to be done, and then all action is to be taken it takes almost two-three months and during that period the parties have to negotiate the cost. Because, we generally do not accept their prices if they are quoted if there is scope to bring down their prices. During the year the orders could not be placed for the whole quantity. But out of the first lot of 1,30,000 tonnes for almost all the orders have been placed."

2.126 Asked if the price paid for imports of structurals in 1979-80 was more by about Rs. 500 per tonne in comparison to the imports in 1978-79, the witness replied in the affirmative.

2.127 The Committee desired to know as to why the SAIL could not float global tenders on the basis of import plan and finalise the imports by July/August of each year. The Special Secretary, Ministry of Steel stated in evidence :—

"The mere fact that the supply plan reveals a shortfall would not justify SAIL going ahead with imports, assuming there was no scheme for buffer imports at all. Before the buffer scheme, there was scheme under which SAIL was acting as a canalising agent for various parties who needed steel. These imports were made on the basis of orders placed by various parties. SAIL could not under that scheme anticipate some future demand and order materials which may not be picked up. In respect of back-to-back imports, though there may be general clearance for imports, orders are based on the basis of specific demands placed by customers. Only in respect of buffer imports, a particular quantity is specified by Government saying, "up to this you can import." In respect of others, it is a self-balancing import which depends on demands being actually placed by individual customers."

2.128 Asked when the decision for import of steel was taken, the witness informed the Committee that it was taken in July 1978 when the exemption was granted and prior to that it was only a proposal.

2.129 Enquired if irrespective of the fact whether exemption from duty is there or not, was it not necessary to take a decision in the beginning of the year to import steel to meet the shortfall, the witness stated :

"The decision to make buffer import had to be taken in the context of continuing shortfall. This was a situation which could not have been visualised in March, 1978. Of course there was shortfall even in that year, but that the shortfall would be of this order could not be visualised at that point of time. The other thing is, if in ores are to be made, imports could be made irrespective of exemptions under 25(1) of 25(2). The decision to import could be either on *ad hoc* basis in consultation with Finance Ministry or it has to be part of the import policy for that year. This kind of import was not part of the import policy for 1978-79. My personal view is that since we are responsible for meeting a shortage situation, we have got to do it. Since the market premium was high, it would have been worthwhile even to import without duty exemption. The implication would have been either to raise the price of domestic steel or SAIL would have had to foot the bill."

2.130 The Committee desired to know whether premium on steel would have gone down if the imports had been made to the extent the exemptions were granted. The representative of the Ministry of Steel stated in evidence:

"Here we have to take a total view of not only how far the import was in line with what was planned, but also whether the domestic production was in line with what was planned, because the different elements of the supply all go into the same stream and go to the same market. Therefore, we can take a decision about the impact on the premium only if we take into account what was the planned domestic production, what was the actual production, what was the planned import and what was the actual. Merely by looking to the imports we cannot arrive at a correct decision."

2.131 The Committee wanted to know the details of the imports made against one lakh metric tonnes of additional imports of steel exempted in the order dated 31-5-1980. The representative of the Ministry of Steel stated in evidence :

"Out of the additional quantity which was unspecified, we made the adjustments. We put 38,000 out of that on buildings, about 16/17 tonnes on structurals, then HEC coil quantity was increased to 70."

2.132 Enquired if the grant of exemption gave discretion with regard to the importation of any items required, the Member (Budget) stated in evidence :

"We have said in the order that as and when the Steel Ministry gave details of this, these items were intimated to the ports separately. This is in the order. The allocation portwise was to be intimated separately."

2.133 Asked if the exemption order under Section 25(2) should not be specific in regard to the time, quality and quantity of the type or article to be imported, the witness explained :—

“They would still have to be covered by the tariff. Chapter 75 has been mentioned in the same order. They cannot go beyond that item.”

2.134 The Committee wanted to know whether imports to the extent of 3.36 lakh metric tonnes during April to September, 1981 were covered by exemption orders. In reply, the Special Secretary, Ministry of Steel stated in evidence :

“If you total up the quantity that had been exempted in the previous year, that kind of conclusion would be quite valid.”

2.135 The Committee desired to know whether it was not necessary for the Ministry of Finance to prescribe a time-bound programme for imports against exemption orders as in its absence the actual imports had taken place at periods subsequent to those when exemptions were granted. The Chairman, CBE&C stated in evidence :—

“It is a pertinent observation which we have noted.”

2.136 Asked why was it not possible to import material in the year when exemptions were granted, the Special Secretary, Ministry of Steel stated in evidence :—

“Actual importation depends on a number of factors. We can go into a particular case and examine if lot of time is taken unjustifiably. It is not as if importation would follow immediately after the exemption order is given. There has to be a certain time lag.”

2.137 The Committee wanted to know whether the Ministry of Steel would have gone in for the imports if the Ministry of Finance had not granted the exemptions. In reply, the Special Secretary, Ministry of Steel stated :

“It is difficult for me to say what we would have done. Either SAIL would have had to foot the bill or we would have had to go to the Government for some kind of subsidy or the price of domestic steel could be raised by another Rs. 120 to pay for these imports at higher cost.”

2.138 The Committee wanted to know whether the SAIL maintained any compensatory account to compensate for fluctuations in the price of steel in the market. The Vice-Chairman, SAIL stated in evidence :—

“There are some items which have got a premium and some others which do not have. The question is : how do we deal with this problem, particularly when there is an excess of production and there is no scarcity. For the stock years we fix a certain amount of target that they should be able to sell so much quantity from the stock yard. They cannot sell only premium items and leave in the stock-yard all those items which have a discount. That is not prudent. We want off-take from the stock yard of all types of items. Today there is scarcity and the question does not arise. At

one point of time there could have been periods when the managers would have sold more of discount items. It could have happened. As far as the company is concerned, we are not maintaining any accounts, either of debit or credit. Some parties did approach us in the corporate office at one time and claimed that this account should be settled. We had taken no cognisance of it."

2.139 Enquired if the question of maintenance of compensation account was ever mentioned in the Board, the witness stated :—

"The Board at one time did consider the question of slow moving and fast moving materials. I would like to read out from the minutes of the meeting held on 4th June, 1980. It was explained to the Board that package transactions of this nature are involved in the steel and other trades. But this was stopped in steel three years ago. The results since then have been that stocks of slow and non-moving materials have gone up which are difficult to dispose of despite the scarcity situation prevalent in the country.

The Board recognise that this was a commercial practice in various trades and there could hardly be any objection to its resumption provided adequate safeguards are built into the system. The Board also recognise that this might be helpful in building up better rapport with exporters. The Board further feel that these transactions should be settled separately rather than on account being maintained over a period of time."

2.140 Asked in regard to the safeguards provided to ensure uniformity in package transactions at various stock-yards, the Ministry of Steel have in a note furnished the following information :

"Main safeguards in supply of steel to registered traders under package deals are listed below :

1. It is laid down that package deals will be finalised in the branch by a Committee consisting of BN and an Officer from the Accounts Department. Each transaction of package do lakhs to be finalised by such Committee after ascertaining the market prices/trends from a cross-section of consumers/traders. It is also laid down that the Committee should certify in the allocation statements the fact that verification of the prices as laid down has been made. The Committee is also expected to obtain the best possible advantage for the Company and dispose of as much quantity of slow-moving items as possible.
2. In the procedure for package deals, the definition of slow-moving items has also been given. Any item not accepted by genuine customers after display in the Notice Board for 7 (Seven) days is treated as slow-moving item. Thus, before entering into package deals, opportunity is given through our Branch Notice Board for the actual consumers to purchase such materials as our listed prices. This Notice is also circulated to local branches of the leading associations like AIEI, Federation of Engg. Industries etc.
3. Procedure also provides that those materials which are lying in the stock-yards without disposal for more than six weeks and without any demand from customers, can be considered as slow-moving.

4. The system envisages submission of report on all package deals to the higher authorities like ZH, Sr. AO and GIMs.
5. The branches are under instructions to ensure that the materials sold on package deal basis are lifted completely as per allocation.
6. A ceiling of the total arrival of all prime steel items has been permitted to be used as an incentive item. Pig Iron, special quality materials and tested rails, pipes, tin plates and elec. steel sheets are prohibited from being used as incentive items. A system of checking the quantity being used for package deals has been laid down under which Branch Managers and the Accounts Officers have been instructed to keep a watch on these on quarterly basis and correct any imbalance in the subsequent quarters.
7. Package deals have been permitted primarily on the stocks readily available and not on future arrivals. The officers in the Branches have been instructed to ensure expeditious disposal of the non-moving stocks to avoid stock accumulation."

2.141 Enquired how much accounts squared up, the witness replied :

"In each lot, he can take some premium item and some slow-moving item so that the amount of premium is to that extent squared up with the discount. As far as the traders are concerned, we were giving them only to the extent of 2½ per cent of the total which we have now increased to 5 per cent. The trade really gets very little."

2.142 Asked about the decision taken by the Board on the outstanding demands of this account, the witness stated :

"The Board had further resolved that the proposal of the Central Marketing Organisation for disposal of slow-moving materials presently held in stock as well as expected in future and also for settling old commitments made to the trade on account of such deals concluded prior to Nov. 19, 1978, is hereby approved."

2.143 Enquired in regard to the position in regard to such transaction after November, 1978, the witness explained :

"There is the period between November, 1978 to June 1980 when such transactions were declared illegal. Transactions prior to November 1978 were on package deal. It also speaks of commitment made to the trade on account of such deals concluded prior to November, 1978. For subsequent period a very deliberate decision was taken that we don't recognise package deal. We stopped it completely saying there will be no package deal. Later on in 1980 CMO put it up again. Then only this decision was taken."

2.144 Asked since when this practice was in vogue prior to November 1978, the witness stated :

"I wanted to lay my hands to find out whether there was Board approval or not. I could not lay my hands whether there was a Board decision. As a producer we started in 1960-61, 1961-62; it might have been there since then. But I could not lay my hands on any Board decision."

2.145 Enquired in regard to the claim of the concerned parties, the witness stated :

"As far as the claim of the parties is concerned it could be about 4 crores."

2.146 Asked in regard to the names of the parties and the amount of compensation, the witness stated :

"If we were in a position to give the names of the parties and the amount of compensation to be paid, then we could have provided it in our books of accounts but we have not provided it. There is no cash payment involved in any case. The decision of the Board was that if at all they are to be compensated it would be by giving them those materials, that would be having some premium in the market."

2.147 The Committee wanted to know the action taken against private parties where they were caught red-handed in selling steel in black-market. The Special Secretary, Ministry of Steel informed the Committee that in such cases the parties were black-listed. Adding in this connection the representative of the Ministry of Steel stated in evidence :

"The Iron and Steel Controller suspends the supplies. If the misappropriation is proved, he suspends for a longer period. Those remedies are being applied."

2.148 The indigenous production of steel in the year 1978-79 fell short of the estimated demand due to various reasons, the most important being the shortage of coal and power. It was then estimated that there would be substantial shortfall in the availability of steel items particularly to the users in the core sector, and in that context it was decided to import sufficient quantities of various categories of steel to meet the requirements of the consumers. The prevailing international price of steel at that time was substantially higher than the domestic prices and, according to the Ministry of Steel, if the imported material was supplied to the producers at the imported price plus duty it would have led to cost push effect on the entire economy. The Ministry of Steel, therefore, approached the Ministry of Finance for grant of exemption from customs duty on the imported steel items to enable the Steel Authority of India, to pass on the imported steel to the consumers at the price at which similar indigenous items were to be made available by the steel plants.

2.149 The Committee find that the Ministry of Finance issued two exemption orders, one on 29th July 1978 and the other on 29th November, 1978 for the import of a total quantity of 469,000 tonnes of various items of steel against which a total quantity of 245,000 tonnes only was imported during 1978-79. Similarly, during 1979-80 against the exemption for import of 9,50,000 tonnes of steel items, 9,00,200 tonnes

were imported including spillovers from previous year. In 1980-81, while the quantity exempted was 6,92,000 tonnes, the quantity imported was only 4,95,800 tonnes including spillovers from the previous year. During evidence the Special Secretary, Ministry of Steel admitted that "shortage continued and the import was not really quite commensurate with the requirement".

2.150 The Committee find that the exemption under Section 25(2) of the Customs Act, 1962 was granted in this case for import of steel to make up the gap between demand and supply which according to the Ministry of Finance was essential in the public interest. But since the quantity of steel imported during 1978-79 was only a little more than 50% of that exempted from duty, it failed to achieve the desired objective. The very fact that even the entire quantity for which exemption was granted on 29th July, 1978 could not be received even till March 1979 i.e. after 8 months, clearly shows that the requisite sense of urgency was lacking and after obtaining the exemption orders, the Ministry of Steel proceeded in the matter of obtaining these steel items in a leisurely manner. The result was that the shortage of steel in the country continued, black marketing in steel items flourished and the consumers continued to be fleeced defeating the very purpose for which the exemptions were granted. In the meantime, the parties who were importing these steel items under back-to-back arrangements were able to import these items and these parties taking advantage of the scarcity conditions in indigenous market, earned huge profits. The Committee would like to express their serious concern at this lapse on the part of the Ministry of Steel to arrange within a reasonable time the import of such steel items in respect of which exemptions had been granted.

2.151 The Committee find that when the Ministry of Steel approached the Ministry of Finance for grant of exemption from duty on import of steel in the year 1978-79, the former had only given information in regard to the extent of shortfall without furnishing figures of the total indigenous demand or actual availability of the material in the country. The representative of the Ministry of Finance admitted during evidence that they had "trusted" that all relevant factors regarding the total production and total demand in the country were taken into consideration by the Ministry of Steel and that the Ministry of Finance granted exemption only on the basis of the figures of shortfall and also the fact that the international price being high, duty will add to the domestic pooled price. The Committee are shocked to find that the Ministry of Finance who are supposed to be fully equipped with all the data essential to examine the proposal for duty exemption would have granted exemption in the absence of such vital information. The Committee cannot but reach at the conclusion that the Ministry of Finance did not apply their mind independently whether the exemptions asked for by the Ministry of Steel from time to time were actually essential and were in the public interest. The Committee would like the Ministry of Finance to be more careful in future while taking a decision on requests for exemptions. As already stated in para 2.93, they would like the Ministry of Finance to be more careful and obtain all relevant information and arrive at an independent judgement before grant of exemption.

2.152 In respect of iron and steel items for which SAIL is the canalising agency, imports are made on back-to-back basis and under buffer scheme. The former are against specific demands of parties. Imports under buffer scheme are distributed at indigenous prices under the price pooling arrangement. The material imported under this scheme is distributed as per the procedure laid down by Joint Plant Committee/Iron and Steel Controller from

time to time. The Committee were informed that out of the total steel items imported during 1978-79, 68 per cent were supplied to Government and public sector organisations and the remaining 32 per cent to the private sector. Out of the 32 per cent of steel items supplied to the private sector, 2 per cent went to the small scale units. The Committee were also furnished with statements which showed that many private parties were supplied the same steel products both under the back-to-back arrangement as well as under buffer scheme during the years 1978-79 and 1981-82. While the former paid duty, the latter was exempted. The Committee are unable to appreciate why the same parties who apparently could bear the duty burden were also supplied duty free steel under the buffer scheme. The Committee would therefore urge the Government to examine whether it is necessary to continue to grant exemption from duty in respect of steel supplied under the buffer scheme. The Committee also recommend that the existing policy of supply of duty free steel to the private sector should be critically reviewed in the interest of revenue as also to prevent malpractices in the distribution and sale of steel products to the consumers.

2.153 The Committee find that the Ministry of Finance issued an exemption order on 23 December, 1978 for import of 75,000 tonnes of steel ingots. The exemption was sought by the Ministry of Steel on the ground of shortfall in the availability to the Rourkela and Bokaro steel plants to enable them to roll the same into finished products. However, this order was not operated in 1978-79 and no material was imported in that year against this order. The exemption order was amended twice in the year 1979-80 to substitute for the imports of 75,000 tonnes of steel ingots—first on 5 June 1979 for import of 30,000 tonnes of steel ingots and 30,000 tonnes of slabs and again on 8-9-79 for 75,000 tonnes of slabs. Then again in 1980-81, on 21 April, 1980 the order was amended for import of 50,000 tonnes of slabs and 25,000 tonnes of billets. The Committee were informed by the representatives of the Ministry of Finance during evidence that the Ministry agreed to convert the exemption order for ingots to slabs and billets because “the rate of duty was the same” and that “it would have been possible to issue a separate order”.

2.154 The Committee are surprised at the casual manner in which the Ministry of Finance continued to amend the exemption order from time to time. The exemption from duty is granted for the import of a specific item required to meet a particular situation which in this case was to supplement the stock because of reduced indigenous availability. The Committee fail to understand how the shortage of a particular item exempted from duty could be met by its substitution by various other items and that also after a lapse of over 16 months when the conditions might have totally changed. If there was shortage of billets and slabs in the country and the Ministry of Steel wanted to import these items duty free, the right course for the Ministry of Finance would have been to consider the request for exemption independently and issue a fresh exemption order. That this was not done is regrettable. The Committee must point out that conversion of one item into another in such manner tantamounts to by passing the intention behind the provisions of section 25 of the Customs Act and should not be resorted to.

2.155 The Committee observe that the entire quantities of various items of steel exempted from payment of duty in a particular year were not imported in that year itself. For example, certain quantities of various items like

plates and structurals exempted from duty in the year 1978-79 were actually imported in the year 1979-80. Likewise, part of the exemptions granted in the year 1979-80 was actually operated in the year 1981-82. It has also been noticed that in the case of various items the imported price of the same item was more in the subsequent year when these items were actually imported. For example, the structurals were imported @ Rs. 2820/- per tonne in the year 1978-79 but the price paid in year 1979-80 was Rs. 3,352 i.e. about Rs. 530/- per tonne more.

2.156 In this connection, the Committee find that the exemption orders in respect of steel products usually indicate the quantity allowed to be imported duty free but the period upto which import is to be made is not indicated. No wonder, the Ministry of Steel and SAIL take their own time in placing orders and processing shipments, and the Ministry of Finance do not themselves bother to see whether duty free imports have actually taken place within a reasonable period. The Committee feel that the Government should prepare their import plan in the beginning of each financial year and work out a time-bound programme so that spillingover of imports from one year to another is obviated. The Committee also recommend that the exemption orders should invariably specify the period of validity so that the administrative Ministry and the Finance Ministry are in a position to scrutinise the implementation of an existing exemption order before its expiry and then consider whether further exemptions to similar products are at all necessary.

2.157 The Committee note that the Ministry of Finance issued an exemption order on 31 May 1980 for various items of steel where in an "additional" quantity of 1,00,000 tonnes was specified. It was mentioned in the order that the items would be intimated to the ports separately as and when the details of the same were furnished by the Ministry of Steel. The Committee consider it very strange that the Ministry of Finance issued such a vague exemption order for import of "additional" quantities of steel items as it is not in consonance with the provisions of Section 25(2) of the Customs Act, 1962. They therefore, desire that each such order should, in future, be specific in respect of each item required to be imported.

2.158 Under the present arrangement regarding distribution of Steel, while a few customers like railway projects, defence units etc. get the supply directly from the steel plants, most of the requirements are met from the stockyards. After meeting the priority requirements, the available material is distributed through the network of stockyards. The stockyards cater directly to the requirements of all DGTD units. The requirements of small scale units are met through State Small Industries Corporations. The Iron and Steel Controller monitors supplies to these Corporations.

2.159 The Committee were informed by the Vice-Chairman, SAIL during evidence that in the stockyards there are also moving and fast-moving items and that in respect of supplies to trade there was a premium on steel items which were in short supply. The stockyards were expected to sell not only premium items but also others which had a discount. When the Committee wanted to know whether separate compensation accounts were maintained in respect of such sales, the Vice-Chairman, SAIL stated "At the Corporate level with which I am concerned, I can say if anyone has done it, we have not accepted the liability". The Committee however, find that

the following decision was taken by the Board of Directors of SAIL on 4 June, 1980 :

“It was explained to the Board that package transactions of this nature are involved in the steel and other trades. But this was stopped in steel three years ago. The Board further feel that these transactions should be settled separately rather than account being maintained over a period of time.”

2.160 When the Committee pointed out that it might not always be possible to square up the accounts of each person, the Vice-Chairman, SAIL stated before the Committee : “In each lot, he can take some premium item and some slow-moving item so that the amount of premium is to that extent squared up with the discount”. He also stated that the Board had approved a proposal for settling commitments made to the trade on account of such deals concluded prior to November, 1978. Thus, package transactions prior to November, 1978 were legalised by the Board, those between November 1978 and June 1980 were treated as illegal and for subsequent period it was decided that package deals would not be recognised.

2.161 The Committee would like to be informed whether the Ministry of Steel was aware of the prevalence of package deals in the sale of steel items to trade from SAIL's stockyards and if so, whether any action was taken in the matter. The Committee would also like to know whether any compensation claims from the trade are pending and what is being done for their disposal.

NEW DELHI;
28 April, 1982

SATISH AGGARWAL
Chairman
Public Accounts Committee.

8 Vaisakha 1904 (Saka)

APPENDIX I
(Vide Para 1.16)

AVERAGE C.I.F. PRICES (PER QUINTAL) OF DRY FRUITS DURING 1975-76 TO 1979-80

Sl. No.	Description of Goods	1975-76	1976-77	1977-78	1978-79	1979-80
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Almonds in the Shell					
	(i) Hard Shell					
	(1) of Afghanistan origin	754	920	919	970	976
	(2) of Iranian origin	NA	NA	843	928	1300
	(ii) Soft Shell					
	(1) of Afghanistan origin	1479	1693	1905	1951	2041
	(2) of Iranian origin	NA	NA	NA	NA	NA
2.	Almonds kernels					
	(1) of Afghanistan origin	2988	3199	2912	3784	3452
	(2) of other than Afghanistan origin	NA	NA	2973—4360	3092—5564	3850—8000
3.	Raisins of Afghanistan & Iranian origin					
	(a) Kishmish	725	930	1009	1345	1549
	(b) Sultanias	NA	NA	1100—1200	1070—1280	NA
	(c) Abjosh	437	750	1064	953	859
	(d) Others	374—382	371—434	486—498	667—730	675—919
4.	Pista Dodi	1946	2252	2017	2599	2841
5.	Pista Kernel	4948	5278	4810	64 23	7149
6.	Pistacho nuts in shell (Round)	NA	NA	4800	4600	NA
7.	Apricot Dry	646	677	1151	1032	899
8.	Apricot kernel	1365	1953	1865	1950	2342
9.	Figs dry	693	719	1034	800—1015	836
10.	Alubukhara dry	781	854	1438	1643	1033
11.	Dates					
	(a) Chupchap	NA	286	404	497	489
	(b) Zarak Halawi	NA	176	321	222	433

APPENDIX II

(Vide Para 1-24)

AVERAGE LOCAL MARKET PRICES (PER QUINTAL) OF DRY FRUITS DURING 1976-77 TO 1979-80

Sl. No.	Description of Goods	1976-77	1977-78	1978-79	1979-80
(1)	(2)	(3)	(4)	(5)	(6)
1.	Almonds Hard				
	(i) In the shell				
	(1) of Afghanistan Origin	2103	2242	1875—2875	1963—2189
	(2) of Iranian origin	NA	NA	1950	2205
	(ii) Soft shell				
	(1) of Afghanistan origin	4984	4806	3750—5188	4568
	(2) of Iranian origin	NA	NA	NA	NA
2.	Almond kernels				
	(1) of Afghanistan origin	7560	7633	6700—8200	7753—8155
	(2) of other than Afghanistan origin	NA	NA	9000—12000	8709—14322
3.	Raisins of Afghanistan & Iranian origin				
	(a) Kishmish	2497	2915	1675—4000	3076
	(b) Sultanias	NA	NA	1825—1855	NA
	(c) Abjosh	1736	2234	1325—2500	1665—1913
	(d) Others	1021—1119	1179—1357	1163—1625	1320—1933
4.	Pista Dodi	4672	3625	NA	66 50
5.	Pista Kernel	11480	11237	12 042	15625
6.	Apricot dry	1538	2038	2013	2182
7.	Apricot kernel	3772	4352	4234	5298
8.	Figs Dry	1865	1942	2078	2305
9.	Alubukhara	1959	2275	2505	2448
10.	Dates				
	(a) Chupchap	NA	NA	835	1023
	(b) Zarak Halawi	NA	NA	3 80	657
	(c) Others	NA	NA	NA	1190—1513

APPENDIX III

(Vide Para 1-25)

STATEMENT SHOWING THE DATA ON THE BASIS OF WHICH TARIFF VALUES WERE FIXED IN 1975

Description of goods	Average Market value during 1974-75 (Rs./Quintal)	Deducted value (i.e. M.V. Post. Imp. Exp @ 12-1/4%+ duty) (Rs. Quintal)	Tariff value fixed in 1975 (Rs. Quin- tal)
I. Almonds			
(a) In the Shell			
(i) Hard Shell			
(1) of Afghan origin	1800	716	715
(2) of Iranian origin	1600	636	635
(ii) Soft Shell			
(1) of Afghan Origin	3625	1441	1440
(2) of Iranian origin	5500	2187	2185
(b) Without shell			
(1) of Afghan origin	6299	2506	2505
(2) of Iranian origin	8700	3460	3460
II. Pistachio nuts			
(a) In the shell			
(1) of Afghan Origin	3125	1243	1245
(2) of Iranian Origin	6700	2664	2665
(b) Without shell	7300	2906	2905
III. Raisins			
(a) Kishmish	1377	548	550
(b) Sultanas	1100	437	435
(c) Abjosh	1000	398	400
(d) Others	1075	427	425
IV. (a) Apricots	1250	497	500
(b) Apricot Kernels	2675	1064	1065
V. Figs	1300	539	540
VI. Alubukhara	1375	547	545

APPENDIX IV

(Vide Para 1.25)

STATEMENT SHOWING THE DATA ON THE BASIS OF WHICH TARIFF VALUES WERE FIXED IN 1979

Description of goods	Average Market value during 1978 (Rs./Quintal)	Deduced value (M.V.—6 (Post Imp. Exp. @15 + duty) (Rs./Quintal)	Tariff value fixed in 1979 (Rs./ Quintal)
I. Almonds			
(a) In the shell			
(i) Hard Shell			
(1) of Afghan Origin	1875—2875	917	920
(2) of Iranian Origin	1950	753	755
(ii) Soft Shell			
(1) of Afghan Origin	3750—5188	1726	1725
(2) of Iranian Origin	—	—	2185 (No change)
II. Almond Kernels			
(1) of Afghan origin	6700—8200	2878	2880
(2) of Other than Afghan origin	9000—12000	3477—4636	4635
III. Raisins of Afghanistan and Iranian origin			
(a) Kishmish	1675—4000	1141	1140
(b) Sultanias	1855	747	750
(c) Abjosh	1325—2500	738	740
(d) Others	1163—1625	538	540
IV. Dates			
(a) Chupchap	835	383	385
(b) Zarak Halawi	—	—	250 (No change)
(c) Wet dates	320	157	160
(d) Others	—	—	385

APPENDIX V

(Vide Para 1-27)

STATEMENT SHOWING OLD TARIFF VALUE AND NEW TARIFF VALUE OF DRY FRUITS DURING 1971

Sl. No.	Description of Goods	Old Tariff Value per quint. (Notfn. 14-Cus dt. 14-1-71)	New Tariff Value per quint. (Notfn. 68-Cus dt. 26-7-71)	Local market Price	International price
1.	Almonds				
(a)	In the Shell				
(i)	Hard Shell				
	(i) of Afghanistan origin	1020	665	Information not available	
		(Gurbandhi)			
		935			
		(Girdih)			
	(ii) of Iranian origin	Nil	525		
(ii)	Soft shell	1135	1050		
(b)	Without shell				
	(i) of Afghanistan origin	2320	1620		
	(ii) of Iranian origin	Nil	2240		
2.	Pistachio nuts				
(a)	In the shell				
	(i) of Afghanistan origin	1045	1070		
	(ii) of Iranian origin	Nil	2210		
(b)	Without shell	2615	2430		
3.	Raisins				
(a)	Kishmish	640	430		
		(Kandhari)			
		435			
		(Kabuli)			
	(b) Sultanas	500	320		
	(c) Abjosh	500	325		
	(d) Others	500	295		
4.	(a) Apricots (Zardalu)	Nil	455		
	(b) Apricots (Kernels)	Nil	750		
	(khasta)				
5.	Figs (Anjeer)	Nil	450		
6.	Alubukhara	Nil	550		

APPENDIX VI

(Vide Para 12-7)

STATEMENT SHOWING OLD TARIFF VALUE, NEW TARIFF VALUE, LOCAL MARKET PRICE OF DRY FRUITS DURING 1975.

Sl. No.	Description of goods	Old Tariff value (per quntl.) (Notfn. 68-Cus 26-7-71)	New Tariff value (per quntl.) (Notfn. 71-Cus dt. 30-6-75)	local market price (per quntl.)	International price
1.	Almonds				
(a)	In the shell				
(i)	Hard shell				
(1)	of Afghanistan origin	665	715	1800	Not avail- able
(2)	of Iranian origin	525	635	1600	
(ii)	Soft shell	1050			
(1)	of Afghanistan origin		1440	3625	
(2)	of Iranian origin		2185	5500	
(b)	Without shell				
(1)	of Afghanistan origin	1620	2505	6299	
(2)	of Iranian origin	2240	3460	8700	
2.	Pistacho nuts				
(a)	In the shell				
(i)	of Afghanistan origin	1070	1245	3125	
(ii)	of Iranian origin	2210	2665	6700	
(b)	Without shell	2430	2905	7300	
3.	Raisins				
(a)	Kishmish	430	550	1377	
(b)	Sultanias	320	435	1100	
(c)	Abjosh	325	400	1000	
(d)	Others	295	425	1075	
4.	(a) Apricots (Zardalu)	455	500	1250	
	(b) Apricots (Kernels)	750	1065	2675	
5.	Figs (Anjeer)	450	540	1300	
6.	Alubukhara	550	545	1375	

APPENDIX VII

(Vide Para 1.27)

STATEMENT SHOWING OLD TARIFF VALUE, NEW TARIFF VALUE, LOCAL MARKET PRICE OF DRY FRUITS DURING 1979

Sl. No.	Description of Goods	Old Tariff Value (per quntl.) (Notfn. No 71-Cus. dt. 30-6-75) (Reissued as Notfn. 132 dt. 2-8-76), 131 dt. 2-8-76	New tariff Value (per quntl.) (Notfn. No. 142-Cus dt. 27-6-1979)	Local market price (per quntl.)	Inter-national price
1	2	3	4	5	6
1.	Almonds in the shell				
(i)	Hard Shell				
	(1) of Afghanistan origin .	715	920	1875—2875	Not available
	(2) of Iranian origin	635	755	1950	
(ii)	Soft shell				
	(1) of Afghanistan origin .	1440	1725	3750—5188	
	(2) of Iranian origin .	2185	2185	N.A.	
2.	Almonds kernals				
	(1) of Afghanistan origin .	2505	2880	6700—8200	
	(2) of other than Afghanis-tan origin . . .	3460	4635	9000—12000	
3.	Raisins of Afghanistan & Iranians origin				
(a)	Kishmish	550	1140	1675—4000	
(b)	Sultanas	435	750	1825—1855	
(c)	Abjosh	400	740	1325—2500	
(d)	Others	425	540	1163—1625	
4.	Dates				
(a)	Chupchap	250	385	835	
(b)	Zarak Halawi	250	250	380	
(c)	Wet dates	100	160	320	
(d)	Others	250	385	N.A.	

APPENDIX VIII

(Vide Para 1-27)

STATEMENT SHOWING OLD TARIFF VALUE, NEW TARIFF VALUE, LOCAL MARKET PRICE OF DRY FRUITS DURING 1980

S. No. Description of Goods	Old Tariff Value (per quintl) (Notfn. No. 142- Cus dt. 27-6-1979)	New Tariff Value (per quintal.) (Notfn. No. 225- Cus. dt. 14-11-1980)	Local market Price (per quintal)	Inter- national Price
1. Almonds in the shell				
(i) Hard shell				
(1) of Afghanistan origin .	920	845	1963—2189	Not avail- able
(2) of Iranian origin .	755	850	2205	
(ii) Soft shell				
(1) of Afghanistan origin .	1725	1765	4568	
(2) of Iranian origin .	2185	2185	N.A.	
2. Almond kernels				
(1) of Afghanistan origin .	2880	3105	7753—8155	
(2) of other than Afghanis- tan origin .	4635	4450	8709—14322	
3. Raisins of Afghanistan and Iranian origin				
(a) Kishmish	1140	1190	3076	
(b) Abjosh	740	740	1665—1913	
(c) Others excluding Sultanas .	540	610	1320—1933	
4. Dates				
(a) Chupchap	385	470	1023	
(b) Zarak Halawi	250	350	657	
(c) Wet dates	160	160	334	
(d) Others	385	580	1190— 1513	

APPENDIX IX

(Vide Para 1·27)

CHRONOLOGICAL DATA REGARDING NOTIFICATION AND TARIFF VALUES IN RESPECT OF FRESH FRUITS IMPORTED FROM AFGHANISTAN

Commodity	Notfn. No. 116/69 dt. 29-7-69 (Tariff value)	Notfn. No. 73/71 dt. 18-8-1971 (Tariff value)	Notfn. No. 86/71 dt. 19-9-71 (Traiff value)	Notfn. No. 133/76 dt. 2-8-1976 (Tariff value)	
1	2	3	4	5	6
1. Grapes Kandhari	Rs. 2.25 per kg.	—	—	—	Rs. 2.25 per kg.
2. Grapes Kabuli	Rs. 1.40 per kg.	—	—	—	Rs. 1.40 per kg
3. Pomegranetes	—	Rs. 1.75per kg.	Rs. 1.40 per kg.	Rs. 1.40 per kg.	Rs. 1.40 per kg

APPENDIX X

(Vide Para 2.9)

STATEMENT SHOWING DETAILED PARTICULARS OF CASES WHERE DUTY EXEMPTION IN AN AMOUNT EXCEEDING RS. 25,000/- IN EACH CASE, HAVE BEEN AVAILED OF DURING THE YEAR 1979-80.

Annexure 'A'

S. No.	Exemption order No. and date/File No.	Nature of goods	Name of the importer	Amount of duty involved (Rs.)
1	2	3	4	5
1.	286 dated 4-5-73 F.No. 458/17/73-Cus. V	Di-Ammonium	F.C.I.	2,39,29,257 -00
2.	408 dated 26-7-73 F.No. 458/17/73-Cus. V	Do.	Do.	40,43,371 -00
3.	578 dated 15-10-77 F.No. 467/32/77-Cus. V	Wheat	Do.	7,73,117 -00
4.	652 dated 17-12-77 F. No. 463/141/77- Cus. V	Shelf Freeze Dryers and parts.	Maharashtra State Instt. of Veterinary Biological Project, Poona.	2,88,675 -32
5.	216 dated 12-9-78 F.No. 463/139/78-Cus.	Helicopter/Aircraft parts.	O.N.G.C., Dehradun	10,91,161 -49
6.	239 dated 30-9-78/ 7-10-78 F. No. 458/6/78-Cus. V.	Machinery	Director of Animal Husbandry, Poona.	20,87,528 -55
7.	277 dated 18-11-78 F. No. 464/1/78-Cus. V.	Equipment of exhibition	All India Machine tools, Hindustan Imports & Exports, Corpn., Bombay, Eletronic Sales and Services, Poona Perfet Machine tools Pvt. Bombay/Indian Fine Banks, Calcutta/Dalal & Co. Bombay/Heatley & Gresham and P. Dalal & Co., Bombay/Carlic Engg. Bombay/J.B. Advani & Company Pvt. Ltd., Bombay/Voltas Ltd., Bombay.	1,12,71,454 -00

1	2	3	4	5
8.	5 dated 4-1-79 F. No. 464/28/78-Cus. V	Forepart shopping Machine/ High Speed trimming machine.	International Leather Fair, Madras.	41,705.00
9.	105 dated 28-4-77 F. No. 458/14/79-Cus. V.	Electrical Equipment	M/s D.S.S. Industries New Delhi.	65,295.41
10.	499 dated 14-9-77 F. No. 459/111/77-Cus. V	Motor car for the use of disabled person.	Mr. Raj Singh Dalal, Rohtak	45,377.70
11.	107 dated 13-4-78 F. No. 460/252/77-Cus. V	Volkswagon Bus, Medicines, Medical equipment.	Bharatiya Arogya Nidhi, Bombay	1,61,628.18
12.	162 dated 15-6-78 F.No. 460/75/78-Cus.V	Landrover Ambulance and spare parts.	Victoria Jubilliee Hospital, Ahmedabad.	3,29,539.89
13.	275 dated 13-11-78 F. No. 460/215/78-Cus.V	Planetorium Equipment	Jawaharlal Nehru Memorial Fund, New Delhi.	7,99,452.75
14.	191 dated 26-7-78 F. No. 462/10/77-Cus. V.	Training equipment under Indo-Swiss agreement.	Nettur Tech. Training Foundation, Vellore.	4,71,391.74
15.	283 dated 21-11-78 F. N. 458/23/78-Cus. V	Vaccine for Japanese En- cephalities.	Govt. of West Bengal	1,21,426.79
16.	10 dated 8-1-79 F.No. 463/198/78-Cus. V.	Optical & Photographical Equipments for preservation of cultural property.	The Director General Archaeo- logical Survey of India, New Delhi.	7,98,396.00
17.	13 dt. 8-1-79 F.No. 463/202/78-Cus. V	Grave Stones	Common Wealth War Graves Commission, New Delhi.	1,89,788.00
18.	40 dt. 24-1-79 F. No. 460/276/77-Cus. V	Photo and audio-visual equip- ments and accessories.	Central Instt. of Indian Languages, Mysore.	1,71,240.03
19.	56 dt. 7-2-79 F. N. No. 466/4/79-Cus. V	Films for record and reference	National Film Archive, Poona	38,277.75
20.	75 dt. 9-3-79 F.No. 460/60/79 Cus. V	LAPRASCOPE	Narindra Mohan Hospital Mohan Nagar, U.P.	56,807.85
21.	88 dt. 29-3-79 F. No. 460/62/79-Cus. V	Ambulances	Indian Red Cross Society, New Delhi.	5,06,969.88
22.	91 dt. 3-4-79 F. No. 460/260/78 -Cus. V.	Sound Projector and acces- series.	World Wide Life Found., India	5,455.25

1	2	3	4	5
23.	98 dt. 19-4-79 F. No. 462/20/78-Cus. V	Metal Working Machinery under Indo-Swiss Agreement.	Nettur Technical Training Foundation Vellore	2,31,309.00
24.	99 dt. 21-4-79 F. No. 458/13/79-Cus. V	Anti Tank Missiles for evaluation.	Ministry of Defence	6,55,790.76
25.	107 dt. 30-4-79 F. No. 463/135/78-Cus. V.	Aircrafts and Meteorological Equipment (Project Monex 79).	National Centre for Atmosphere Research, Bombay.	16,67,516.97
26.	109 dt. 5-5-79 F. No. 460/74/79 Cus. V	Photographic goods scientific equipment, semi-audio equipment.	Delhi University, Delhi.	1,56,834.43
27.	111 dt. 10-5-79 F. No. 460/87/79-Cus. V	Spectacles/Frames/ lenses	Lion International C/S Express Clearing Agency.	53,709.09
28.	112 dt. 15-5-79 F. No. 459/43/79-Cus. V	Candle Moulding Machine.	Chetna School for Mentally retarded, LKO.	63,095.98
29.	122 dt. 26-5-79 F. No. 460/161/79-Cus. V.	Equipment for evaluation	Ministry of Defence.	10,40,256.00
30.	129 dt. 14-6-79 F. No. 460/161/79-Cus. V	Buddha Image	Rajgir Buddha Vihar Society, Patna.	1,38,419.19
31.	131 dt. 21-6-79 F. No. 458/23/79-Cus. V	Air Craft for evaluation	Ministry of Defence	23,62,505.40
32.	132 dt. 23-6-79 F. N. 458/24/79-Cus. V	Air Craft for evaluation	Ministry of Defence	18,07,872.75
33.	140 dt. 29-6-79 F. No. 460/168/79 Cus. V	Volkswagon Coach.	Shri Shiva Bal Yogi Maharaj Trust, Bangalore.	65,509.50
34.	152 dt. 18-8-79 F. No. 463/211/78-Cus. V	Equipment for Traffic operation Studies.	Calcutta Metropolitan Development Authority.	3,87,863.92
35.	155 dt. 21-8-79 F. No. 458/48/77 Cus. V	Mobile Medical Clinics and spare parts.	Government Medical Store, Madras.	15,28,80,169.19
36.	156 dt. 3-9-79 F. No. 460/192/79 Cus. V	Hospital Bids and accessories	Government General Hospital, Guntur.	1,09,771.00
37.	167 dt. 12-9-79 F. No. 460/270/79-Cus. V.	Church Bell (Breuze)	Catholic church, Thiruvannamalai.	32,999.00
38.	160 dt. 17-9-79 F. No. 461/62/79-Cus. V.	Spectro Photo Meter	Jamia Millia Islamia, Okhla, New Dehi.	1,03,787.35

1	2	3	4	5
39.	179 dt. 22-11-1979 F. No. 463/43/79 -Cus. V	Equipment imported for obser- vation of total solar eclipse	Various scientific teams sponsored by the Indian National Science Academy.	3,76,282 .87
40.	86 dt. 27-3-79 F. No. 463/55/79-Cus. V	Aircraft for evaluation	Dynamic Sales Services Ltd.	2,49,600 .00
41.	3 dt. 23-1-1980 F. No. 460/9/80-Cus. V	Temple Bell 19.	Saraswati Temple Balrampur.	47,518 .81
42.	15 dt. 10-3-1980 F. No. 460/361/79-Cus. V	Equipment for Light and Sound spectacle at Thirumalai Maicher Mahal.	Archaeology Deptt. Govt. of Tamil Nadu.	3,68,289 .00
43.	192 dt. 28-7-78 F. No. 355/149/78-Cus. I	White Printing Paper (Wood Free Grade)	S.T.C.	4,42,36,491 .26
44.	194 dt. 29-7-78 F. No. 355/167/78-Cus. I	Mild Steel Plates and struc- turals	Steel Authority of India	22,70,63,392 .00
45.	293 dt. 29-11-78 F. No. 355/216/78-Cus. I			
46.	203 dt. 16-8-78 F. No. 355/119/78-Cus. I	Gas Turbines spares	West Bengal State Electricity Board.	13,44,439 .43
47.	273 dt. 19-11-78 F. No. 355/119/78-Cus. I	Turbine Generating Set	Assam State Electricity Board.	2,44,72,164 .00
48.	308 dt. 23-12-78 F. No. 355/251/78-Cus. I	Slabs	Steel Authority of India	84,53,071 .00
49.	1 dt. 1-1-79 F. No. 355/25/79-Cus. I	E.C. Grade Aluminium Wire	Bharat Aluminium Company Ltd.	1,02,28,882 .60
50.	16 dt. 18-1-79 F. No. 355/256/78-Cus. I	Aluminium Wire Rods	Bharat Aluminium Co. Ltd.	1,61,34,764 .55
51.	78 dt. 15-3-79 F. No. 355/149/78-Cus. I	White Printing Paper	S.T.C.	6,06,88,798 .0 0
52.	81 dt. 17-3-79 as superseded by 134 dt. 26-6-79 F. No. S/9/79-TRU(Cus)	Vegetable oil	S.T.C.	23,83,49,603 .92
53.	170 dt. 31-10-1979 F. No. S/9/79-TRU(cus)	Do.	S.T.C.	16,80,19,097 .03

1	2	3	4	5	6
54.	83 dt. 19-3-79 F. No. 355/370/77-Cus. I	Nepthaline	S.A.I.L.	1,13,513.15	
55.	85 dt. 28-3-79 F. No. 355/1/79-Cus. I	Raw Rubber	S.T.C.	6,60,73,105.00	
56.	100 dt. 24-4-79 F. No. 355/61/79 -Cus. I	Mild Steel Plates and Struc- turals.	S.A.I.L.	62,74,86,026.51	
57.	113 dt. 18-5-79 F. No. 355/72/79-Cus. I	Aluminium Wire Rods	Bharat Aluminium Company	1,95,10,191.82	
58.	117 dt. 21-5-79 F. No. 355/70/79-Cus. I	Refined Soyabean	National Dairy Development Board, Baroda	124,58,030.00	
59.	159 dt. 17-9-79 F. No. 355/70/79-Cus. I				
60.	136 dt. 27-6-79 F. No. 355/70/79-Cus. I				
61.	115 dated 21-5-79 F. No. 355/103/79-Cus. I	Gunnies	S.T.C.	7,61,55,519.00	To meet immediate Shortage of gunnies.
62.	137 dated 27-6-79 F. No. 355/1/79-Cus. I	Natural Rubber	S.T.C.	8,03,97,786.00	To meet shortage in the country.
63.	144 dated 21-7-79 F. No. 355/149/79-Cus. I	Printing and writing paper	Hindustan Paper Corpn. New Delhi.	7,83,72,599.61	Do.
64.	151 dated 18-8-79 F. No. S/23/79-TRU (CUS)	M. S. Billets	S.T.C.	5,42,08,879.00	Do.
65.	153 dated 21-8-79 F. No. 355/160/79-Cus. I	Aluminium Ingots 99.5% purity.	M.M.T.C.	10,81,56,634.99	Do.
66.	317 dated 21-10-79 F. No. 355/1/79-Cus. I	Natural Raw Rubber	S.T.C.	1,20,41,116.00	Do.
67.	176 dated 22-11-79 F. No. 355/160/79-Cus. I	Aluminium Propenzi Rod.	M.M. T.C.	75,08,071.00	Do.
68.	1 dated 15-1-80 F. No. 355/160/79-Cus. I	Aluminium Ingots 99.5% purity.	M.M.T.C.	13,08,17,543.60	Do.

ANNEXURE—B

APPENDIX XI

(Vide Para 2-11)

STATEMENT SHOWING DETAILED PARTICULARS OF CASES WHERE DUTY EXEMPTION IN AN AMOUNT EXCEEDING RS. 10 CRORES IN EACH CASE, HAVE BEEN AVAILED DURING THE YEAR 1979-80.

S. No.	Exemption order No. & date/F.No.	Nature of goods	Name of the Importer	Amount of duty foregone.
1	2	3	4	5
1.	293 dt. 29-11-1978 F. No. 355/216/78-Cus. I	Mild Steel Plates and structurals	S.A.I.L.	22,70,63,392.00
2.	194 dt. 29-7-1978 F. No. 355/167/78-Cus. I			
3.	81 dt. 17-3-79 as superseded by 134 dt. 26-6-79 F. No. S/9/79-TRU (Cus).	Vegetable oil	S.T.C.	23,83,49,603.92
4.	170 dt. 31-10-79 F. No. S/9/79-TRU (Cus)	Do.	S.T.C.	16,80,19,097.03
5.	100 dt. 24-4-79 F. No. 355/61/79-Cus. I	Mild Steel Plates and Structural	S.A.I.L.	62,74,86,026.51
6.	153 dt. 21-8-79 355/160/79-Cus.I	Aluminium ingots 99.9% purity	M.M.T.C.	10,81,56,634.99
7.	155 dt. 21-8-79 F. No. 458/48/77-Cus. V	Mobile Medical Clinics and spare parts.	Govt. Medical Store, Madras	15,28,80,169.19
8.	1 dt. 15-1-1980 F. No. 355/160/79-Cus. I	Aluminium Ingots (99.9%)	M.M.T.C.	13,08,17,543.60
9.	117 dt. 21-5-79 F. No. 355/70/79-Cus. I	Refined Soyabean	National Dairy Development Board, Baroda	19,24,58,030.00
10.	159 dt. 17-9-79 F. No. 355/70/79-Cus.I			
11.	136 dt. 27-6-79 F. No. 355/70/79-Cus.I			

APPENDIX XII

CONCLUSIONS/RECOMMENDATIONS

S. No.	Para No.	Ministry/ Deptt. concerned	Conclusions/Recommendations
1	2	3	4
1.	1-44	M/o Finance (Deptt. of Revenue)	The value of goods for purposes of assessment to customs duty is determined under section 14 of the Customs Act, 1962. Sub-Section (2) thereof empowers the Government to fix tariff values for any class of imported goods having regard to the trend of values of such or like goods for the purpose of levying customs duty on <i>ad-valorem</i> basis. Accordingly, Government have fixed tariff values in respect of dry fruits, fresh fruits and other specified goods. These values are revised from time to time. The tariff values of dry fruits as fixed in 1975 were not revised till 1979. According to the audit paragraph, the invoice values of dry fruits imported during the years 1975 to 1979 were so much more than the tariff values fixed in 1971 that the non-revision of tariff values during these years resulted in short realization of Customs duty to the extent of Rs. 22.40 crores.
2.	1-45	Do.	The Ministry of Finance have not accepted the above figure of Rs. 22.40 crores. They have stated that assuming that the tariff values fixed in 1971 would have been in operation at least for a year or one and a half years and that the rise between 1975 and 1979 in tariff values was of a uniform order, additional revenue which would have accrued on the basis of notional tariff values would be Rs. 6.072 crores approximately during the aforesaid period. It is not, however, the Ministry's case that the prices of dry fruits remained stable during the years 1975-1979 they have, in fact, accepted that the prices did continuously rise during these years. Whatever, therefore, be the exact quantum of loss of revenue between the two extremes of Rs. 6 crores and 22 crores, the fact remains that the non-revision of the tariff values over a long period of 4 years when the actual prices were going up did result in a very substantial loss of revenue.
3.	1-46	Do.	The authority given to the Central Government to fix tariff values in Section 14(2) of the Customs Act is subject to the guidelines that the tariff values should be fixed "having regard to the trend of value of such or like goods". It is, thus incumbent on the Central Government to ensure that the tariff values fixed by them do keep pace with the trend of actual values. The Committee are, therefore, unable to accept the wide statement that there is no periodicity laid down in the law for the fixation of tariff values, the aforesaid provision apparently implies a periodicity in consonance with the movements of actual values; of the particular goods. In the Committee's view, the basic principle of valuation under Section 14 is the value in the course of international trade and a tariff value is only a value of convenience which can be adopted in the case of goods whose value fluctuates within narrow limits. Such tariff value has to keep pace with the trend of actual values and a tariff value which loses its relation with the actual value in no more a proper value within the meaning of Section 14.

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4.	1-47	M/o Finance (Depart. of Revenue)	<p>The Appraising Manual of the Customs department specifically provides for an annual review of tariff values. During oral evidence on 22nd October 1981 the Member(Customs) argued that these provisions of the Appraising Manual had, over the years, lost their relevance and, in his personal opinion, probably rightly so. He also stated before the Committee that there was "no recorded conscious decision that it (revision) should be, done once year" From the written notes sent by the Ministry of Finance, however, the Committee find that the Minister for Revenue and Expenditure had given orders in June 1979 that there should be a yearly or six monthly revision of tariff values. Further, in a inter-departmental meeting convened by the Finance Secretary on 10th October, 1980, which was attended among others by the Commerce Secretary, it was formally decided that the tariff values should be reviewed every year. The statement made during the oral evidence on 22-10-1981 that there was no recorded decision for annual review/revision of tariff values was, therefore apparently incorrect. The conclusion is inescapable that during evidence before the Committee the representative of the Ministry of Finance was arguing only for the sake of argument in an attempt to cover up a rather serious lapse that had taken place.</p>
5.	1-48	Do.	<p>The Committee would recommend that in this as well as in all other cases where tariff values are fixed, such values should be kept under constant watch to make sure that they do not at any point of time, lapse their relationship with the actual values. The Committee would reiterated that this is an essential requirement of Section 14(2) of the Customs Act 1962.</p>
6	1-49	Do.	<p>The Ministry of Finance have been fixing tariff values with reference to the prevailing market prices. When asked whether this was in accordance with the provisions of law, which mentioned only the value in the course of international trade, the Ministry of Finance have stated that a reference has been made to the Law Ministry on this question. The Committee would recommend that the question should be sorted out quickly and the requirements of the law should be fully complied within fixing tariff values in future.</p>
7.	1-50	Do.	<p>According to the public notice issued by the Ministry of Commerce in December 1977 the value of the imported dry fruits for the purpose of debit to the CCP's (Customs Clearance Permits) and for remittances to the suppliers through the bank, as also for the purpose of determining counter-balancing exports in respect of such imports, would be the value as declared in the suppliers' invoices. According to the information given by Audit the invoice values of imports during the year 1975--1979 amounted to Rs. 82.63 crores. In terms of the aforesaid public notice the counter-balancing exports would be of the same order. The Ministry of Finance also deposed during the evidence that so far as exports are concerned the Customs would not allow any exaggerated values or under-rated values and exports would go exactly in accordance with the values that should be the values under the Custom Act. If, therefore, the invoice values of the imports were not truly representative of the actual values, as stated by the Ministry of Finance, but the counter balancing exports were correctly valued, it would only mean that a sizeable</p>

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			<p>portion of the export earnings were illegally retained abroad. The Ministry of Finance have contended themselves with the statement that "this, however, should not create an impression that the manipulative remittances have gone unchecked. The Directorate of Enforcement which has the primary responsibility in this regard is reported to be having quite a number of cases under investigation". The Committee would like to have a detailed list of the importers in whose case the totals of invoice values of imports, and hence of counter balancing exports, during the said years, exceeded Rs fifty lakhs each, the details of cases booked against them by the Directorate of Enforcement, the amounts involved and the results of inquiries so far completed.</p>
8.	2-85	M/o Finance (Deptt. of Revenue)	<p>The Committee find that due to acute shortage of edible oils in the country in the year 1976-77, the imports of edible oils were allowed under Open General Licence. Due to continued shortages of edible oils resulting from stagnation in the production of groundnut and mustard seed in the country, it was decided to canalise the imports of such oils through State Trading Corporation with effect from 2-12-1978. The S.T.C. imports edible oils on Government account for supply to vanaspati industry for the manufacture of vanaspati and to the State Governments/Union territories for supply to consumers under public distribution system. For supply to the vanaspati industry, the STC imports crude soyabean oil, crude rapeseed oil and crude palm oil/neutralised palm oil. For supply to States/Union Territories for the purpose of public distribution system, the STC imports RBD palm oil, RBD palmolein and also rapeseed oil.</p>
9.	2-86	Do.	<p>Customs Tariff Act, 1975, vide entry 15-07 imposed a duty of 60 per cent on imports of vegetable oils. However, prior to 1 March, 1979 total exemption from payment of duty on imports of vegetable oils was allowed in pursuance of notification issued under section 25(1) of the Customs Act, 1962. This policy of exemption was modified with effect from 1 March, 1979 and a duty of 12½ per cent was levied on all imports of such oils. Soon thereafter, the Ministry of Civil Supplies sent a proposal to the Ministry of Finance for total exemption from customs duty on imports of edible oils through STC on the grounds that —</p> <ul style="list-style-type: none"> (i) the imports were meant for exercising moderating influence on the prices of indigenous oils because of which the landed cost should not be increased; (ii) it was not in the public interest to raise the cost of vanaspati; and (iii) the prices fixed for public distribution of edible oils were to be retained at the same levels.
10.	2-87	Do.	<p>The Ministry of Finance did not agree to total exemption of duty. They, however, agreed to reduction of duty from 12½ per cent to 5 per cent in the case of oils imported by STC consequently an exemption notification allowing STC to import three lakh tonnes of edible oils on payment of concessional rate of duty of 5 per cent was issued on 17-3-1979 under section 25 (2) of the Customs Act, 1962. Since then, notifications allowing imports of specified quantities of these oils at the aforesaid concessional rate of duty have been issued from time to time.</p>

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7A	2.30	Min. of Finance (Deptt. of Revenue)	<p>Section 25(2) of the Customs Act, 1962 empowers the Central Government to exempt, in the public interest and under circumstances of an exceptional nature, from payment of customs duty, any goods on which duty is leviable. These exemptions fall into two broad categories, viz., exemptions to trade and exemptions to individuals, institutions or organisations. The Committee are informed that exemptions to trade are allowed on broad economic considerations such as the differences in international and domestic prices. The exemptions are recommended in most of the cases by the administrative Ministries and considered by the Ministry of Finance to meet the scarcity of a particular commodity at the relevant time. The exemptions to individuals and institutions are granted keeping in view the socio-economic objectives of the State so as to subserve the public interest. By and large, the exemptions in such cases are granted where the articles have been gifted and no outgo of foreign exchange is involved. The status of the recipient organisation and genuineness of the request of an individual are taken into account. Conditions are imposed for fulfilment either before or after clearance of goods to ensure that the exemptions granted is utilised for the avowed objective.</p>
7B	2.31	Do.	<p>Exemption notifications re issued either with a limited period of validity when the need for exemption from duty is for a limited period or without limitation of any validity period. The Committee are informed that the review of the former type of notifications is undertaken by the Ministry of Finance prior to the expiry of validity in consultation with the administrative Ministry but this practice is not followed in the latter type of cases where the continuation of the exemption is reviewed in consultation with the administrative Ministry only when it is felt necessary in case of a particular notification.</p>

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7C	2.32	Do.	The Committee were informed during evidence that it is not possible to define "public interest" in precise terms or to spell out the exceptional circumstances under which <i>ad hoc</i> exemptions could be granted under section 25(2) of the Customs Act, 1962. According to the procedure in vogue, each case for grant of exemption is examined by the Ministry of Finance in consultation with the administrative Ministry and the exemption notification is issued after obtaining approval of the Minister-in-charge. All such notifications are laid before Parliament.
7D	2.33	Do.	The number of exemption notifications issued under section 25(2) of the Customs Act, 1962 was 248, 301, 198, and 100 during the years 1976-77, 1977-78, 1978-79 and 1979-80 respectively. The duty foregone as a result of these exemptions was Rs. 9.44 crores, Rs. 15.52 crores, Rs. 59.98 crores and Rs. 245.18 crores respectively during these years.
7E	2.34	Do.	<p>A break up of 11 cases where exemptions (duty effect—Rs. 184.52 crores were granted during the year 1979-80 and the amount of duty foregone was more than Rs. 10 crores in each case is given below:</p> <ul style="list-style-type: none"> (i) To SAIL for import of mild steel plates and structurals; duty effect—Rs. 22.71 crores and Rs. 62.75 crores. (ii) To STC for import of edible vegetable oil; duty effect—Rs. 23.84 crores and Rs. 16.80 crores. (iii) To MMTC for import of aluminium ingots; duty effect—Rs. 10.82 crores and Rs. 13.08 crores. (iv) To National Dairy Development Board, Baroda for import of refined soyabean; duty effect—Rs. 19.25 crores. (v) To Government Medical Store, Madras for import of mobile medical clinics and spare parts, duty effect—Rs. 15.29 crores.
7F	2.35	Do.	Section 25(1) of the Customs Act, 1962 empowers the Government to grant in the public interest exemptions generally from payment of customs duty. The Committee have been informed that revenue effect of exemptions granted under section 25(1) was of the order of Rs. 205 crores in 1979-80.

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As against this, the revenue effect of advance exemptions granted under Section 25(2) during 1979-80 was Rs. 245.18 crores in 100 cases. Considering the list furnished to the Committee giving details of 68 cases in which exemptions involving a duty effect of over Rs. 25,000/- were given during the year 1979-80, and the cases of grant of exemption to STC for import of edible oil and to SAIL for import of steel, dealt within this report, and the fact that the number of such notifications issued were 248, 301, 198 and 100 during the year 1976-77, 1977-78, 1978-79 and 1979-80 respectively, the Committee cannot but conclude that the power vested in the executive to grant exemptions only in "public interest" and "under circumstances of an exceptional nature" has been exercised too liberally and in some cases in utter disregard of the intentions of Parliament.

7G 2.36

Do.

The Committee have been informed that no guidelines have been laid down spelling out the circumstances under which exemption from duty are granted. In the absence of any such guidelines the exercise of such power has, in the opinion of the Committee, become a matter of arbitrary exercise of discretion and Parliament and the people are not able to judge whether such powers have been properly exercised. The need for some guidelines is still more necessary in view of the fact that the revenue foregone as a result of these exemptions has increased from Rs. 9.44 crores in 1976-77 to as much as Rs. 245.18 crores in 1979-80. The Committee feel that the power to grant exemption is an unusual, extraordinary and exceptional power given to the executive and it is imperative that adequate safeguards should be there to ensure that these powers are used sparingly and there are no chances of their being misused. Further, the Committee expect that occasions on which powers under section 25(2) have to be exercised will be rare and the test of these being in the public interest and satisfy the circumstances of an exceptional nature as intended by Parliament.

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The Committee observe that after the grant of exemption by the Ministry of Finance, on the recommendation of the administrative Ministry, the Ministry of Finance has no feed-back from the later to evaluate whether the exemption has served the purpose for which it was granted. It is left to the administrative Ministry to evaluate whether the conditions laid down in the exemption notification have actually been fulfilled. The Committee consider this arrangement to be totally unsatisfactory because except for assessment of public interest at the time of grant of renewal of the exemption, the Ministry of Finance does not get any information from the administrative Ministry nor the Finance Ministry cares to find out from the administrative Ministry as to whether the purposes for which an exemption has been granted has actually been achieved. The Committee therefore recommend that the Ministry of Finance should evolve some mechanism to establish a monitoring system to review periodically how far the objectives behind the grant of exemption have been achieved. On the basis of the requisite data obtained from the administrative Ministry in regard to each exemption granted under section 25(1) or 25(2) of Customs Act and after ensuring that the intended public interest has been served and the revenue foregone by grant of exemption has not been misused, the Ministry of Finance should decide whether the exemption should be allowed to continue.

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			The latest exemption order No. 28 dated 28-2-1982 is for import of 2 lakh tonnes of edible oils at the concessional rate of duty and is in force upto 31-7-1982.												
11.	2-88	(i) M/o Finance (Deptt. of Revenue) (ii) M/o Commerce	During the oil year 1979-80, STC imported 11.49 lakh tonnes of edible oils at a cost of Rs. 617.18 crores. During 1980-81, the quantity imported was 10.74 lakh tonnes at a cost of Rs. 516.00 crores. The indigenous production of edible oils in the country was 24.40 lakh tonnes and 25.03 lakh tonnes during the years 1979-80 and 1980-81.												
12.	2-89	Do.	The Committee have been informed that there was perceptible fall in the prices of edible oils in the international market after September, 1979. For example, the prices of soyabean oil in the international market ranged between Rs. 6188 and Rs. 6358 per metric tonne in July—September, 1979. In October—December, 1979 the price of this oil ranged between Rs. 5661 and Rs. 6035 and between January—March, 1980, it ranged between Rs. 5117 and 559. The prices fell to between Rs. 4544 and 5488 in October—December, 1980 and further fell in the range of Rs. 4230-4760 between January March, 1981. Similar downward trend occurred in the prices of other edible oils. In spite of this downward trend in the international prices of edible oils, and the continuing concessional rate of duty, the consumers were charged the same rate for these oils.												
13.	2-90	Do.	<p>The issue price of edible oils per tonne supplied to the States/Union Territories for distribution through public distribution system since April—June, 1979 has been :</p> <table border="0"> <tr> <td>Rs. 6300/-</td> <td>rapeseed oil (crude)</td> </tr> <tr> <td>Rs. 8000/-</td> <td>rapeseed oil (refined)</td> </tr> <tr> <td>Rs. 6000/-</td> <td>RBD palm oil (bulk)</td> </tr> <tr> <td>Rs. 7750/-</td> <td>RBD palm oil (in tins)</td> </tr> <tr> <td>Rs. 6400/-</td> <td>RBD palmolein (bulk)</td> </tr> <tr> <td>Rs. 7750/-</td> <td>RBD palmolein (in tins)</td> </tr> </table> <p>It will be seen that although STC was purchasing oils at much cheaper rates in the international market and was also availing of duty concession, no reduction in the aforesaid issue prices was effected by the Government. There was also no change since September, 1979 in the prices of soyabean oil (crude), rapeseed oil (crude) crude palm oil and neutralised palm oil supplied to vanaspathi industry. These prices ranged between Rs. 7060/- and Rs. 7210/- per tonne. The result was that while the Ministry of Finance and foregone customs duty to the extent of Rs. 40 crores during 1980-81, the surplus available with the STC on account of edible oil imports was to the tune of Rs. 80 crores in that year.</p>	Rs. 6300/-	rapeseed oil (crude)	Rs. 8000/-	rapeseed oil (refined)	Rs. 6000/-	RBD palm oil (bulk)	Rs. 7750/-	RBD palm oil (in tins)	Rs. 6400/-	RBD palmolein (bulk)	Rs. 7750/-	RBD palmolein (in tins)
Rs. 6300/-	rapeseed oil (crude)														
Rs. 8000/-	rapeseed oil (refined)														
Rs. 6000/-	RBD palm oil (bulk)														
Rs. 7750/-	RBD palm oil (in tins)														
Rs. 6400/-	RBD palmolein (bulk)														
Rs. 7750/-	RBD palmolein (in tins)														
14.	2-91	Do.	The Committee were informed during evidence that STC was operating as an agent of the Government and the surplus generated on this account would be appropriated by Government and deficit, if any, was to be reimbursed to STC. The Committee are of the view that this makes the position still worse as it indicated that Government resorted to profiteering at the cost of the consumers. The Committee were further informed that imports at concessional rate were being allowed as a part of overall edible oil policy and with the objective of maintaining stability in the prices of edible oils in view of the fluctuations in the international edible oil situation.												

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			<p>It was further stated that as there was a wide gap in the prices of imported oils supplied through public distribution system and the open market prices of edible oils, it was felt that any reduction in the price of imported oils would further widen the gap.</p>
15.	2-92	(i) M/o Civil Supplies (ii) M/o Commerce	<p>The committee feel that the plea of the Ministry of Civil Supplies that these prices were not reduced in order to maintain stability in the prices of edible oils and as a part of overall oil policy is totally unconvincing. They would like to point out that the basic objective of granting exemption in duty on the imported edible oils was to ensure the supply of these oils to the consumers at reasonable prices. With the fall in the STC's purchase prices of imported oils, the benefit should have been passed on to the consumer so that the consumer could have got some relief at least on one count. In this era of spiralling price rise. Since imported oils made available through the public distribution system constituted about 20 per cent of the total household consumption of edible oils in the country, any reduction in the prices of imported oils would have made an impact on the prices of indigenous edible oils leading to a fall in its prices. Further, as about 50 to 60 per cent of the imported edible oils was being supplied to vanaspati industry, Government by supplying these oils to the industry at reduced price could have prevailed upon the manufacturers to reduce the price of vanaspati thus resulting in some relief to the consumers in the availability of vanaspati. What is still more shocking is that the Government's continuance to charge the same prices for imported oils even after the fall in the State Trading Corporation's purchase prices enabled private parties to exploit the situation and make exorbitant profits by selling oil, imported at cheaper prices on the basis of contracts entered into before canalisation at the high prices prevailing in the open market.</p> <p>All these facts clearly demonstrate the scant regard Government displayed towards the interest of vast multitudes of helpless consumers in the country. The Committee cannot but express their deep anguish at this lapse on the part of the Government.</p>
16.	2-93	M/o Finance (Deptt. of Revenue)	<p>The Committee are of the view that the Ministry of Finance (Department of Revenue) have also failed in their duty to ensure that the objectives behind the grant of exemption were actually being fulfilled. It was the Ministry of Finance which by granting exemption from customs duty was losing revenue and it was the duty of that Ministry, when requests for continuing the exemption were received from the administrative Ministry from time to time to have ensured that the purposes for which the exemption was given were actually being achieved. The very fact that while the Ministry of Finance lost revenue amounting to Rs. 40 crores in 1980-81 as a result of exemption from duty on imported edible oils, the State Trading Corporation earned a surplus of Rs. 80 crores and still the exemption continued to be granted as and when request was received, clearly shows that the Ministry of Finance continued to issue exemption orders as a matter of routine without examining afresh the propriety of continuing this exemption on the touchstone of conditions as laid down in section 25(2) of the Customs Act, 1962. This further fortifies the</p>

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			<p>observation of the Committee expressed earlier that there was no monitoring or feedback system in the Ministry of Finance to ensure the desirability or otherwise of continuing grant of exemptions. The Committee are firmly of the view that whenever any exemption is granted or a decision is taken to extend it for a further period, the two conditions as laid down in Section 25(2) of the Customs Act, 1962 are fulfilled. The Ministry of Finance must ensure that the extraordinary power delegated by Parliament to the Executive is not exercised in a routine manner but is exercised with due care and caution.</p>
17.	2-94	M/o Commerce	<p>The Committee find that the import of edible oils under O.G.L. (Open general licence) was terminated with effect from 2-12-1978 and from that date all such imports have been canalised through STC. According to the prescribed procedure as and when a ban or canalisation order is issued in the middle of a licensing period, which is from 1st of April to 31st March every year, it is not incumbent upon the Government to honour the pre-ban or pre-canalisation commitments. In the instant case, however, the canalisation order issued on 2-12-1978 in the middle of the licensing period, clearly provided that all firm commitments made prior to that date would be honoured by grant of import licences on receipt of applications within fifteen days. This resulted in receipt of 636 applications by the Chief Controller of Imports and Exports and grant of 476 licences to private parties who imported a total quantity of 3.57 lakh tonnes of edible oils during the year from 1978-79 to 1981-82. A number of applicants whose claims had been rejected have filed writ petitions in the High Court and the final outcome of these cases would depend on the decisions that may be taken by the Court. The Committee would like to point out that Government were well aware of the high margin prevailing in the market on the imported oils and of the fact that the private importers were under no obligation to make the oil available to the public reasonable prices. During evidence, the Secretary, Ministry of Civil Supplies, conceded that the private traders took advantage of the then prevailing domestic prices and made a sizeable amount of profit. The Committee would therefore like to be apprised of the precise reasons which prompted the Government to undertake to honour the commitments made by private parties prior to 2-12-1978 for import of edible oils in the country.</p>
18.	2-95	M/o Civil Supplies	<p>The Committee find that there is at present no statutory price control over vanaspathi. The vanaspathi units about 90 in number and spread all over the country supply vanaspathi under the voluntary price discipline arrangement at the stipulated prices and within the ranges agreed to on mutual consultation between the industry and the Government. Under the existing system about 50 to 60 percent of the edible oils imported by the STC is made available to the vanaspathi industry for manufacture of vanaspathi. The vanaspathi units submit to the Government returns of their total production as also the names of parties to whom the supplies are made by them. The voluntary price arrangement implies a certain self-imposed discipline on the part of the manufacturers who are responsible to discipline their wholesalers and retailers. If any wholesaler or retailer sells vanaspathi</p>

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			at higher than the stipulated price, it does not constitute an offence but only violation of the voluntary price practice and if such an instance is brought to the notice of the Government, the latter can only compel the manufacturers to take action against the particular offenders.
19.	2-96	M/o Civil Supplies	<p>The ex-factory price of vanaspati under the voluntary price restraint by the industry was Rs. 192/- per tin of 16.5 kg. since April, 1981. The Committee understand that this price has now been raised to Rs. 217/- To this price, the industry is permitted to add the incidence of transport and distribution charges and wholesalers' and retailers' Commission. The Committee have been informed that the prices at which imported edible oils are finally available to the consumers through the public distribution system have been ranging between Rs. 8.50 and Rs. 9.50 per kg. as against the market price of Rs. 15 to Rs. 16 per kg. for indigenous oils. From the large number of complaints being received from the public and voiced in the press, it is clear that the common man, even in the capital, is not getting vanaspati at the so called voluntary price. In fact loose vanaspati is almost never available in the open market; it is diverted to black market and the distribution system is beset with a number of malpractices. There have also been complaints regarding profiteering in imported edible oils by the owners of fair price shops. If this is the condition in the capital, the plight of the poor consumers in far-off and remote areas in the country can well be imagined. The Committee were dismayed to hear the representative of the Ministry of Civil Supplies during evidence who expressed ignorance about any such complaints. Clearly the administration has lost all touch with reality and the Ministry Civil Supplies has completely failed to monitor the actual distribution of the vanaspati in the country. The Committee would recommend that Government should take effective measures under the Essential Commodities Act in co-ordination with the State Governments to plug all loopholes in the network of actual distribution of vanaspati and take stern measures against the offenders in order to ensure that the vanaspati is actually available to the consumers at the fixed price without any difficulty even in the remotest corner of the country.</p>
20.	2-97	M/o Civil Supplies	<p>The Committee note that the production of oilseeds in the country has remained stagnant during the last about 10 years. On the other hand, demand for edible oils has increased with the result that Government had to spend huge amounts on the imports of these oils.</p> <p>The cost of imports of edible oils through STC was to the tune of Rs. 479.83 crores in 1978-79, Rs. 617.18 crores in 1979-80 and Rs. 516 crores in 1980-81. This is a matter of deep concern particularly at a time when the country is facing a large foreign exchange deficit and has been compelled to go in for large scale foreign borrowings. The Committee are distressed that this vital sector of agricultural economy which provides rich protein to the vast segment of our population has been neglected all these years and has been left untouched by the Green Revolution. The Committee are of the firm view that the country cannot afford to spend large sums of scarce foreign exchange on the import of edible oils when with a little effort indigenous production can be</p>

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			stepped up to meet the entire domestic demand. The Committee therefore recommend that Government should immediately chalk out a detailed strategy and time-bound programme to increase the production of oilseeds in the country so as to attain self-sufficiency in this vital field at the earliest.
21.	2-148	M/o Finance (Deptt. of Revenue)	<p>The indigenous production of steel in the year 1978-79 fell short of the estimated demand due to various reasons, the most important being the shortage of coal and power. It was then estimated that there would be substantial shortfall in the availability of steel items particularly to the users in the core sector, and in that context it was decided to import sufficient quantities of various categories of steel to meet the requirements of the consumers. The prevailing international price of steel at that time was substantially higher than the domestic prices and, according to the Ministry of Steel, if the imported material was supplied to the producers at the imported price plus duty it would have led to cost push effect on the entire economy. The Ministry of Steel, therefore, approached the Ministry of Finance for grant of exemption from customs duty on the imported steel items to enable the Steel Authority of India to pass on the imported steel to the consumers at the price at which similar indigenous items were to be made available by the steel plants.</p>
22.	2-149	(i) M/o Finance (Deptt. of Revenue) (ii) M/o Steel & Mines (Deptt. of Steel).	<p>The Committee find that the Ministry of Finance issued two exemption orders, one on 29 July 1978 and the other on 29 November, 1978 for the import of a total quantity of 469,000 tonnes of various items of steel against which a total quantity of 245,000 tonnes only was imported during 1978-79. Similarly, during 1979-80, against the exemption for import of 9,50,000 tonnes of steel items, 9,00,200 tonnes were imported including spillovers from previous year. In 1980-81, while the quantity exempted was 6,92,000 tonnes, the quantity imported was only 4,95,800 tonnes including spillovers from the previous year. During evidence the Special Secretary, Ministry of Steel admitted that shortage continued and the import was not really quite commensurate with the requirement."</p>
23.	2-150	(i) M/o Finance (Deptt. of Revenue) (ii) M/o Steel & Mines (Deptt. of Steel)	<p>The Committee find that the exemption under Section 25(2) of the Customs Act, 1962 was granted in this case for import of steel to make up the gap between demand and supply which according to the Ministry of Finance was essential in the public interest. But since the quantity of steel imported during 1978-79 was only a little more than 50% of that exempted from duty, it failed to achieve the desired objective. The very fact that even the entire quantity for which exemption was granted on 29 July 1978 could not be received even till March 1979 i.e. after 8 months, clearly shows that the requisite sense of urgency was lacking and after obtaining the exemption orders, the Ministry of Steel proceeded in the matter of obtaining these steel items in a leisurely manner. The result was that the shortage of steel in the country continued, black marketing in steel items flourished and the consumers continued to be fleeced defeating the very purpose for which the exemptions were granted. In the meantime, the parties who were importing these steel items under back to back arrangements were able to import these items and these parties taking advantage of the scarcity conditions in indigenous</p>

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			market, earned huge profits. The Committee would like to express their serious concern at this lapse on the part of the Ministry of Steel to arrange within a reasonable time the import of such steel items in respect of which exemptions had been granted.
24.	2-151	M/o Finance (Deptt. of Revenue)	<p>The Committee find that when the Ministry of Steel approached the Ministry of Finance for grant of exemption from duty on import of steel in the year 1978-79, the former had only given information in regard to the extent of shortfall without furnishing figures of the total indigenous demand or actual availability of the material in the country. The representative of the Ministry of Finance admitted during evidence that they had "trusted" that all relevant factors regarding the total production and total demand in the country were taken into consideration by the Ministry of Steel and that the Ministry of Finance granted exemption only on the basis of the figures of shortfall and also the fact that the international price being high duty will add to the domestic pooled price. The Committee are shocked to find that the Ministry of Finance who are supposed to be fully equipped with all the data essential to examine the proposal for duty exemption should have granted exemption in the absence of such vital information. The Committee cannot but reach at the conclusion that the Ministry of Finance did not apply their mind independently whether the exemptions asked for by the Ministry of Steel from time to time were actually essential and were in the public interest. The Committee would like the Ministry of Finance to be more careful in future while taking a decision on requests for exemptions. As already stated in para 2-93, they would like the Ministry of Finance to be more careful and obtain all relevant information and arrive at an independent judgment before grant of exemption.</p>
25.	2-152	(i) M/o Finance (Deptt. of Revenue) (ii) M/o Steel & Mines (Deptt. of Steel)	<p>In respect of iron and steel items for which SAIL is the canalising agency, imports are made on back to back basis and under buffer scheme. The former are against specific demands of parties. Imports under buffer scheme are distributed at indigenous prices under the price pooling arrangement. The material imported under this scheme is distributed as per the procedure laid down by Joint Plant Committee/Iron and Steel Controller from time to time. The Committee were informed that out of the total steel items imported during 1978-79, 68 per cent were supplied to Government and public sector organisations and the remaining 32 per cent to the private sector. Out of the 32 per cent of steel items supplied to the private sector, 2 per cent went to the small scale units. The Committee were also furnished with statements which showed that many private parties were supplied the same steel products both under the back to back arrangement as well as under buffer scheme during the years 1978-79 and 1981-82. While the former paid duty, the latter was exempted. The Committee are unable to appreciate why the same parties who apparently could bear the duty burden were also supplied duty free steel under the buffer scheme. The Committee would therefore urge the Government to examine whether it is necessary to continue to grant exemption from duty in respect of steel supplied under the buffer scheme. The Committee also recommend that the existing policy of supply of duty free steel to the private sector should be</p>

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			critically reviewed in the interest of revenue as also to prevent malpractices in the distribution and sale of steel products to the consumers.
26.	2-153	M/o Finance (Deptt. of Revenue)	<p>The Committee find that the Ministry of Finance issued an exemption order on 23 December, 1978 for import of 75,000 tonnes of steel ingots. The exemption was sought by the Ministry of Steel on the ground of shortfall in the availability to the Rourkela and Bokaro steel plants to enable them to roll the same into finished products. However, this order was not operated in 1978-79 and no material was imported in that year against this order. The exemption order was amended twice in the year 1979-80 to substitute for the imports of 75,000 tonnes of steel ingots—first on 5 June 1979 for import of 30,000 tonnes of steel ingots and 30,000 tonnes of slabs and again on 18-9-79 for 75,000 tonnes of slabs. Then again in 1980-81, on 21 April, 1980 the order was amended for import of 50,000 tonnes of slabs and 25,000 tonnes of billets. The Committee were informed by the representatives of the Ministry of Finance during evidence that the Ministry agreed to convert the exemption order for idgots to slabs and billets because “the rate of duty was the same” and that “it would have been possible to issue a separate order”.</p>
27.	2-154	M/o Finance (Deptt. of Revenue)	<p>The committee are surprised at the casual manner in which the Ministry of Finance continued to amend the exemption order from time to time. The exemption from duty is granted for the import of a specific item required to meet a particular situation which in this case was to supplement the stock because of reduced indigenous availability. The Committee fail to understand how the shortage of a particular item exempted from duty could be met by its substitution by various other items and that also after a lapse of over 16 months when the conditions might have totally changed. If there was shortage of billets and slabs in the country and the Ministry of Steel wanted to import these items duty free, the right course for the Ministry of Finance would have been to consider the request for exemption independently and issue a fresh exemption order. That this was not done is regrettable. The Committee must point out that conversion of one item into another in such manner tantamounts to by-passing the intention behind the provisions of section 25 of the Customs act and should not be resorted to.</p>
28.	2-155	(i) M/o Finance (Deptt. of Revenue) (ii) M/o Steel & Mines (Deptt. of Steel)	<p>The Committee observe that the entire quantities of various items of steel exempted from payment of duty in a particular year were not imported in that year itself. For example, certain quantities of various items like plate and structurals exempted from duty in the year 1978-79 were actually imported in the year 1979-80. Likewise, part of the exemptions granted in the year 1979-80 was actually operated in the year 1981-82. It has also been noticed that in the case of various items the imported price of the same item was more in the subsequent year when these items were actually imported. For example, the structurals were imported @ Rs. 2820/- per tonnes in the year 1978-79 but the price paid in the year 1979-80 was Rs. 3,362 i.e. about Rs. 530/- per tonne more.</p>
29.	2-156	(i) M/o Finance (Deptt. of Revenue)	<p>In this connection, the Committee find that the exemption orders in respect of steel products usually indicate the quantity allowed to be imported duty free</p>

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		(ii) M/o Steel & Mines (Deptt. of Steel)	but the period upto which import is to be made is not indicated. No wonder, the ministry of Steel and SAIL take their own time in placing orders and processing shipments, and the Ministry of Finance do not themselves bother to see whether duty free impests have actually taken place within a reasonable period. The Committee feel that the Government should prepare their import plan in the beginning of each financial year and work out time-bound programme so that spilling over of imports from one year to another is obviated. The Committee also recommend that the exemption orders should invariably specify the period of validity so that the administrative Ministry and the Finance Ministry are in a position to scrutinise the implementation of an existing exemption order before its expiry and then consider whether further exemptions to similar products are at all necessary.
30.	2-157	M/o Finance (Deptt. of Revenue)	The Committee note that the Ministry of Finance issued an exemption order on 31 May 1980 for various items of steel where in an "additional" quantity of 1,00,000 tonnes was specified. It was mentioned in the order that the items would be intimated to the ports separately as and when the details of the same were furnished by the Ministry of Steel. The Committee consider it very strange that the Ministry of Finance issued such a vague exemption order for import of "additional" quantities of steel items as it is not in consonance with the provisions of Section 25 (2) of the Customs Act, 1962. They therefore, desire that each such order should, in future, be specific in respect of each item required to be imported.
31.	2-158	M/o Steel & Mines (Deptt. of Steel.)	Under the present arrangement regarding distribution of Steel, while a few customers like railway projects, defence units etc. get the supply directly from the steel plants, most of the requirements are met from the stockyards. After meeting the priority requirements, the available materials is distributed through the network of stockyards. The stockyards cater directly to the requirements of all DGTD units. The requirement of small scale units are met through State Small Industries Corporations. The Iron and Steel Controller monitors supplies to these Corporation.
32.	2-159	M/o Steel & Mines (Deptt. of Steel)	The Committee were informed by the Vice Chairman SAIL during evidence that in the stockyards there are slow moving and fast-moving items and that in respect of supplies to trade there was a premium on steel items which were in short supply. The stockyards were expected to sell not only premium items but also others which had a discount. When the Committee wanted to know whether separate compensation accounts were maintained in respect of such sales, the Vice-Chairman, SAIL stated "At the corporate level with which I am concerned, I can say if anyone has done it, we have not accepted the liability". The Committee however, find that the following decision was taken by the Board of Directors of SAIL on 4 June, 1980: "It was explained to the Board that package transactions of this nature are involved in the steel and other trades. But this was stopped in steel three years ago. The Board further feel that these transactions should be settled separately rather than account being maintained over a period of time."

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33.	2-160	M/o Steel & Mines (Deptt. of Steel)	When the Committee pointed out that it might not always be possible to square up the accounts of each person, the Vice-Chairman, SAIL stated before the Committee: "In each lot, he can take some premium item and some slow-moving item so that the amount of premium is to that extent squared up with the discount". He also stated that the Board had approved a proposal for settling commitments made to the trade on account of such deals concluded prior to November, 1978. Thus, package transactions prior to November 1978 were legalised by the Board, those between November, 1978 and June 1980 were treated as illegal and for subsequent period it was decided that package deals would not be recognised.
34.	2-161	M/o Steel & Mines (Deptt. of Steel)	The Committee would like to be informed whether the Ministry of Steel was aware of the prevalence of package deals in the sale of steel items to trade from SAIL's stockyards and if so, whether any action was taken in the matter. The Committee would also like to know whether any compensation claims from the trade are pending and what is being done for their disposal.

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