

**ESTIMATES COMMITTEE
(1978-79)**

(SIXTH LOK SABHA)

THIRTY-THIRD REPORT

MINISTRY OF FINANCE

**(DEPARTMENT OF REVENUE)
CUSTOMS**

Presented in Lok Sabha on 27th April, 1979



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ESTIMATES COMMITTEE

(1978-79)

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Shri K. S. Bhalla—*Chief Financial Committee Officer.*

Shri A. N. Bhatla—*Senior Financial Committee Officer.*

INTRODUCTION

1, the Chairman of Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Thirty-third Report on Ministry of Finance (Department of Revenue) Customs.

2. The Committee took evidence of the representatives of the Ministry of Tourism and Civil Aviation, International Airport Authority of India, and the Directorate General of Tourism on 19 January, 1979. The Committee wish to express their thanks to the Officers of the Ministry of Tourism and Civil Aviation and others who gave evidence and furnished information, which they desired.

3. The Committee also took evidence of the representatives of the Ministry of Finance (Department of Revenue) and the Directorate General of Posts and Telegraphs on 2, 3 and 5 March, 1979. The Committee wish to express their thanks to the Officers of the Ministry of Finance and the DGP&T, for placing before them the material and the information which they desired in connection with the examination of the subject and giving evidence before the Committee.

4. The Committee also wish to express their thanks to the Federation of Indian Chambers of Commerce and Industry, Associated Chambers of Commerce and Industry of India; Association of Indian Engineering Industry and All India Importers Association, for furnishing memoranda to the Committee and also for giving evidence and making valuable suggestions.

5. The Committee also wish to express their thanks to all other institutions, associations, bodies and individuals who furnished memoranda on the subject to the Committee.

6. The Report was considered and adopted by the Committee on April 23, 1979.

7. For facility of reference the recommendations|observations of the Committee have been printed in thick type in the body of the Report. A summary of the recommendations|observations has been placed as Appendix.

NEW DELHI;

SATYENDRA NARAYAN SINHA,

April 25, 1979.

Chairman,

Vaisakha 5, 1901 (Saka).

Estimates Committee.

CHAPTER I

HISTORICAL BACKGROUND

1.1. Prior to 1 February, 1963 the Customs organisation was administering the provisions of the Sea Customs Act, which was enacted in the year 1878, and of the Land Customs Act, 1924. The administration of air customs was governed by the Rules made under the Indian Aircraft Act. The Customs Act, 1962 consolidated the provisions relating to Sea, Land and Air customs into a single comprehensive Act. The Customs Act, 1962 came into force on 1 February, 1963.

1.2. The primary functions of the Customs administration are:

- (i) Enforcing the provisions of the Customs Act, 1962;
- (ii) Collection of import and export duties and cesses as fixed under the Indian Tariff Act, 1975 and its schedules and other enactments such as the Agricultural Produce Cess Act etc.;
- (iii) Prevention of smuggling of restricted, prohibited and dutiable goods;
- (iv) Enforcement of restrictions on imports and exports for various purposes under the Imports and Exports (Control) Act, 1947 and Foreign Exchange Regulation Act, 1973.
- (v) Computation of Trade Statistics and Revenue Returns.

1.3. The Customs Department controls the movement of persons and goods coming into or leaving the country and this check is generally exercised at the principal seaports, airports and at land customs stations at important points along the land borders.

1.4. Customs duties are an important source of revenue to the Central Government. In the last ten years, the customs receipts have shown phenomenal increase. From about Rs. 513 crores in 1967-68, customs revenue increased by more than 3½ times to Rs. 1,824 crores during 1977-78. As per the Estimates for the year 1978-79, the Central Government is expected to collect Rs. 2186.5 crores by way of customs duties which would work out to 21.61 per cent of the total estimated tax revenue of the Government.

1.5. Customs duties are collected according to the rates prescribed in the Customs Tariff. Till 1976, the Customs Tariff was based on the League of Nations Nomenclature and was governed by the Indian Tariff Act, 1934. With the change in the pattern of international trade, the Customs tariff was remodelled on the lines of the Customs Cooperation Council Nomenclature, which has been adopted by a large number of countries. At present rates of customs duties are governed by the Customs Tariff Act, 1975. While export duties are levied on selective items, the tariff schedule for import duties covers practically every commodity.

1.6. The Central Board of Excise and Customs under the Department of Revenue, is entrusted with the administration of the laws relating to the customs. The Board formulates the policies for the levy of customs duties and ensures their implementation through directions to the field formations. The Central Board of Excise & Customs is one of the two statutory Boards constituted under the Central Board of Revenue Act, 1963 as amended. At present, it comprises a Chairman and six Members functioning as *ex-officio* Additional Secretaries to the Government of India. Members (Customs) in the Central Board of Excise and Customs is directly in charge of the customs work. There is also one Additional Secretary (Anti-smuggling) in the Department of Revenue in-charge of administration of anti-smuggling organisation and field formations. The Central Board of Excise and Customs is assisted by a number of Directorates such as:

- (i) The Directorate of Statistics and Intelligence;
- (ii) The Directorate of Inspection and Audit;
- (iii) The Directorate of Organisation and Management Services;
- (iv) The Directorate of Revenue Intelligence;
- (v) The Directorate of Communications;
- (vi) The Directorate of Training;
- (vii) The Directorate of Drawback; and
- (viii) The Directorate of anti-smuggling.

1.7. The field organisation of the Customs Department is of two types. At each of the major ports—Bombay, Calcutta, Madras and Cochin—sea and air work is handled by customs staff under a Collector of Customs. The additional Collectors of Customs posted

at Goa and Visakhapatnam Customs Houses function under the Collectors of Customs, Bombay and Madras respectively. At other seaports, international airports and the land borders, customs work is handled by Collectors of Central Excise and Customs.

1.8. The pattern of customs control in the Custom Houses is broadly two-fold:—

(1) Appraising Department which is responsible for appraisement and assessment of import and export goods and collection of duty thereon.

(2) Preventive Department for anti-smuggling work.

1.9. The system of ensuring that all imported goods are duly accounted for, for assessment and collection of duty, consists broadly in the legal and procedural requirements that all vessels and aircraft shall file a complete list (called the manifest) of all goods carried in them and that nothing will be off-loaded unless it is manifested. The manifest then becomes one of the basic documents of control and procedural requirements to ensure that all entries in all the manifests are duly accounted for. Similar and corresponding requirements ensure that nothing is exported out of the country without permission of or check by the customs. For the import cargo the importers make a declaration of the value, description and other material particulars of the consignment in a Bill of Entry which are checked with the corresponding entry in the Manifest. The customs officers assess the duty payable after verifying the declaration and conducting such other checks as are necessary to ensure compliance with the law. After paying the duty, the importers remove the goods after the same have been examined by the customs staff posted in the docks. Similarly, exporters make a declaration of the goods they intend to export in a Shipping Bill. After necessary scrutiny to ensure compliance with the law, the export duty or cess wherever leviable is assessed by the customs officers. After payment of duty or cess, the goods are brought by the exporter or his agent for shipment after examination by the customs.

1.10. As in the case of imports and exports by sea and air, the customs also exercise control over all goods imported or exported by post in order to collect duties wherever leviable and to endorse the restrictions on import and export of goods under the Customs Act and other allied acts.

1.11. The Customs Act, 1962 provides for appointment of public warehouses and licensing of private bonded warehouses where imported goods may be deposited without payment of duty. The Customs Act has a provision under which manufacture and other operations in relation to goods can be carried out in a warehouse.

1.12. Subject to fulfilment of the prescribed conditions, drawback upto 98 per cent of customs duty paid on importation of an article is granted on its export out of India. In respect of articles taken into use after importation, drawback is paid at the rates prescribed by the Central Government having regard to the various relevant circumstances. In accordance with the provisions of section 75 of the Customs Act and Rules framed thereunder drawback of customs duties paid on imported materials when used in the manufacture of goods for export is also permitted.

1.13. Preventive Department of the major Custom Houses functions under the charge of an Additional Collector of Customs who supervises the anti-smuggling operations in docks, airports and the city. He also supervises the baggage clearance of the international passengers. Another important functions of the Preventive Department is to supervise loading and unloading of goods in the docks.

1.14. As the anti-smuggling operations have assumed importance along the West Coast and also along the Indo-Nepal border, full-fledged Preventive Collectorates exclusively engaged in anti-smuggling operations have been set up at Bombay and Patna.

1.15. Disputes between the assesseees and the Department regarding valuation, rate of duty, etc. are decided by the Assistant Collector, the Deputy Collector or the Collector of Customs. Offences booked against a person for contravention of customs law or evasion of customs duty are decided by Assistant Collector, Deputy Collector or the Collector of Customs depending on the value of offending goods.

1.16. If a person is aggrieved with the decision of an adjudicating authority, he can file appeal to the Appellate Collector against the orders passed by officers lower in rank than the Collector of Customs. Against the orders passed by Collectors, appeal lies to the Board. If a person is aggrieved with a decision in an appeal, he can file a revision application to the Government.

1.17. The Committee have examined the working of the Customs organisations and have made suggestions in this Report for streamlining its working and simplifying the procedure which, if implemented in letter and spirit, will go a long way in toning up the efficiency of the customs to the satisfaction of all concerned.

CHAPTER II

CUSTOMS NOTIFICATIONS

A. Delay in availability of Customs Notifications

2.1. It has been represented to the Committee by a number of non-official Organisations that Customs Notifications are not available promptly and these also do not percolate to all parties in view of limited circulation of the notifications to select bodies like Chambers of Commerce, Trade Associations, Export Promotion Councils etc. It has been suggested that some mechanism should be devised so that the assessee is able to get the notifications as soon as possible even on payment of reasonable charges.

2.2. A Member of Lok Sabha in his memorandum submitted to the Committee has stated that "Notifications, Orders etc. issued by Customs Department are not available promptly; one has to rely on the publications issued by the Chambers or Trade Associations or certain commercial bulletins. They are known after a long interval."

2.3. In another memorandum submitted to the Committee, it has been stated that—

"The Notifications are received quite late, causing information delays, for instance notifications issued in May, June and July, 1978 were received on 11 August, 1978. In general the smaller companies which have no direct liaising facilities get their initial information from Budget proposals and Press Reports. Since the exact proposals and ramifications are rarely given in these reports the potential assessee goes through a period of uncertainty."

2.4. Ministry of Finance (Department of Revenue) have stated that "all Notifications Orders etc. are published for the information of the Trade by the major Customs Houses. These are issued as part of the Daily List of Imports and Exports. Copies of these lists are sent to all subscribers. Copies of Notifications, Orders etc. are also available for sale at the major Customs Houses."

2.5. The Ministry have further stated that all Customs Notifications are serialised and a register is maintained for each year in the

Ministry for this purpose. A monthly statement is also sent to all the Custom Houses indicating the Notifications affecting Customs Tariff issued during the preceding month, with brief particulars so that any missing copy could be had immediately.

2.6. All Public Notices and Notifications are also available with the Public Relations Officer in all the major Custom Houses and can be referred to. Subscriptions for the daily list publications in which the Notifications are published are accepted by Custom Houses on yearly, half yearly and quarterly basis. Copies of the daily lists incorporating the Notifications and the Public Notices issued by the Custom Houses are sent to the subscribers promptly. Separate copies of the Notifications can also be had by the members of the public, if they so desire, from the Public Relations Officers of the Custom Houses.

2.7. With regard to the supply of Notifications to the Trade Associations and Chambers of Commerce, the Study Group of the Committee were informed by the Customs Officers during tour as follows:

BOMBAY.

Normally copies of Notifications etc. are despatched to the Chambers/Associations within a period of week from the date of its receipt in the Collectorate Office.

MADRAS.

Notifications were supplied in the form of Trade Notices and sent to the Chambers and Trade Associations for distribution to their members. No communication was sent direct to the members. Normally it took about 10 days to despatch the Notifications. In view of the large number of assessees it was not possible to send them to each and every assessee.

MANGALORE.

While telex messages about change in duty were received from Delhi immediately, copies of formal notifications were received generally after 10 days. The Trade Notices were issued by Customs Office within 7 days of the receipt of the Notifications. Notices it was stated, could be drafted centrally at Delhi to save time.

COCHIN.

Changes in the Customs Levy were received from the Headquarters (Delhi) on telex system and were given effect

to by the Customs Collectorate. Copies of formal Notifications were, however, received within 15—20 days in the Collectorate which took 7—10 days thereafter to issue Trade Notices for the benefit of the assesseees.

2.8. A non-official witness, while admitting that the Notifications regarding changes in Customs Duty were available from the Customs House, stated thus:—

“after Notification is issued by the Ministry of Finance, it takes 15 to 20 days before it goes to the Customs House and the same is not valid until the Collector of Customs endorses it. This is where the delay occurs. The importers to-day are spread out all over the country whereas Custom Houses are located in particular localities. So, sometimes, it is not possible particularly for the small scale industrialists to go and find out from the Custom House what the Notifications are.”

2.9. Asked to state as to how it could be ensured that copies of Notifications reached all the parties concerned without delay, the Secretary, Ministry of Finance in his evidence (March, 1979) stated:—

“...the matter which is causing concern to this honourable Committee is how to improve the communication between the Department and its numerous assesseees. This is the basic problem which we are seeking to tackle and we submitted before the Committee last time (*ie.* in the case of evidence on the subject of Central Excise) that many of the problems which have been brought to their notice in the course of visits and in the course of discussions with Chambers of Commerce and so on would be satisfactorily solved if we set up a strong well-equipped Directorate of Publications. So far as this proposal is concerned, we have made considerable progress. The Department has worked out proposals for setting up Directorate of Publications. They have assessed the requirements of staff and they have also been preliminarily examined by the Financial Adviser in the Ministry. In another 10 days it will be possible for me to take a final view and convince the Government that setting up a Directorate is essential. It is easy to set up a Directorate, but we must identify suitable people to man it. When that

is done. I think much of the problems high-lighted in this connection will be solved."

B. Mailing of Notifications Direct to Assesseees/Chambers of Commerce and Industry

2.10. It has been suggested, in a memorandum submitted to the Committee that—

"copies of Notifications should be sent by post to representative organisations like Chambers of Commerce on the very day that these are sent to the Press for publication in the Gazette so that the time lag is reduced to the barest minimum."

2.11. A non-official in his evidence before the Committee stated—

"...Whatever Notifications are issued in Delhi, they are received late by Customs at Bombay. Something of course comes in the Press but what comes in the Press cannot be authentic, and again the Custom House takes sometime, as a result of which it takes a lot of time to reach the trade. So my request should be that such notices should be sent to the Associations for the benefit of the Members direct from Delhi by the Ministry of Finance".

2.12. In this context, it has also been suggested to the Committee that the Customs Notifications should be mailed direct to the importers and exporters (who should be enrolled as members) on annual subscription basis, by the Ministry of Finance (Central Board of Excise and Custom).

2.13. The Ministry have also stated that "as soon as the notification is sent to the Press for publication in the Gazette, the Collectors of Customs are informed of it by Telex messages. Sufficient number of copies are also despatched the same day by QMS to the major Customs Houses so that importers are accorded these concessions if they are otherwise eligible to the exemption notified with effect from the date of issue of Notification".

2.14. The Committee have been informed by a large number of non-official organisations that the Customs Notifications are not available promptly and these do not percolate down to all the interested parties in view of their limited circulation. It takes a Notification three to four weeks to reach the parties concerned through the Custom Houses.

2.15. The Committee note the various steps taken by Government in making the customs notifications available to the trade and industry as early as possible but it has not met the requirements of the trade and industry or has failed to remove the gap in availability.

2.16. The Committee feel that instead of routing the notifications through Customs Houses, the Notifications, Orders etc. relating to Customs should be mailed direct from Headquarters to all the Chambers of Commerce and Industry, and trade organisations, importers and exporters who may register themselves with the Ministry for the purpose on payment basis. The notifications should be despatched the same day on which they are sent to press for publication in the Gazettee.

2.17. The Committee are informed that Government have decided in principle to set up a Directorate of Publications to improve the communications between the customs Department and the assesseees. The Committee strongly urge that the proposal for the separate Directorate of Publications should be given a concrete shape without any further loss of time and the Directorate set up at the earliest to meet the genuine demand of the assesseees to be supplied with copies of Notifications, Orders etc. without any delay.

C. Publication of Customs Notifications in Newspapers.

2.18. It has been suggested in a memorandum submitted to the Committee that—

“any changes should be notified only on fixed date of month either every three months or once in a month so that concerned public would be aware of likely changes. This should be notified in well-known daily or weekly newspapers on the fixed dates in their commercial columns so that the public need not wait till the custom house publishes the same. There should not be too much of frequency in issue of such notifications.”

2.19. It has also been suggested in a memorandum submitted to the Committee that “in order to ensure quicker and wide dissemination of the contents of customs notifications, a short summary should be published in the Press....”

2.20. Asked to furnish their comments on the aforesaid suggestion the Ministry stated that “Notifications concerning public, including changes in the levy and rates of Customs Duty are made
356 L.S.—2.

known to the public immediately through the issue of public notices from each Customs House. These can be bought on payment of a very nominal fees. As changes have to be brought to the notice of the public immediately, the question of observing any fixed periodicity will not be practicable.

2.21. The Ministry further stated that in respect of all important notifications which introduce changes in the rates of duty adequate publicity is also given through issue of press notes which explain the change brought about in simple language.

2.22. As regards publication of customs Notifications or changes therein the commercial columns of newspapers, the Ministry have stated:—

“The suggestion of publication of the changes in the commercial column of well known dailies on fixed dates can be considered. An attempt can be made by publishing the list of notifications and the concerned subject matter in brief. In fact, release of press notes in important cases have also been started by the Department. But this cannot by their very nature be quite exhaustive in helping and in informing assessee accurately. This system, although useful has the basic drawback that the leading daily newspapers might either not give sufficient space for such publication, in view of the pressure of space or for what they might subjectively assess as their news-value”.

2.23. A non-official in evidence before the Committee stated that—

“the public should be educated to understand the system by issuing notices. Firstly, through the press or mass media. Government should make an announcement regarding the issue of notifications, subject-wise and numberwise. They should have running serial numbers for each commodity. It is not necessary to reproduce the entire notification; the gist can be given in mass media. Even the list of notifications according to the codified references and item references would give an indication to the importers and the licensees as to the commodities which are affected by this. Immediately after reading this information in the mass media, they can approach

the Customs House, find out what is the implication. What happens now is that till the Chambers of Commerce or through some other means, the notification is publicised by the Customs House, the licensees are not aware of this. This time gap could be reduced only if immediate knowledge is given that the particular commodity is affected. Once that is given the licensees will go and find out."

2.24. On being asked to give their views in this regard, the Ministry have stated that the publication of gist of customs notifications in the commercial columns of the newspapers would be examined by the Government. However, it appears that in practice this will create problems since all important newspapers will have to be covered. The publication of explanatory note with each notification will serve this purpose. The suggestion that each commodity should have a running serial number of notification would also be examined.

2.25. The Committee have considered the suggestions made by non-official experts and organisations of trade and commerce in regard to giving of publicity to changes in Customs duty through newspapers.

2.26. The Committee are of the opinion that in order to ensure quicker and wider dissemination of the contents of customs Notifications, the practice of issuing press notes, which is stated to be already in vogue in respect of important notifications, should be extended to cover all the notifications having a bearing on customs duty or procedure. The Committee also commend the suggestion for the publication of reference number and gist of Notifications relating to customs duty in the commercial Columns of important newspapers immediately after these are issued. This will enable the trade and industry to know of the changes in customs duty concurrently and obtain copies of the notifications, in which they may be interested, from the Ministry or Customs Houses. The Commercial publicity and issue of press notes can be started immediately for general information without waiting for the setting up of the Directorate of Publications.

D. Ambiguity in the Language of the Notifications and Explanatory Notes

2.27. It has been represented to the Committee that Notifications and orders issued by the Customs Department are unintelligible,

ambiguous and are not clear, with the result that there is a problem at the time of classification of items for payment of duty and convincing the customs regarding the correct customs duty to be charged.

2.28. A non-official during his evidence before the Committee has stated that:—

“The notifications are promulgated almost on a day to day basis by the Government. It is well known that to understand the notifications one needs a fair amount of expertise, because the wording is extremely legalised. A firm and clear understanding of the monetary implications of the notifications is essential”.

2.29. Another non-official during evidence stated:—

“The language is very ambiguous, and on account of ambiguous language of the notifications importers suffer in payment of duty. A lot of interpretations can be drawn from those wordings and there are cases where there has been difference of opinion not only between the importers and the Collectors of Customs, but between the Collector of Customs and the Central Board of Revenue, so much so the importers are required to pay high rates of duty when they are not due. Then amending notifications are issued accepting that the relief was due from a prior period also. Because of the statutory provision a notification takes effect from the date of issue, the importers suffer a loss.”

2.30. The Ministry in their replies have stated that:—

“The notification exempting imported goods from customs duty are statutory notifications and therefore it is necessary that precise and legal terminology should be used to avoid any ambiguity in interpretation. While drafting the notifications attempt is made to make the intension as clear as possible.”

2.31. It has been stated in a memorandum submitted to the Committee that “changes in the rates of duty are mostly made at the time of the presentation of the Annual Budget, but also on many occasions, by executive action in the intervening period. The Notifications on the subject, however, refer only to the changes in rates of duty but do not clearly state the final effect of the changes. In

order to find out the exact effect of the changes the trade and industry have to refer to the earlier notifications on the subject. This causes great inconvenience and involves time...."

2.32. Asked about their comment on the suggestion to append to the notifications, explanatory notes bringing out in clear terms the final effect of the changes so that the new duty liability is immediately known to the concerned interests in the trade and industry, the Ministry of Finance stated that:—

"Since the notifications concerning customs duty are statutory notifications, it is necessary that precise and legal terminology should be used. However, explanatory memorandum which explain the purpose and scope of the notifications are issued and these are placed before Parliament along with the notifications. In respect of all important notifications which introduce changes in the rates of duty adequate publicity is also given through issue of press notes which explain the change brought about in simple language. It would, therefore, not be necessary to issue a separate explanatory note along with each notification to give the final effect of the change."

2.33. The Ministry have subsequently, stated that "the suggestion that an explanatory note should be made available with each notification is a good one, and steps will be taken to bring out such notes for the information of trade as well."

2.34. It has been stated by various organisations of trade and industry that the Notifications and orders issued by the Customs Department are unintelligible, ambiguous and are not clear with the result that problems arise at the time of classification of items and payment of duty. It has also been brought to the Committee's notice that the Customs notifications mention the changes in duty but do not indicate the final effect of the changes or their implications. According to the Ministry, these being statutory notifications, it is necessary that precise and legal terminology should be used to avoid any ambiguity in interpretation.

2.35. The Committee are of the opinion, that solution to this problem lies in appending an "explanatory note" to each such notification explaining the purpose, scope and effect of the notification in intelligible language. They recommend that the practice of issuing "Explanatory Note" should be started immediately for the benefit of the assesseees.

E. Interpretation of Customs Notifications

2.36. It has been stated in a memorandum submitted to the Committee that "whenever there are differences as to scope or intent of the Notification, the tendency of the Customs appraisers is to interpret the Notification in a manner that favours revenue irrespective of the merits of the case involved." In another memorandum submitted to the Committee it has also been stated that "the principle area of disputes and dissatisfaction is the differences which arise between the custom officials on the one side and the importers on the other as to the specific customs schedule....."

2.37. The Government have stated that "in order to achieve uniformity in classification and interpretation important disputed aspects are discussed at tariff conferences and tariff advices containing important aspects of classifications/assessment are compiled."

2.38. It has been stated by a non-official in evidence before the Committee that "the Tariff Conference is an internal Conference of Collectors and the trade is not represented on it."

2.39. The witness suggested that "if there is any dispute in regard to the interpretation of notification, the trade interests can be called and that would solve the problem."

2.40. It has been represented to the Committee that in the event of a difference of opinion between the Customs Appraiser and the importer, the case should straightway be referred to Assistant Collector in charge of the place for his decision. If the Assistant Collector of the place also does not agree with the importer, he should pass and issue a "speaking order"—i.e. order with reasons—to enable the importer to file an appeal should he so desire.

2.41. Asked to give their comments, the Ministry have stated that the periodical Tariff Conferences of the Collectors of Customs of the major ports are intended to resolve doubts regarding the correct classification of goods which may arise in the Custom Houses, and lead to the issue of "Tariff Advices", either of the Collector-in-Conference or of the Board to ensure uniformity of classification. The 'Tariff Advices' are not legally binding and are merely expressions of opinions of the body issuing it. The Conference is a departmental forum and the trade is consulted wherever necessary in order to obtain clarifications regarding the exact nature and function of particular goods under consideration. Since Tariff Conferences are essentially meant to be a departmental forum for taking a consider-

ed view on classification of goods it would not be desirable to associate the trade in a formal way with such conferences.

2.42. In cases of disputes in classification between the Customs and the trade, the statutory provisions of the Customs Act, 1962 will have to apply and the remedies of appeal/revision as provided under sections 128 and 131 of the Customs Act, 1962 are open to the assesses.

2.43. On the question of "Speaking Orders" of the type referred to, the Ministry added that these are being issued by the Assistant Collectors whenever demanded by the assesseees.

2.44. Asked to state as to what was the difficulty in not consulting the trade before going to the tariff conference, the Chairman, Central Board of Excise and Customs stated in evidence:—

"I do not think there is any difference in principle. The question is how formal it should be made. Even as it is, during the tariff conference both points of view are supposed to be fully presented and for that purpose every Collector is supposed to ascertain the view-point of the trade, and this is very often done by discussion and consultation with them and he brings their views with him. So, there should be no difficulty in the collectors also having discussions with the trade before coming to the conference. Over and above this, in some cases where it is felt that the point is very difficult, representatives of the trade are invited in an advisory capacity. Even that is being done. Only we do not formalise it too much."

2.45. Secretary, Ministry of Finance during evidence agreed with the suggestion that the Collectors should consult the trade beforehand.

2.46. It has been represented to the Committee that in the matter of interpretation of customs notifications the customs authorities display a bias in favour of revenue irrespective of the merits of the case. The Ministry have stated that in order to achieve uniformity in classification and interpretation, important matters of dispute are discussed at Tariff Conferences of the Collectors of Customs with a view to resolve doubts regarding correct classification of goods and interpretations of customs notifications and 'tariff advices' issued in the light of decisions taken at such conferences. It has been suggested by the trade that the trade should also be represented at the Tariff Conferences to enable the Customs authorities to appreciate

the trade view before taking decision. The Committee agree with the Ministry that since Tariff Conferences are essentially meant to be a departmental forum, it would not be desirable to associate the trade in a formal way with such conferences, but they feel that, as agreed to by Finance Secretary during evidence, the views of the trade on the points to be discussed at Tariff Conferences should be specifically obtained before hand and taken into consideration while discussing these matters at Tariff Conferences.

2.47. The Committee would also like the Central Board to advise the customs officers to display objectivity in interpreting customs notifications and dispel the general impression prevailing among importers that their interpretations are biased in favour of revenue irrespective of the merits of the case.

2.48. The Committee also feel that in the event of a difference of opinion between the customs appraiser and the importer in the matter of classification or assessment of duty the case should be straightaway referred to the Assistant Collector incharge of the place, and, if the Assistant Collector also does not agree with the importer on the point under dispute, he should pass a "speaking order"—an order with reasons—in all cases to enable the importer to file an appeal in due course, should he so desire.

F. Publication of Customs Tariff and Customs Manual

2.49. During the course of discussion on the Customs Tariff (Amendment) Bill on 20-7-1978 a Member stated:—

"It is also necessary that the periodical publications should come out from the Customs Department carrying certain facts and also the rules, bye-laws and the regulations of the Customs Department, should be regularly published so that not only the officers are benefited but also the general people and the persons concerned with the import-export trade or business or transaction in our country and abroad will be able to know the actual position as regards the levy of customs duty on such articles which they intend to carry them or import or export. Periodical publications should come out from the Departments carrying such information and the particulars."

2.50. The Ministry have stated that a Customs Tariff is issued for the public, which includes besides the tariff schedules, notifications issued under section 25 of the customs Act, 1962, exempting goods from the whole or any part of duty of customs leviable there-

on. Customs Manual is also issued in two volumes for the public. Volume I contains Rules, Regulations and Notifications issued under the Customs Act 1962 and volume II contains relevant sections, Rules and Notifications issued under various Allied Acts concerning Customs. Besides, as and when communication announcing changes in the tariff structure, rates of exchanges, procedure etc. or clarifying certain provisions of the Customs Act, 1962, Rules, Regulations etc. are received, these are immediately notified to the public in the form of public notices by the Custom Houses. For the guidance of officers, standing orders and departmental orders are issued by the Custom Houses regarding all important matters like interpretation of act, Rules, Regulations, tariff advices, drawback rates, details of procedure etc. A quarterly technical Bulletin is also issued for circulation amongst the concerned officers.

2.51. About the periodicity of their publication, it has been stated that the Customs Tariff is normally issued annually. No regular interval has been prescribed for the issue of the Custom Manuals but new editions are brought out as and when a large number of changes are made in the Rules, Regulations etc. subsequent to the issue of an edition. Both Customs Tariff, Customs Manuals and the quarterly technical bulletins are supplied to the concerned Customs officers. The Customs Tariff and the Customs Manuals are put on sale for the information and use of the general public.

2.52. In a memorandum submitted to the Committee it has been stated that:—

“The Department of Customs should prepare a comprehensive Customs Manual for every financial year, giving in detail—Customs duties, Auxiliary duties and Countervailing duties according to a fixed industry-wise classification, e.g. D.G.T.D. List. This manual should also have an appendix stating in clear and simple terms, the procedures involved. The manual should be released within a month of the Union Budget. It should be in a loose-leaf ring-file form so that assessee may attach subsequent notifications. Additional Customs Notifications should be made available in sufficient quantities to Associations as well as the general public within 5 days of the decision. They should be printed and in loose-leaf form with suitable cross-classification numbers for benefit of the assessee.”

2.53. The Ministry in their replies have stated that every year after the Budgetary changes, the Custom Houses bring out compila-

tion incorporating details of the changes in the rates of duties on various items. These publications incorporating all the notifications that are issued, are made available to the trade at a nominal charge. All subsequent notifications are also published in the Official Gazette of India, and are made available to the trade by the Custom Houses. Hence members of the trade can maintain files financial year-wise on all notifications. Suggestion that a comprehensive publication incorporating all changes in the rates of duties during each financial year should be brought out by the Department is a good one and the possibilities of implementing it will be examined.

2.54. In another memorandum it has been stated that "levy and rates of customs duty are known from Government publications entitled Customs Tariff Scheduled published from time to time but this publication is published at most irregular intervals."

2.55. The Ministry have stated that previously the Customs Tariff was issued by the Director General of Commercial Intelligence, Calcutta. It has, however, been gathered that since the introduction of Customs Tariff Act, 1975, no such publication has been brought out yet. However, the Directorate of Statistics and Intelligence New Delhi, is publishing a Customs Tariff working Schedule for departmental use only. The desirability of making this available to the trade, with the condition that the publication is intended merely to assist the trade in their day to day work and not to be quoted as an authority "may be considered". The Ministry have further stated that after the introduction of new Tariff, three working schedules have been brought out as on 1-1-1977, 8-8-1977 and 1-7-1978. Subsequently, the Ministry informed the Committee that the Directorate General of Commercial Intelligence and Statistics, Calcutta, Ministry of Commerce, have been requested to bring out the Tariff as a priced publication for being made available to the trade to avoid duplication, the departmental issue brought out by Ministry of Finance had not been put on sale.

2.56. On the question of compendium of Customs notification it has been stated in a memorandum submitted to the Committee that "a Compendium of Customs Notification was issued in August, 1976 when BTN based tariff was introduced. It is now time that a new edition of Customs Tariff Act, 1975, is issued by incorporating side by side all tariff notifications as amended upto date in the same manner as the erstwhile Indian Customs Tariff used to be published with index."

2.57. It has also been suggested to the Committee through a memorandum that "the Central Board of Excise and Customs should collect and publish on a monthly basis all important decisions given by Collectorates of Customs and their junior-level officers at different ports and make available copies of such monthly publications to organisations of industry and trade for information.

2.58. In this regard the Ministry have stated that a "compendium of Notifications" (Indian Customs Tariff) as on 2nd August, 1976 was issued by the Directorate of Statistics & Intelligence, New Delhi. Thereafter, fresh notifications, as and when issued are being incorporated in public notices by all Custom Houses and are made available to the subscribers.

2.59. The Ministry have further stated that all important decisions of a general nature are notified through Public Notices by the Custom Houses. Important decisions taken by the Ministry/Board regarding procedural matters of general nature communicated to the Collectors are also given publicity through issue of Public Notices. Decisions regarding Tariff classification in Tariff Conferences are also brought to the notice of the trade through Public Notices. The Government is considering setting up of a Directorate of Publication which would further improve the dissemination of information to the public.

2.60. Commenting on the suggestion, a non-official in his evidence before the Committee stated:

"Upto 1975 we had the Indian Customs and Central Excise Tariff in which the classification, the item number, rate of duty etc., were given, and simultaneously on the next page we used to have the various Notifications issued by the Government of India. Therefore, it was very easy for the assessee to look at the item and immediately correlate whether there was any Notification. Presently what we have is the Customs Tariff, a very small book, and we have a host of Notifications which have been issued giving corrections here and there. If at all one has to have a book, it is going to be a very large book, and you cannot really trace out which one is relevant and where. For one item you have to go through the whole book to find out what is the latest. There have been a spate of Notifications arising out of the latest changes which have been made to bring the whole of classification in line with the BTN. Our suggestion, therefore, was that there should be a loose leaf book and whenever any amendment takes

places, we should say that this replaces page numbers and such, so that the old can be taken out and destroyed and the new one inserted."

Index to Customs Tariff

2.61. It has been stated in a number of memoranda submitted to the Committee that "the technical description of goods given in the Customs Tariff is difficult to understand and locate.". It has been suggested that "alphabetical index to tariff should be published every year incorporating upto date amendments so as to make references easy in all respects. This index should be sold to public." The Ministry have stated that these indices are available in the major Custom Houses for reference.

2.62. In another memorandum it has been stated that "a comprehensive list of items can be prepared and arranged alphabetically. The tariff can be indicated against each item. Whenever any items are missing from the detailed list of items, the tariff may be on the basis of end use. The end use is to be ascertained from the main items for which import license has been issued to the importers, such as scientific instruments, process control instruments, textile products, electrical industries etc. General nomenclature should be avoided such as electric resistance wire, winding wire, electrical capacitors, etc. The definition should be given in clear terms to avoid any scope for mis-interpretation."

2.63. The Ministry have stated that the custom Co-operation council has published an alphabetical index to the CCCN, a priced publication, which is a useful guide in respect of our Tariff also. This alphabetical Index is available in the Tariff Cells of the Customs House for consultation by the trade, whenever necessary.

2.64. The Customs Tariff Act, 1975, follows a scheme of classification laid down in the Section and Chapter notes and in the Rules for the interpretation of the Schedule. Hence articles cannot invariably be classified on the basis of end use as indicated in the import licence alone. If the Section and Chapter notes and the wordings of the Headings all fail to provide classification for any goods, Interpretative Rule 4 lays down that classification shall be under the Heading appropriate to the goods in which they are most akin.

2.65. The terminology adopted in the various Headings of the Tariff are clear and precise and being based on the CCCN, the Explanatory Notes to the CCCN are always available to clarify the scope and coverage of the terms used.

2.66. The Chairman, Central Board of Excise & Customs during evidence stated:

"The customs tariff and the compendium of Customs Notifications are really two connected things, because an importer wants to have a tariff which will show what is the actual effective rate of duty on an item. The basic rate of duty would be shown in the Tariff Act itself, whereas the actual effective rate will be governed by whatever customs Notifications have been issued. So, the customs tariff, which has to be published from time to time, which the importer requires, must be something which shows him not only the heading which appears under the Tariff Act but also the effective rate of duty, as in force from time to time. This Customs Tariff was previously being published for the benefit of the public by the Director General of Commercial Intelligence and Statistics, who was under the Commerce Ministry, because previously the Tariff Act was being administered by the Commerce Ministry. Now the Act has come to us and it is being administered by us. So far we have not taken on the task of publishing the Customs Tariff. But now as a part of our scheme for the Directorate of Publicity and Publications, this would be probably the most important of the publication which we would have to bring out.

It will have to be published at least once a year, because the duty changes take place every year."

2.67. The Committee are informed that the Customs Tariff was brought out for the public normally annually by the Directorate General of Commercial Intelligence, Ministry of Commerce, Calcutta; but it is learnt that since the introduction in August 1976 of Customs Tariff Act, 1975, no such publication has been brought out. The Ministry of Finance publish a Customs Manual containing all the relevant rules, notifications etc., on the subject but there is no regular periodicity fixed for its publication. New editions of the Manual are issued as and when a large number of changes have taken place subsequent to the issue of the earlier edition. A "Compendium of Notifications" (Indian Customs Tariff) as on 2nd August 1976, was issued by the Directorate of Statistics and Intelligence, New Delhi. Thereafter fresh notifications as and when issued are being incorporated in public notices by all custom houses and made available to the subscribers.

2.68. From the above it is clear that none of the existing three publications, viz., Customs Tariff, Customs Manual and Compendium has been updated regularly and up-to-date information regarding customs is not available in a consolidated and handy form at present. In view of this, the trade and industry should be rightly aggrieved over the present system of dissemination of information.

2.69. The Committee were informed that the Ministry of Finance had thought of making the Customs Tariff Working Schedule—a departmental publication available on sale for the use of public. Even if this “Working Schedule”—which is brought out regularly by the Ministry of Finance for departmental use, had been made available to the trade, it would have gone a long way in meeting their genuine need for an up-to-date Customs Manual. But, the Committee regret to note, the Ministry have since decided to transfer the responsibility in this matter to the Directorate General of Commercial Intelligence, Ministry of Commerce, Calcutta who used to bring out the Customs Tariff Schedule till 1976 and have requested them to resume its publication. It is not known whether the Calcutta office have accepted the request and when the next issue of the Schedule would be published. But if till then, the trade and industry have to go without an up-to-date edition of the Customs Tariff Schedule, it would be unfortunate.

2.70. A number of suggestions have been made to the Committee by the trade and industry to streamline the system of publication of Customs Manual and Customs Tariff. The Committee also feel that the present system is not satisfactory. The Committee recommend that the Customs Tariff Schedule should be up-dated every year immediately after budget and published along with an alphabetical index. The tariff should indicate the effective rates of duty and also give cross references to other relevant matters for ready intelligibility of the scheme of customs duty.

2.71. The Committee also recommend that a comprehensive Customs Manual giving among other things, details of relevant Customs rules, procedure, customs duty, auxiliary duties, countervailing duty, according to industry-wise classification should be published immediately preferably in a loose leaf ring file form. All amendments in the customs laws, procedure and duties should be published at fixed intervals say once a month or once every three months in the same form for easy replacement of the relevant pages in the Manual so as to enable the assesseees to keep their copies of the Manual up-to-date.

2.72. The Committee feel that all important decisions given by the various customs authorities should also be published periodically preferably every month and copies thereof made available on sale.

2.73. The Ministry have stated that they propose to set up a Directorate of Publications to improve the present system of dissemination of information regarding customs etc. The Committee would like this Directorate to be set up quickly. The proposed Directorate of Publications should, immediately after coming into being, review the present publications and decide on a rational basis as to what publications are essential and at what periodicity they should be brought out. The Committee would like to be informed of the action taken in this regard within six months.

CHAPTER III

CUSTOM TARIFF CLASSIFICATION

A. difficulties in Application of Customs Co-operation Council Nomenclature

3.1. The Committee have been informed that the Customs Tariff Act, 1975, based on the Customs Co-operation Council Nomenclature (CCCN) was adopted with effect from 2nd August, 1976. The revised tariff did not adopt the C.C.C.N. *in toto* but certain headings of the C.C.C.N. were merged and some new sub-headings were created so as to suit the pattern of India's Foreign Trade. After the introduction of the Customs Tariff Act, 1975, as expected, in the initial stages some difficulties were experienced both by the trade and customs officials in its application and implementation. The difficulties experienced in this regard were as follows:—

- (i) Lack of familiarity with the scheme of classification under Customs Co-operation Council Nomenclature.
- (ii) The Headings of CCCN were not adopted *in toto* in the Customs Tariff Act, 1975 and certain headings had been merged together resulting reduction of total number of headings. Some problems arose in determining the scope of the merged headings with reference to the Chapter Notes and Explanatory Notes.
- (iii) The scope of some of the headings not occurring in the CCCN, adopted in the Indian Customs Tariff Act, needed clarification.
- (iv) In respect of certain commodities because of the adoption of new Nomenclature the classification for customs purposes changed and incidentally also the rate of duty.

3.2. In order to overcome these difficulties, following steps were taken:—

- (i) To enable customs officials and the trade to familiarise themselves with the new Nomenclature, prior to adoption of Customs Tariff Act, 1975 on 2-8-1976, a period of nine

months was given to the trade and field formations to acquaint themselves with the new scheme of classification by a 'trial run' of the revised tariff. The Classification assessment of goods under the new tariff was discussed in Seminars and training was imparted to the field staff. Sufficient number of copies of Customs Tariff Act, 1975 (Customs Tariff—Working Schedule), Alphabetical Index to the Customs Co-operation Council Nomenclature and Explanatory Notes, List of classification opinions of the Council etc. were made available for the guidance of the field formations.

- (ii) It was clarified that wherever headings had been merged, it should be deemed that the scope of the merged headings remained the same as in the case of BTN (CCCN), unless a contrary intention distinctly appeared in the scheme and in the wordings of the headings and sub-headings.
- (iii) In most cases where the rates of duty went up because of the adoption of new nomenclature, the duty incidence was brought down through issue of exemption notifications where considered necessary.
- (iv) The scope of the headings created in the Customs Tariff Act, 1975 and other difficulties regarding classification assessment of particular commodities are being resolved by discussions in the quarterly tariff conference of the Collectors of Customs and sometimes seeking the advice of the Customs Cooperation Council.

3.3. The Indirect Taxation Enquiry Committee (Jha Committee) in their report have recommended that—

“In the interest of operational efficiency and to ensure comparability between the Customs schedule and the Import Trade Control Schedule, it is imperative that the Customs Schedule is also wholly CCCN—based without any contractions or adaptations. This will also help in the matter of comparing international trade statistics. Further, the Customs administration would derive an immediate and continuing benefit from the explanatory notes and classification opinions of the Nomenclature Committee.”

3.4. Asked to state what was the thinking of the Ministry in regard to the suggestion of Jha Committee that the Customs tariff should be wholly CCCN based, the Ministry in their replies have

stated that the variation in our Tariff from the scheme of the Customs Co-operation Council Nomenclature are enumerated below with reasons:—

- (1) A new heading No. 84.66 has been created in our Tariff as to cover project imports. Experience has shown that when machinery and equipment are imported to set up large projects the separate classification and assessment of the various imported items is time-consuming and causes delay in clearance. Very often importers do not also have details of separate values for the various goods. A separate Heading has been created, with built-in safeguards, to enable all such 'project goods' to be assessed at a single flat rate of duty which would ensure quick clearance. This is a distinct improvement and is intended as an additional facility to the trade.
- (2) A new Heading No. 100 has been created to cover passengers baggage, personal importation by post or by air and ship stores. The provision has been made to avoid assessment of each and every article on merits and thereby causing hold-up. Application of a single flat rate of duty on all the articles avoids hold up and ensures quick clearance.
- (3) Provision has been made for the classification of all laboratory chemicals under one item viz., Heading No. 29.01/45 (19). Laboratory chemicals may be of various types and separate classification of the various types of chemicals under the appropriate items of the tariff would be a time consuming process. All laboratory chemicals have been clubbed in one such item to facilitate quick assessment and clearance.
- (4) The principle adopted in the CCCN with effect from 1-1-76 in the case of "Sets of articles" is to classify the set under the Heading which covers the component which gives the set its essential character. Section 19 of the Customs Act, 1962 lays down that where goods consist of a set of articles duty shall be collected as follows:—
 - (a) articles liable to duty with reference to quantity shall be chargeable to that duty;
 - (b) article liable to duty with reference to value shall if they are liable to duty at the same rate, be chargeable

to duty at that rate, and if they, are liable to duty at different rates, be chargeable to duty at the highest of such rates;

- (c) articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (b).

Provided that—

- (a) accessories of, and spare parts or maintenance and repairing implements for, any article which satisfy the conditions specified in the rules made in this behalf shall be chargeable at the same rate of duty as that article.
- (b) if the importer produces evidence to the satisfaction of the proper officer regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

Section 19 has been working satisfactorily and differences in opinion as to which article in a set gives it its essential character would not arise in the application of this section. Government had therefore decided to follow the provisions of section 19, of the Customs Act 62 and not adopt the principal of "essential character" of the C.C.C.N.

- (5) All these departures are improvements which have facilitated easy assessment and quick clearance of goods through Customs and none of these have caused any disputes in Classification.
- (6) As far as merger of adjacent Headings in the CCCN are concerned such of the adjacent Headings of the CCCN as related to articles of negligible significance in our import trade were merged into one or more Headings to simplify the scheme of Nomenclature and to make it better suited to our conditions and our pattern of trade.

3.5. The question whether the C.C.C.N. should be adopted *in toto* without merger of Headings is under consideration of Government.

3.6. A number of Associations of Commerce and Industry have represented to the Committee that the Customs Tariff should be

fully aligned with B.T.N. (CCCN). At present several items are grouped into one or two items in the Indian Customs Tariff. This causes difficulties in correct classification and hampers the clearance of goods.

3.7. A representative of the Association of Industries stated during evidence:—

- (i) "The Indian Customs Tariff Act, 1975 had intended to follow the present nomenclature put up by the Customs Cooperation Council.....It may be that, according to the Indian context, when the adoption of B.T.N. was made in 1975, the authority might have taken a view that such an elaborate nomenclature was not necessary. If that had been a case, we submit that such a view suffers from rigidity, which might, in due course, take away the possibility of development in our own context and result in strangulation of our nomenclature. It is better, if we adopt the entire BTN nomenclature. It is particularly relevant in our context today."

3.8. In a memorandum submitted to the Committee an Association of Industries has suggested:—

".....the explanatory notes given in B.T.N. also be introduced in I.C.T. and followed by the Department."

3.9. In this connection the Ministry have stated that:—

"The Explanatory Notes to the CCCN (formerly BTN) have been kept separate from the Nomenclature by the Customs Co-operation Council themselves and have not been incorporated in the body of the Nomenclature as a part of the same. Such Notes are only for the purpose of a better understanding of the Nomenclature and according to the scheme of the CCCN they do not have the force of law like the Chapter and Section notes. Hence, it would not be desirable to incorporate these lengthy and voluminous notes as a part of the Tariff."

3.10. During evidence, the Chairman, Central Board of Excise and Customs stated:—

"....The B.T.N. is supposed to be a model nomenclature on which different countries are to base their own tariffs according to the needs of their own economy and so on. It was originally evolved by a group of western countries

which have got their own pattern of trade of some sophisticated articles which are brought and also of some consumer items. When the Government of India had set up the Tariff Revision Committee to suggest whether this would form a good pattern for us, the Committee suggested that there are many advantages in adopting this pattern and our present tariff is based on this particular nomenclature. But the Committee said that this should not be adopted in toto, because there are one or two things in which the full adoption of this will not be to our advantage. These are deliberate departures i.e. articles which are assessed under one particular heading in BTN are being assessed in a different way on our side.....

If we are to follow BTN, in order to classify an article to find out under which particular heading of the BTN it will fall, it may involve chemical tests, which will not otherwise be necessary for our purposes. It was for this reason that a number of headings were merged together. This should not have resulted in any real ambiguity. It was meant to suit our economic condition. As the Jha Committee has also made some recommendations, we will have a fresh look into this matter."

3.11. The Customs Tariff Act, 1975 based on Customs Cooperation Council Nomenclature (CCCN) was adopted with effect from 2nd August, 1976. The revised tariff did not adopt the CCCN in toto but certain headings of the CCCN were merged and some new sub-headings were created so as to suit the pattern of India's foreign trade.

3.12. According to clarification issued by the Ministry wherever heading have been merged, it should be deemed that the scope of the merged heads remain the same as in the case of BTN (CCCN) unless contrary intention appeared in the scheme and in the heading and sub-headings. There is a general demand made to this Committee by the associations of Commerce and Industry that the Customs tariff should be fully aligned with the CCCN (formerly Brussels Tariff Nomenclature—BTN). According to them grouping of several sub-items under one heading causes difficulties in correct classification and clearance of goods. On the other hand, according to the Ministry these departures are improvements in the Indian Customs Tariff which have facilitated easy assessment and quick clearance of goods through Customs and none of these have caused any disputes in classification. As regards another suggestion that the explanatory

notes given in the CCCN should also be introduced in the Indian Customs Tariff, the Ministry have stated that such notes are only for the purpose of a better understanding of the nomenclature and according to the scheme of CCCN they do not have the force of law. In the Ministry's opinion it would not be desirable to incorporate these lengthy and voluminous notes as a part of the tariff.

3.13. The Committee note that the Indirect Taxation Enquiry Committee, 1978 (Jha Committee) which studied the problem have recommended that in the interest of operational efficiency and to ensure comparability between the Customs Schedule and the Import Trade Control Schedule, it is imperative that the Customs Schedule is wholly CCCN based without any contractions or adaptations. According to Jha Committee this will also help in the matter of comparing international trade statistics. Further the Customs administration would derive an immediate and continuing benefit from the explanatory notes and classification opinion of the Nomenclature Committee.

3.14. In the Committee's view, there was an obvious advantage in adopting the internationally recognised and standardised nomenclature—CCCN—for Indian Customs Tariff which it appears has been lost in the process of bringing out an adapted and abridged version of the Nomenclature. Agreeing with the Jha Committee's recommendation the Committee feel that the Indian Customs Schedule should be wholly CCCN based without any contractions or adaptations.

B. Tariff & assessable values

3.15. Under Section 14 of the Customs Act, 1962 Government may by notification 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 customs duty will be chargeable with reference to such tariff values. Following views have been expressed in a number of memoranda submitted to the Committee:

- (i) "Tariff values should be fixed only in cases where it would be difficult to determine assessable values."
- (ii) "System of fixation of tariff values for purposes of duty levy is presumably based on the revenue potential from the selected products, with the result that the tariff values fixed quite often are on the high side. It has been suggested "that a Technical Panel consisting of representatives

of D.G.T.D., Trade and Industry should be constituted for evolving guidelines for fixation of tariff values."

- (iii) "Tariff value should be fixed both on import and export only for those items for which there is a fairly steady market value. However, the Customs Officers should have a frequent check to see that there is not wide difference between the tariff value and the market value."
- (iv) "It is felt that upward revisions of tariff values are almost immediately implemented by the Customs authorities, while in cases of reductions the same authorities seek further clarifications from the Ministry of Finance and continue charging higher rate until such clarifications are forthcoming."

3.16. Commenting on the fixation of tariff values, a non-official in his evidence before the Committee stated 'we do not know how these are fixed, we know some kind of calculations are carried out, but the trade and industry is not taken into confidence as to what should be the tariff value.'

3.17. Another non-official witness was also of the view that "firstly, while determining the tariff value of any commodity the trade and industry should be taken into confidence. Secondly, while revising the tariff value again the trade and industry should be taken into confidence and whether it is an upward revision or downward revision both should be implemented expeditiously."

3.18. In this regard, the Ministry have stated that 'presently, tariff values have been fixed only in respect of some items of fruits having regard to the trade, amongst others, with some such countries, as do not have a perfect or even proper system of commercial invoicing and the trade with these countries is not conducted through the normal banking channels. Before fixing tariff values, the market values obtaining for such goods in India are also taken into account. It is, therefore, not correct to say that there is any *ad-hoism* in this matter. Presently, the tariff values fixed in respect of dry fruits and dates are under review. Tariff values are revised periodically having regard to trend in prices.

3.19. With regard to the question of associating the representatives of the Trade and Industry for evolving guidelines for fixation of tariff values, it has been stated by Ministry in their replies that "no useful purpose may be served by associating the representatives

of D.G.T.D. etc. for evolving guidelines for fixation of tariff values: as tariff values at present apply only in respect of few items.

3.20. The Ministry have stated that where goods are liable to duty with reference to their value, such value should be the price at which such goods or like goods are offered for sale for delivery at the time and place of importation in the course of international trade; the buyer and seller should have no interest in each other's business and the price is the sole consideration. Where, however, tariff values have been fixed by the Government such tariff values are to be taken for assessment.

3.21. In cases where the buyer and the seller are related parties, the value for the purpose of assessment, is to be determined in terms of the Customs Valuation Rules framed by the Government. In such cases, some times the invoice values are to be loaded suitably so as to bring them at par with the price at which such or like goods would have been imported by unconnected parties.

3.22. Dealing with the question of determining assessable values for fixing customs duty representative of a Chamber of Commerce stated in his evidence before the Committee:—

“There is always some price difference between bulk buying and retail buying. If I enter into an annual contract for a hundred tonnes of any particular item, at the rate of about ten tonnes per month, the supplier gives it to me at the rate of say 15 dollars a KG, but if a retailer buys just two tonnes, he may get it at 16 dollars a KG. But they want to assess me also on the basis of 16 dollars a KG. Our contention is that a differential price of plus or minus 10 cent as between bulk buying and retail buying, should be taken as the invoice value.”

3.23. The Committee note that under section 14 of the Customs Act, 1962 Government may by notification fix tariff values for any class of imported goods or export goods having regard to the trend of value of such or like goods. While fixing tariff values, the market values for such goods in India are also taken into account. Tariff values are revised periodically having regard to trend in prices. At present, tariff values have been fixed only in respect of some items of fruits. It has been represented to the Committee that the trade and industry are not consulted in fixing the tariff values.

3.24. The Committee do not agree with the Ministry's views that as tariff value system at present applies only to a few items, no useful purpose would be served by associating the representatives of DGTD etc. for evolving guidelines for fixation of tariff values.

3.25. The Committee feel that before determining tariff value for any commodity the Ministry should invite the views of the trade and industry and take them into account while fixing or revising the tariff values.

3.26. The Committee take note of the impression prevailing in the trade and industry that upward revision of tariff values is made by the Ministry almost immediately but the Ministry are not so prompt in announcing downward revision in the event of fall in prices. The Committee feel that if correct this is an unfair practice and should be discontinued forthwith. The Ministry should lay down guidelines for revision of tariff values and follow them uniformly.

3.27. The Committee note that in respect of goods for which tariff values have not been fixed, customs duty is charged on the price at which such goods are offered for sale for delivery at the time and place of importation in the course of international trade. Where however, buyer and seller are related parties, the invoice values are sometimes loaded suitably so as to bring them at par with the prices at which such or like goods would have been imported by unconnected parties. The Committee feel that there is force in the submission made by a Chamber of Commerce that "there is always some price difference between bulk buying and retail buying" and that "a differential price of plus or minus 10 per cent as between bulk buying and retail buying should be taken as the invoice value."

3.28. The Committee are of the view that the Customs authorities should consider the question of correctness of invoice values with reference to the sources of import, quality of goods and commercial practices prevailing in different countries and make an allowance for variation of import price if justified on these and other valid considerations. The Committee also feel that a reasonable differential in price between the bulk and retail buying should also be allowed as it is a normal commercial practice that bulk or long term buyer generally gets some price concession.

CHAPTER IV

ASSESSMENT OF CUSTOMS DUTY

A. Procedure followed for assessment and realisation of the Customs Duty

4.1. Under Section 46 of the Customs Act, 1962, the importer of any goods is required to make an entry thereof by presenting to the proper officer the bill of entry for home consumption or warehousing in the prescribed form.

4.2. The bill of entry contains marks and numbers, weight/quantity, description of the goods, Customs Tariff Heading number, the rate of duty, the quantum of duty, country of origin, the price of the goods indicated in the invoice in foreign currency and freight and insurance.

4.3. Once the bill of entry has been filed by the importer in accordance with the above provisions, it is assessed to duty in the Appraising Department of the Custom House.

4.4. The customs duty on the goods is paid by the importers to the Cash & Accounts Department. After the duty is paid in the Cash & Accounts Department, the goods are examined on selective basis by the Customs Staff in the docks before allowing clearance.

4.5. The bills of entry are also audited in the Internal Audit Department which carries out cent per cent audit of the bills of entry.

4.6. In cases where the bills of entry are not filed by the importers and goods remain un-cleared for periods exceeding two months, in terms of Section 48 of the Customs Act, 1962, the Port Trust or the person having custody of the goods is empowered to dispose of the goods after giving due notice to the importer. On un-cleared goods sold by the Port Authority, duty becomes recoverable out of the sale proceeds in terms of Section 150 of the Customs Act, 1962.

4.7. All the goods landed in the Customs area and included in the manifest of the vessel or aircraft are required to be accounted

for. The Manifest Clearance Department of the Custom House undertakes the scrutiny of the manifests in order to ensure that all consignments listed in the manifests are duly accounted for. In respect of the goods which are not accounted for, duty is recoverable and such duties are recovered through imposition of penalties on the Steamer Agents under Section 116 of the Customs Act, 1962.

Clearance of Goods

4.8. It has been stated in a memorandum submitted to the Committee that—

“(the present procedure takes considerable time for clearance of cargo. In respect of standard commodities, the assessment of particulars declared by the importer may be straightaway accepted and duty recovered. After payment of duty the importer/clearing agents can straightaway go to the landing shed and clear the same after the examination instead of the present dual check by the appraiser in the Custom House and in the Docks. Certain standard items of raw material can be released even without the examination so that the pressure on the examination staff can be reduced.”

4.9. In reply the Ministry have stated that the goods which are regularly imported are cleared under what is called the “Second Appraisement System”. Under this system the goods are in fact, assessed to duty by the Appraisers in the Custom House on the basis of the particulars declared by the importer, provided that relevant shipping documents are submitted in full and the declaration is in accordance with the documents. The duty is collected straightaway without the goods having to be examined before hand. There after, Importers/clearing agents go to the landing sheds for clearance of the goods after getting the goods examined by the appraisers in the docks. Clearance is allowed, if the examination does not reveal any discrepancy in the original declaration.

4.10. As it is, examination is carried out on percentage basis. It is not desirable to waive altogether the requirement of examination.

Delay in Clearance of Bills of Entry

4.11. Some non-official Organisations including Public Sector organisation in their memoranda submitted to the Committee have

expressed the following views in regard to clearance of Bills of Entry:—

"At every stage in the customs House, there is compartment-wise delay from one section to the other. It takes an average of 15—20 days for a bill of entry to be finally released by the Customs. A system should be devised by which bill of entry is released most expeditiously."

* * * * *

"The existing procedure is far too cumbersome for any manufacturer. Normally, a Bill of Entry has to go through a number of stages before duty is finally paid, such as,

- (i) Noting : Four persons involved in—
 - (a) Receiving and Numbering
 - (b) Code Number Verification
 - (c) Checking of Manifest
 - (d) Signing by noter after checking the above stages;
- (ii) Centralised Distributors
- (iii) Appraiser
- (iv) Assistant Collector
- (v) Group Calculator
- (vi) Licence Registration
- (vii) Pre-Audit
- (viii) Group Distribution
- (ix) Duty payment—Five persons involved in—
 - (a) Receiving and Stamping Bill of Entry
 - (b) Cost Calculation
 - (c) Sheet writing
 - (d) Assigning B E No. with stamp
 - (e) Ledger Keeping

In addition to the above, in the case of processing of bonds, the following additional stages are applicable:—

- (a) Proforma verification
- (b) Signature verification in Establishment Section
- (c) Noting of bond details twice—before and after payment of duty.

When there is a dispute, the Customs Officers tend to make the importer run from pillar to post in their usual non-challant foot dragging manner. As a result of such

enormous and unnecessary time wastage many consignments incur heavy wharfage cost."

* * * *

It has been stated in another memorandum that:—

"finalisation of a Bill of Entry in certain cases takes more than a week, because this paper is handled by various persons in customs. The time can be reduced if the Bill of Entry is handled by one Supdt. from the examination stage till its finalisation".

4.12. The Ministry have stated that it is true that a Bill of Entry has to go through several stages before its finalisation. This has been evolved over a considerable period with a view to meeting the various obligations entrusted to Customs. However, time limit for processing Bills of Entry in various Departments have already been prescribed. It is incorrect to state that importers are made to run from pillar to post in case of disputes. The members of Public are at liberty to bring their grievances, in a specific case, to the notice of the Assistant Collector, Deputy Collector and Collector. It is incorrect to say that the consignments incur heavy wharfage costs. In fact remission of demurrage is allowed on account of detention of goods by Customs, depending on the merits of each case. The importers may also avail of the procedure of prior entry under which the importers can file Bill of Entry prior to the arrival of goods so that assessment can be completed by the time the goods arrive and delivery taken immediately on arrival.

4.13. With regard to the question of handling by one officer the Ministry have stated that concentration of all functions relating to assessment in one person will not be desirable in the interest of revenue. Hence, supervisory checks are essential. However, time limit for processing bills of entry in various Departments has already been prescribed. A recent survey conducted in the major Custom Houses has revealed that about 70 per cent of the Bills of Entry filed with all the requisite documents were released within 2 days of their filing. The remaining Bills of entry were also released within a week's time; the time taken beyond 48 hours in these cases was found to be attributable to the need for technical explanation from importer's engineer, market enquiry, etc. it is incorrect that piece-meal queries are raised and catalogue literatures are called for in the routine way. Instructions to staff are already there requiring every case of second query to be required to be routed through Assistant Collector, in-charge of the Appraising Group to ensure that no unnecessary queries are raised. The importers may also avail of the procedure of prior entry under which

the importers can file Bill of Entry prior to the arrival of goods so that assessment can be completed by the time the goods arrived and delivery taken immediately on arrival.

4.14. A non-official Organisation in their evidence before the Committee stated:—

“The suggestion is that in the liberalised import policy, there is room for liberalising some of the procedures of the Customs; and it is very much a management problem, rather than other. I think Customs authorities should seek the advice of a management consultancy service like the Indian Institute of Management, Ahmedabad. They are working for the Ministry of Commerce also. They can go through all this and simplify the procedure.”

4.15. Asked whether any study in consultation with Indian Institute of Management, Ahmedabad or any other Institute of repute has been conducted by the Department to simplify the procedures, the Ministry in their replies have stated that no study in consultation with Indian Institute of Management, Ahmedabad, or any other institute of repute has been conducted by the Department in this regard. This will be considered.

4.16. During evidence, the representative of the Central Board of Excise and Customs stated:—

“we will examine whether any institute of Management or any other body of a similar nature can be invited to undertake the study. We will go into it.”

Loading of Goods in Barges

4.17. It has been stated in a memorandum submitted to the Committee that—

“The practice of loading goods on the barges after customs examination, which are ultimately taken on the mother ship. is on the increase. Therefore, once the goods have been examined and passed by the Customs and loaded on the barges, and when they are out of the control of the exporter, they should be considered as having been entered for export.... This kind of problem can be avoided if section 16 and section 50 of the Customs Act are suitably amended to make provision for treating goods loaded on to lash barges as goods having been exported.”

4.18. Referring to the difficulty experienced in the matter of goods loaded on barges, a non-official witness in his evidence before the Committee stated:—

“Once the goods are loaded in the barges and sealed by customs, he informs the buyer that the goods have been shipped....the barge is ready, but the mother ship may be delayed, and so the barge would be lying there for 15 to 20 days. Once the goods are outside the control of the shipper, what can he do, even if the Bill of Lading is issued a little later. For example, in one case after examination by Customs and payment of export duty, the goods were sealed and the party was given a bill of lading also. Moreover, he negotiated his documents through the Bank. In other words the goods were out of his control and were as good as exported. However, the ship came after ten days and, in the meantime, the export duty had nearly doubled and the exporter was asked to pay the same.”

4.19. The Ministry have stated in their replies that in view of the provisions of Section 2(18) of the Customs Act, 1962, which defines export as taking out of India and also in view of the fact that entry outward is obtained only in respect of the mother vessel and the Export General manifest is filed in respect of the mother vessel, rate of duty in respect of export goods has to be determined on the basis of the entry outward of the mother vessel as provided in section 16 of the Customs Act, 1962.

Advance Submission of Bill of Entry

4.20. It has been stated in a memorandum submitted to the Committee that—

“With the amendment of Customs Act importers can submit the Bill of Entry prior to submission of even the prior entry manifest by the Steamer Agent, provided the Steamer Agents have intimated to the Customs estimated arrival of the vessel within seven days. The advantage of the same is not available in practice since all the Steamer Agents do not give such intimation in time. It is felt that submission of intimations be made obligatory on the Steamer Agents to comply with the intentions of Parliament to provide facility to the trade.”

4.21. In their reply the Ministry have stated that as regards the suggestion for making it obligatory on the Steamer Agents

comply with the intention of Parliament, to provide facility to the trade, it may be stated that some of the reasons which preclude the Steamer Agents from submitting an intimation regarding the arrival of the vessel within a week are as follows:—

- (i) Delay in respect of intimation about the movement of the vessel; and
- (ii) The delay in departure of the vessel from the previous port etc.

4.22. Any obligatory provision in a statute would normally require a penal provision which would be attracted if the obligation is not fulfilled. It may not, therefore, be appropriate to make such a stringent provision.

4.23. In the normal cases, the steamer agent is expected to make advance intimation of the due date of the arrival of the vessel, as it facilitates the prompt turn around of the vessel. It is, therefore, expected that the steamer agents would in their own interest avail of this facility. However, this is a matter of co-operation between the Steamer Agents, importer and customs. The Collectors are being asked to discuss the matter with the Steamer Agents and others concerned.

Pre-Audit of Bills of Entry

4.24. A Public Sector Undertaking in their memorandum submitted to the Committee have stated that—

“At present, the consignments are allowed to be cleared to the Bonded Warehouse only after Into-Bond Bills of Entry have been pre-audited by the Audit Department of the Customs House. Pre-audit takes at least 3-4 days depending upon the consignments. On many occasions, the consignments incur heavy demurrages on account of delay in pre-auditing of Bills of Entry.

Since no customs duty is collected against the Into-Bond Bills of Entry, it is suggested that pre-audit in these cases need not be insisted so as to allow timely clearance of the consignments and to avoid payment of heavy demurrages. The audit formalities can be completed after the clearance of bonding of the consignments under the respective Bills of Entry for home consumption.

4.25. The Ministry have stated that the suggestion is under examination in consultation with the collectors of Customs.

4.26. It has been represented to the Committee by some non-official organisation that there is delay in assessment of Custom duty on imported goods because of cumbersome procedure. The bills of entry presented by the importers, it is stated, have to go through as many as 19 stages before the duty is finally paid. In case of disputes, the Custom Officers tend to make the importers run from "pillar to post" in their usual "non-chalant foot dragging manner", with the result that many consignments incur heavy wharfage cost. While according to the Ministry it is true that a bill of entry has to go through several stages before finalisation, time-limits for processing bills of entry in various departments have been prescribed. It has been stated that a recent survey conducted in the major Custom Houses have revealed that about 70 per cent of the bills of entry filed with all the requisite documents were released within 2 days of their filing and the remaining bills of entry were released within a week's time, the time taken beyond 48 hours in these cases was found to be attributable to the needs for technical explanation from the importers engineers, marketing enquiry etc. But according to a Public Sector Undertaking, it takes an average of 15—20 days for a bill of entry to be finally released by customs. The Committee are informed that no study into the procedure followed for dealing with bills of entry has been made through any independent Management Consultancy Organisation. In view of the fact that a number of organisations including public-undertakings have complained about the cumbersome procedure and delay in clearance of the bills of entry in the Customs Houses, the Committee feel that it is necessary that a systematic study of the procedure followed in this regard in the custom houses should be undertaken with a view to streamlining the procedure and minimising the stages for processing these bills of entry. The Committee desire that this study should be entrusted to any reputed Institute of management.

4.27. It has been represented to the Committee that the practice of loading goods on barges after customs' examination prior to the goods being taken to the mother ship is on the increase. Once the goods have been examined passed and sealed by customs and loaded on barges, and when they are out of control of exporter, they should be considered as having been entered for export irrespective of the date of departure of the mother ship or issue of a formal bill of lading. The importer should not be required to pay excess export duty if there is duty increase in the meantime. The Committee feel there is force in the representation and it deserves to be considered sympathetically and favourably.

4.28. The Committee desire that public relation officers in the various Custom Houses should render necessary help to importers in filing bills of entry and other documents and having their cases expedited.

4.29. The Committee note that importers are allowed to avail themselves of the procedure of prior entry under which they can file bills of entry prior to the arrival of goods or prior to the submission of manifest by steamer agents provided that the agents have intimated the customs about expected arrival of the vessels within 7 days. It has been represented to the Committee that the advantage of this procedure cannot be taken by the importers in practice since steamer agents do not give advance intimation about the expected arrival of the vessel to the custom department. The importers have suggested a mandatory provision in the law in this regard. According to the Ministry any obligatory provision in this regard cannot be made as the reasons for not giving this intimation by the steamer agents may be beyond their control. It has been stated that in normal cases the steamer agents are expected to make advance intimation of arrival of vessel in their own interest as it facilitates the prompt turn-around of the vessel. The Committee desire that this matter should be examined in depth in consultation with the steamer agents and others concerned and a suitable system evolved under which the liberalised procedure of prior submission of bills of entry becomes a reality and can be availed of by importers in actual practice.

4.30. It has been represented to the Committee that at present consignments are allowed to be cleared to bonded ware-houses only after Into-Bond Bills of Entry have been pre-audited by the Audit department of Customs. This, according to a Public Sector Undertaking, takes 3-4 days and on many occasions consignments incur heavy demurrages on account of delay in pre-auditing of Bills of entry. Since no custom duty is collected against the Into-Bond Bills of Entry, it has been suggested that a pre-audit of these cases need not be insisted. According to the Department, the suggestion is under examination in consultation with the Collectorates of Customs. The Committee feel that the importers should not be penalised for delay in pre-audit of Bills of Entry for which they cannot be responsible. The Committee recommend that a satisfactory solution to this problem should be found expeditiously and procedure streamlined to avoid delays on this account.

B. Execution of Indemnity Bond

4.31. According to the existing procedure the conditions for allowing provisional assessment laid down in the Customs (Provisional

Duty Assessment) Regulations, 1963 are that the importer or exporter as the case may be should execute a bond in an amount equal to the difference between the duty that may be generally assessed and the provisional duty and should also deposit with the proper officer a sum not exceeding twenty per cent of the provisional duty as directed by such officer.

4.32. It has been stated in a memorandum submitted to the Committee that:—

“In the rule made under Section 18 of the Customs Act, 1962, in respect of goods passed on provisional duty importers are required to furnish a bond as well as pay additional duty upto 20 per cent. Both these conditions together cause hardship. These rules may be suitably amended to impose any one of the two conditions.”

4.33. Elaborating the point, a non-official stated in evidence:—

“In case of provisional duty, the difficulty is like this. Apart from the provisional duty, they take a bond. This bond is countersigned by the bank. Suppose the duty is five lakhs they take bond for five lakhs plus 20 per cent and the amount is blocked up in the bank. They should not take both; they should take only bond for 5 lakhs and not 20 per cent extra.”

4.34. The Ministry in their reply have stated that the stipulation regarding duty deposit (in addition to bond) is necessary not only to safeguard revenue but also to ensure that the importers/exporters promptly produces all the necessary documents and evidence to enable the assessment to be finalised.

4.35. In this context it has been stated in a memorandum submitted by one of the Public Undertakings that.—

“the practice adopted by Customs Offices of Calcutta, Bombay and other Sea Ports are different. While the Calcutta Customs Office insists on separate execution of bond against individual purchase orders, the Bombay Customs and other Customs Houses are asking for one Indemnity Bond against the total value of the goods to be imported for a project. To avoid infructuous clerical and typing work as well as to avoid wastage of time, it is suggested that there should be a uniform practice of one Indemnity Bond and Registration for total value of the goods to be imported for a project under license.”

4.36. On being asked to give their views, the Ministry have stated that it is agreed that there should be uniformity of practice in this matter. Only one bond is necessary in case the value of the bond is sufficient to cover the subsidiary contracts which are in existence when the bond is executed. Necessary instructions are being issued to the field formation.

Provisional assessment

4.37. It has been stated in another memorandum submitted to the Committee that:—

“Whenever assessment is made on a provisional basis the Assistant Collector of Customs permits clearance against a provisional assessment bond (P.D. Bond) either with bank surety or if bank surety is not provided, against a deposit with Customs Treasury of the amount equivalent to the C.I.F. value of the consignment. Inordinate delay takes place to obtain cancellation of such bonds for realisation of deposits. It is, therefore, felt that in such instances customs should accept P.D. Bonds without either Bank surety or cash deposit as they do in the case of materials imported against a license which has been sent to CCI&E/JCCI&E's Office for amendment and therefore cannot be produced at the time of clearance.”

4.38. The Ministry in their replies have stated that ‘under Customs (Provisional Duty Assessment) Regulations, 1963,’ the importer claiming the facility of provisional assessment at lower rate of duty is required to execute a bond with either bank guarantee or surety or with cash deposit. However, bank guarantee or cash deposit is not insisted upon, if the proper officer is satisfied regarding the financial soundness of the importer.

Furnishing of Bank sureties.

4.39. It has been stated in a memorandum submitted by a Public Undertakings that:—

“The requirement of a bank surety on continuity bond against registration of contract was recently introduced at Bombay Customs, whereas such procedure is not in practice at the other major ports such as Calcutta, Madras and Cochin. We believe that Customs regulations are being made applicable uniformly at all ports in India and we consider that such bank sureties should not be insisted upon at least against imports made by Public Undertakings.”

4.40. The Ministry in their replies have stated that a Bank surety is ordinarily not required in the case of continuity bond furnished by Public Sector Undertakings. Where, however, Public Sector Undertakings are found to be defaulting over a period of time, in finalising their obligations under the bond, such Undertakings may be required to give surety/security for the bonds. Bombay Custom House has reported, however, that this requirement which had to be stipulated sometime back, in these circumstances, has since been waived.

4.41. The Committee note that under the Customs (Provisional Duty Assessment) Regulations, the conditions for allowing provisional assessment are that the importer or exporter as the case may be should execute a bond in an amount equal to the difference between the duty that may be generally assessed and the provisional duty and should also deposit with the proper officer a sum not exceeding twenty per cent of the provisional duty as directed by such officer. It has been represented by the trade and industry that double burden-bond as well as deposit of duty upto 20 per cent causes hardship. They have suggested that the rules should be amended to impose only one of the two conditions. The Ministry have stated that stipulation of bond and duty deposit is necessary not only to safeguard revenue but also to ensure that the importer/exporter promptly produce all the necessary documents and evidence in enable the assessment to be finalised. The Committee feel that there is force in the suggestion put forward by the trade and industry. The Committee suggest the present procedure requiring a bond as well as duty deposit upto 20 per cent of the amount of provisional duty should be reviewed with a view to mitigating the hardship caused to importers/exporters consistent with the need to safeguard revenue and to ensure expeditious finalisation of the case. The Government may, if necessary, prescribe a time-limit for production of necessary documents and evidence to enable the assessment to be finalised.

4.42. A Chamber of Commerce has brought to the notice of the Committee that inordinate delay takes place to obtain cancellation of bonds executed under the 'provisional assessment' procedure for realisation of deposits made alongwith the bonds. The Ministry have stated that bank guarantee or cash deposit is not insisted upon, if the proper officer is satisfied regarding the financial soundness of the importer. The Ministry have, however, not explained the aspect of delay in recovering amounts of deposits in cases where cash deposits have been made. The Committee feel that the question of judging the financial soundness of an importer should not be left to the unfettered discretion of the customs officer. The Ministry

should issue guidelines to enable the customs officer to exercise his discretion judiciously in the matter of demanding or waiving cash deposits or bank guarantee from the importer. Secondly, where cash deposits or bank guarantees are required to be made along-with the bonds, the bonds should be cancelled without delay to enable the importers to have their deposits/bank guarantees released.

4.43. It has been brought to the notice of the Committee that the procedures being followed at Customs Offices, Calcutta, Bombay and other sea Ports are not uniform. By way of an instance it has been stated that, whereas the Calcutta Customs Office insists on separate execution of bond against individual purchase orders, the Bombay Customs and other Customs Houses are asking for one Indemnity Bond against the total value of the goods to be imported. The Ministry have agreed that there should be uniformity of practice and only one Bond is necessary in case the value of the bond is sufficient to cover the subsidiary contracts. The Ministry should issue clear instructions to all the field formations so as to ensure uniformity of practice in regard to the Indemnity Bond.

C. Concessional rate of duty depending on end-use

4.44. It has been suggested in a memorandum submitted to the Committee that "the system of having different tariff rates for different end-uses should altogether be eliminated. The rate of duty should be assessed as per the Registration of the importer."

4.45. It has been stated in another memorandum submitted to the Committee that the rates of customs duty on a particular item should be fixed irrespective of whether that item is used in a manufacturing process or for maintenance purposes. Charging duty at different rates for the same item depending upon the end-use creates lot of complications and leads to harassment and corruption. At the time of clearance there are lot of problems in convincing the Customs regarding the use of the item. Customs authorities do not pay any heed to any sort of guarantee or undertaking given by the assessee regarding the use of a particular item though as per the Import policy, they should accept the undertaking given by the assessee."

4.46. The Ministry have stated that in regard to the suggestion that there should be a single rate of duty for a particular item irrespective of end-use, it is not possible to accept the same since for a variety of reasons such as the need to promote growth of certain industries and to keep to the minimum the cost of inputs required for manufacture of specified items, it becomes necessary in the public

interest to fix a lower rate of duty on certain goods depending on the use which that item is put to. For example, stainless steel sheets, plates and strips required for manufacture of specified capital equipments or components for use in certain key industries has been accorded a concessional rate of duty, the same stainless steel required for certain less important industries has been given a slightly higher rate of duty. Further, the duty on stainless steel required for manufacture of utensils, etc. has been kept at a higher rate. Similarly, plastic films required for manufacture of electronic capacitors and magnetic tapes have been extended concessional rate of duty with a view to give fillip to the nascent electronic industry. Newsprint required for use in the printing of newspapers, books and magazines has also been exempted from custom duty. Newspaper imported for purposes such as packaging, etc. bears a higher burden of duty. It would, therefore, not be desirable to fix a uniform rate of duty on a given commodity irrespective of its end-use.

4.47. The Ministry have added that in cases wherein items capable of different uses are exempted on the condition of use for particular industries, it becomes necessary to insist on end-use bond with a view to ensure that the exempted goods are not diverted for other uses. On production of a certificate from the specified authorities, such as Central Excise authorities, to the effect that the goods have been used for the purpose for which they were imported, the bonds are generally discharged.

4.48. Clarifying the position, the representative of the Ministry of Finance, stated during evidence:

"The point seems to be that when identical goods are assessable at different rates, some problem arises. There are certain situations where, having regard to the need of a particular industry there will be a lower rate of duty provided the article is used for that particular industry. For example, parts required for an industrial refrigerator normally attract a lower rate of duty than a similar part used for a domestic air-conditioner. In a situation like this, sometimes difficulties arise. So what we do in this case is that we take a bond from the importer asking him to produce an end-use certificate. They should get a certificate that the machinery or part has been used for such and such a purpose. The DGTD or Director of Industries can give such a certificate. The bond gets discharged after he produces this certificate when there is a differential rate of duty applicable depending on the

end-use. The goods are released after the certificate is produced and the bond is discharged."

4.49. It has been represented to the Committee that as the system of charging duty at different rates for the same item depending upon the end-use creates complications and leads to harassment, the differential rates may be eliminated and a single rate of duty for a particular item irrespective of end-use introduced. The Committee agree with the Ministry that it is necessary in public interest to fix a lower rate of duty in order to keep to the minimum the cost of inputs required for the manufacture of specified items and to promote the growth of certain industries. The Committee, however, feel that the underlying purpose of this wholesome principle of differential rates of duty depending on end-use will be defeated if the importers are subjected to harassment at the time of import of such items.

4.50. The Committee note that the importers desiring to have the benefit of concessional rate of duty are at present required to execute a bond undertaking to produce an end-use certificate from the prescribed authorities. The Committee feel that in view of the safeguards made in the form of the bond, the statement made by an importer at the time of Customs appraisal as to the end-use of the imported goods should be accepted by the customs authorities without demur. If the bond is not considered enough of a safeguard in any special case, the Customs authorities may demand additionally an affidavit of the importers' intention to put the item to specified end-use, but once these formalities are completed the goods should be cleared on payment of concessional rate of duty without delay.

D. Countervailing duty

4.51. It has been stated in a memorandum submitted to the Committee that ".....there should be some consistency between Excise and Customs on the question of countervailing duty where the goods in question are in fact being produced in the country and have been classified by excise (Refined naphthalene is being classified by Bombay Customs under Excise T.I. (11A). When derived from Coal Tar and not from petroleum-naphthalene should be classified under T.I. 68 which is indeed how indigenous production is being classified by the Excise Department".

4.52. The Ministry in their replies have stated that in terms of Section 3(1) of the Customs Tariff Act, 1975 any article which is imported into India is, in addition, liable to an additional duty equal to the excise duty for the time being leviable on a like article if

produced or manufactured in India. For this purpose Tariff Advices/ instructions regarding classification of various articles issued by Central Excise Wing of the Board are applied for the purposes of levy of countervailing duty on imported goods by Custom Houses. However, when divergent practice of assessment is noticed the matter is discussed in the periodical tariff conferences of Collectors of Customs and Collectors of Central Excise in consultation with other technical authorities and decision taken is communicated to the field formations and trade to have uniformity in assessment.

4.53. As regards the different practice of assessment in respect of naphthalene on the Customs and Central Excise side for the purpose of additional (countervailing) duty and Central Excise duty respectively the matter was brought to the notice of the Board and the same is being considered.

4.54. The Working Group of the Administrative Reforms Commission in its Report (October, 1968) made the following observations and recommended:—

“One particular areas of Customs levy has, however, given rise to difficulties and that is where the levy is linked with the Central Excise levy in what is referred to as ‘Countervailing duty’ or additional duty under section 2A of the Indian Tariff Act. At present all imported goods have to pay in addition to the basic customs duty an additional amount at the rate of Central Excise duty if leviable on similar goods manufactured within the country. The principle of ‘countervailing’ is a sound principle for a country like ours with great compulsion to develop fast. But it need not be applied in such a manner as to create difficulties and complications for our own industry and trade. We would suggest that for facility of administration ordinarily this additional duty should be shown at least in the working schedules together with basic Customs duty as a single composite rate. For the few items where this may not be possible, the additional duty should be clearly indicated along with the Customs basic rates against the appropriate items of the Customs Tariff Schedule itself so that any reference by the Customs Officer or the importer to the Central Excise Schedule also which may or may not provide exactly corresponding classification would become quite unnecessary.”

On being asked to state in what manner the above recommendation has been implemented, the Ministry have stated that the office

file in which the report of the Working Group of the Administrative Reforms Commission was dealt with is not readily available. However, efforts are being made to trace the file. It is, therefore, difficult to indicate at present the view that was taken on the recommendations referred to above.

4.55. The Committee find that in terms of Section 3(1) of ~~the~~ the Customs Tariff Act, 1975, any article which is imported into India is, in addition, liable to an additional duty (countervailing duty) equal to the excise duty for the time-being leviable on a like article if produced or manufactured in India. In this context, it has been suggested to the Committee that there should be some consistency between Excise and Customs on the question of countervailing duty. By way of example it has been stated that Refined Naphthalene is being classified by Bombay Customs under Excise T.I.(11); though when derived from Coal Tar and not from Petroleum it should be classified under T.I. 68. The Committee have been informed by the Ministry that when divergent practices of assessment are noticed, the matter is discussed in the periodical tariff conferences of Collectors of Customs and Collectors of Central Excise in consultation with technical authorities and decision is communicated to the field formations and trade to have uniformity in assessment. The need for consistency between Excise and Customs on the question of countervailing duty cannot be over-emphasised. To avoid any confusion on this account, it is very necessary, in the Committee's opinion, that not only the scheme of classification for the purpose of Customs and Excise should be identical as recommended by the Committee in para 2.65 of their 28th Report but that the additional duty (countervailing duty) should also be shown at least in the working Schedules together with the basic customs Duty, as single composite rate or separately as recommended by the Working Group of Administrative Reforms Commission. 1968.

The Committee regret to note that when attention of the Government was drawn to the aforesaid recommendation made by Working Group of the Administrative Reforms Commission in its Report (October, 1968), the Ministry were unable to offer comments on the ground that the office file in which the report of the Working Group was dealt with was not readily available. This is a sad commentary on the system of maintaining records in the Ministry. The Committee would like the Ministry to look into this matter and take remedial measures at the earliest.

E. Refund of Customs Duty

4.56. Some non-official organisations and a Public Sector Undertaking in their memoranda complained about the time taken in obtaining customs refund. They have stated that:—

“the refund claim amount are not given in time even after settlement of the claims or appeal etc. In certain cases refund claims are pending for a very long period and there is an inordinate delay with the result that money as well as time is wasted. A time-limit should be fixed to settle the refund.”

* * * * *

“Claims should be passed within 30 days of the receipt of all required papers.”

* * * * *

“Several thousand cases of refund are pending beyond the informal and self imposed time-limit of the Department, which we believe, is three months.”

* * * * *

“Normally, the time taken for refund of claims is about six months. In a number of cases refund orders are being issued after considerable lapse of time from the date of receipt of the orders from the Appellate Collector or the Central Board of Excise and Customs as the case may be. Undoubtedly, such inordinate delays seriously effect the liquidity position of the assessees particularly the smaller assessees.”

* * * * *

“Normally time taken for refund of Customs duty is 6 to 12 months. Generally all these cases are delayed for want of original bills of entry which are not readily available from other departments of the Custom House. Other reasons for the delay may be due to non-availability of documents such as short-landing certificates from the Port authorities. There may also be delay due to slackness on the part of the staff in the department itself. It is suggested that there should be time table for disposal of refund claims and if any claims remain undisposed after the due date set up by time table the head of the department should personally satisfy himself that the delay was un-

avoidable and should take appropriate measures to expedite cases."

4.57. In regard to procedure or getting refund a non-official witness stated during evidence:—

"This is where I suggest that instead of issuing a refund voucher, they should issue a cheque. In a refund voucher you have to put a stamp and return it. It will take almost 3 months to get the refunds."

4.58. Another non-official witness stated in evidence:

"The delay in getting refund can be anything from 8 to 9 months and this is ascribed to various reasons. In some cases it is the Customs' fault, and in some other cases it is not the fault of Customs. Then it was considered that the time-lag should be reduced as far as the payment is concerned. It is linked with the original Bill of Entry. Now, in the Bill of Entry if there is any objection, there is a delay in the payment. Now, your order is received but the payment is not made because the original Bill of Entry is not available and I should suggest the original Bill of Entry should not be removed from the records. If there is no objection, a copy of the Bill of Entry should be made available so that payment is not delayed. Whenever, refund order is given, it takes anything from 7 days to 15 days, to get the cheque.... What we would suggest is that this might be treated on par with the income-tax which could be encashed from the bank so that the time-lag of getting the money after the refund order could be reduced."

4.59. The witness added that:

"Now for getting this refund.... there should not be any waste of time. I must get the refund immediately and I must also get interest on the excess amount which I have paid."

4.60. The Ministry have stated that the appeals or revision petitions are at times decided in principle and consequential refund is required to be worked out after a reference to duty bill, insurance memo and invoices for purposes of reassessment. Sometimes the documents are returned to the appellants or petitioners by the Appellate Authority and, therefore, these documents are required to be

called for from the appellants if not received in time. This causes delay. Sometimes, the original bill of entry is not available. In such appeals|reufnd petitions the some is reconstructed and therefund is paid on the basis of the duty bill produced after verification of any previous payment from the key register maintained in the Accounts Department.

4.61. The Ministry have further stated that refund claims, which are generally filed with all the supporting documents are finalised within the reasonable period. The time schedule for finalising appraising refund claims has already been prescribed, according to which such claims have to be disposed of within approximately 90 days.

4.62. On being asked about the number of refund cases pending for over a year, six months and three months Collectorate-wise, the Ministry have stated that normally refund orders are issued expeditiously and cases are not unduly delayed as would be evident from the break-up given below in respect of refund cases as on 30-11-1978 pertaining to major Custom Houses:—

Name of the Custom House	Over one year	Over 6 months	Over 3 months
1	2	3	4
Bombay	14	96	258
Calcutta	Nil	353	486
Madras	21	120	238
Cochin	1	25	48
	36	594	1040

4.63. Having regard to the total receipts of refund cases for the period April-September, 1978 in these Customs Houses which was 20,765, the pendency cannot be said to be high although the age of the cases is a matter of concern and efforts are being made to liquidate the older cases. The supervisory officers exercise control over the staff dealing with the processing of the refund claims. A watch is also kept over the progress made and the pendency position by the Assistant Collector|Deputy Collector. Collector and the Board through scrutiny of progress reports.

4.64. A Member of Parliament in a memorandum submitted to the Committee has suggested that "instead of elaborate process now followed, the system of refund of duty should be across the counter. Auditing, checking with the original customs documents should be done subsequently. The importers should be asked to produce full documents and in such cases the above procedure should be adopted,"

4.65. The Ministry have stated that pre-auditing and checking with the original customs documents against which payment was initially made, is a necessary procedural requirement to guard against double or erroneous payments, and against frauds and payments to wrong persons.

4.66. In another memorandum submitted to the Committee it has been stated that:—

"Customs should 'fix' time limit in deciding the claims for refund. If the case is not finalised within the stipulated period and refund paid, interest should be paid by customs to the claimant."

4.67. The Indirect Taxation Enquiry Committee (Jha Committee) which studied this problem observed:—

"Another important complaint of the assessee is the time taken for settling claims for refund, rebate and drawbacks. We feel that no refund or rebate or drawback should take more than three months to settle and this time limit too should be fixed statutorily. A time limit of 3 months for the grant of rebates|refunds|drawback would, we feel, be liberal enough. In respect of refunds, the period should count from the date on which full information relevant to the claim has been furnished by the claimant. Where the statutory time limits are exceeded, on the analogy of provisions relating to grant of interest on delayed refunds obtaining under the Income-Tax Act, Central Excise and Customs laws should provide for payment of interest at appropriate rates from the date of expiry of the time limit."

4.68. The Ministry have stated that the recommendations of the Jha Committee are under examination. Just as there is no provision for the payment of interest on delayed refunds|drawbacks, there is also correspondingly no provision for payment of interest by the assessees on arrears of revenue due to the Government. Fixation of a

statutory time limit for the sanction of refunds|drawback claims, beyond which the interest will start accruing, may some time result in hasty disposal or rejection of the claims because of the time limit, thus carrying the cases to appellate or revisionary stages and may not, therefore, be a correct remedy. However, careful watch is kept by the Board through monthly reports required from the collector and also by the supervisory officers in the Custom Houses in order to avoid delays in finalisation of refunds|drawback claims.

4.69. A number of organisations of trade and industry have represented to the Committee that there is considerable delay ranging from 6 to 12 months in payment of refunds by the Customs Department it has been suggested that there should be a time limit for disposal of refund claims. From the figures furnished by the Department, the Committee find that as on 30 November, 1978 in the Collectorates of Bombay, Calcutta, Madras and Cochin there were 36 cases pending for more than a year, 594 cases pending for more than 6 months and 1040 cases pending for over 3 months. It has been stated by the Department that delay in payment of refunds is caused sometimes due to delay in receipt of documents from the appellant. The refund claims which are generally filed with all supporting documents are finalised within a reasonable period. A time schedule for finalising/appraising refund claims has been prescribed; according to the time schedule such claims have to be disposed of within approximately 90 days. The figure of pendency of refund cases in respect of a major customs houses of Bombay, Calcutta, Madras and Cochin given above indicate that the actual schedule taken by the Customs Officers is far in excess of the time schedule prescribed by the Department. The Committee, agreeing with the Jha Committee, feel that the time has come when statutory time-limit should be fixed for grant of refund and if the statutory limit is exceeded, interest on the refund amount should be paid at appropriate rate from the date of expiry of the time-limit.

4.70. It has also been represented to the Committee that even after refund order is passed, there is delay in making payment because certain essential documents like bill of entry are not readily available in the Customs office. The delay at this stage is highly deplorable. The Committee see no reason why the Customs cannot organise their records in such a way that all relevant papers are readily available. The Committee have recommended elsewhere in this Chapter a study into customs assessment procedure with a view to cutting delays by minimising stages of examination of customs documents. The Committee recommend that the Refund procedure should also be studied and streamlined so as to enable an importer

to have actual refund not merely an order of refund, within the stipulated period of 90 days. The Ministry would also do well to examine as to why the refund order, which is made after due scrutiny, cannot be straightway encashed as is reported to be the practice in the case of income-tax refund.

F. Duty on Goods Pilfered or short landed or Destroyed

4.71. It has been stated in a memorandum that:—

“In cases where the goods are found to be pilfered short landed, lost or destroyed, no duty should be recovered at all, but a part bill of entry may be granted for available materials and clearance may be effected. This procedure may be followed even in respect of packages with deficient contents or no contents. At present serious difficulties are being experienced as the customs are insisting on payment of duty on the entire quantity of the packages.”

4.72. It has been stated in another memorandum that—

“Customs Act, 1962 does not provide for grant of part bill of entry in respect of goods which are short landed, destroyed pilfered or those which cannot be cleared due to some restrictions under customs and allied act. In such cases, the Act may be amended to enable the importers to file part bill of entry and clear the goods which are available and eligible for clearance.”

4.73. Elaborating the position further, a non-official in evidence stated—

“Sometimes out of 20 cases, a certain company may unload 10 cases. Sometimes certain cases are not unloaded at all. Such things happen. The importer files a Bill of Entry, in advance of the receipt of Invoice. Later on he says, 5 cases are missing. He says it has come to my knowledge. Then he is told, you modify the earlier Bill of Entry. Then much of time is lost. They should look into this so that no time is lost. So the procedure in this regard should be revised and this is our submission.”

4.74. The Ministry have stated that Sub-Section (2) of Section 46 of the Customs Act, 1962 does not debar the filing of a Bill of Entry for clearance of a part of a consignment covering complete packages, with the permission of the proper officer of Customs. Such part Bills of Entry are permitted in case duty has not already

been paid on the whole consignment. However, in cases where duty has been paid on the entire consignment and the goods are sought to be cleared under the Second appraisement system, the only course which can be adopted for relief in respect of lost, destroyed or pilfered goods is to grant refund of duty, as may be due, under the provisions of sections 13 and 23 of the Customs Act, 1962, as the case may be.

4.75. During the tour of Study Group of Estimates Committee to Cochin etc. it was brought to their notice that where a part consignment was received by one ship and the remaining consignment by another ship on a later date, the customs authorities charged duty on full consignment while clearing part consignment and also demanded duty afresh on the remaining part of the consignment whenever it was received. The assessee was then required to submit application for refund of excess duty paid in this process which took time. It was suggested that duty should be charged only on consignment actually received and not on full consignment, thus avoiding the necessity of submission of refund application later by the assessee.

4.76. Asked to comment on the difficulty faced by importers the representative of the Ministry of Finance stated during evidence:—

“This is quite acceptable. Where they have opted for what is called prior to entry clearance, we realise the duty and give them the final clearance. When they find some packages have not arrived they can come back and say that some packages have not arrived and so the duty paid on them may be given back. Under the system of prior entry clearance there is no option but to come back to us and claim the refund”.

4.77. He further stated that:—

“There is no problem if the packages are traced later on. He can use the same document to clear them; there is no question of refund or recovery involved. But what you probably have in mind is that the packages may arrive later by another steamer. In that situation subject to the procedural requirements, in principle we agree.”

4.78. It was pointed out that—“there are far too many case of this kind, so why harass the small minority”, the Chairman, Central Board of Excise stated during evidence:—

"It is not a question of harassment. What we are thinking now is of a case where out of 12 packages four have been short-shipped at the other end. These four may be traced or not traced; they may come after two months or after six months. When they do come for legal purposes the date will be deemed to be the date on which they come into the country and therefore, the assessment made earlier may not be applicable to them. The adjustments may present some difficulties. Apart from that, in case the packages are not traced or they come after a long time, it is easier for the importer to file a refund claim and get the cash in hand earlier".

4.79. It has been represented to the Committee that in cases where the goods are found to be pilfered, short landed, lost or destroyed, no duty should be recovered at all but a part bill of entry granted for available material and clearance effected. At present, it is stated, the customs insist on payment of duty on the entire quantity of the packages. It was brought to the notice of the Study Group during tour that where part consignment was received by one ship and the remaining consignment by another ship on a later date, the customs authorities charged duty on full consignment while clearing the part consignment and demanded duty afresh on the remaining part of consignment whenever it was received. The importer could then claim refund of excess duty paid which took time. The Ministry have stated that the Customs Act does not debar the filing of a bill of entry for clearance of a part of consignment provided duty has not already been paid on the whole consignment. The Committee feel that the existing procedure in regard to goods pilfered, short-landed, short-shipped, lost or destroyed is not quite satisfactory as in most cases it would require an importer to pay duty for full consignment even though only a part of the consignment may actually have been received and thereafter to go through the time-consuming process of claiming refund.

4.80. The Committee see no reason why the procedure in this regard cannot be simplified to require payment of duty only for the actual quantity of consignment received in the first instance, and if the duty has already been paid for full consignment before discovering the short-receipt, to grant instant refund of the excess duty on the spot without requiring the assessee to file any special application for refund in the normal course. If procedure stand in the way of instant refund in such cases, it may be reviewed and simplified without delay to mitigate to the extent possible the double hardship which the importers suffer, first, by not getting their consign-

ments in full and secondly by paying excess customs duty for the full consignment and then undergoing the ordeal of getting refund in the normal course.

G. Laboratories under Central Board of Excise and Customs

4.61. The following fifteen laboratories are functioning under the Central Board of Excise and Customs:—

Headquarters

- I, Central Revenues Control Laboratory, Hillside Road, Pusa Campus, I.A.R.I., P.O., New Delhi-12.

Customs Laboratories:—

1. Custom House Laboratory, New Custom House, Ballard Estate, BOMBAY.
2. Custom House Laboratory, Custom House, 15th Strand Road, CALCUTTA.
3. Custom House Laboratory, New Custom House, MADRAS.
4. Custom House Laboratory, Custom House, COCHIN.
5. Custom House Laboratory, New Custom House, KANDLA (Gujarat).
6. Custom House Laboratory, Custom House, GOA.

Central Excise Laboratories:—

1. Central Excise Regional Laboratory, Estrella Batteries Compound, BOMBAY.
2. Central Excise Regional Laboratory, 8th Floor, Yash Kamal Building, BARODA-5.
3. Central Excise Laboratory, Assam Oil Company, DIGBOI.
4. Central Excise Laboratory, Esso Oil Refinery, BOMBAY.
5. Central Excise Laboratory, I.O.C., Refinery, BARAUNI (Bihar).
6. Central Excise Laboratory, CORIL Refinery, VISHAKA-PATNAM.

Narcotics:—

1. Govt. Opium & Alkaloid Works Undertaking, GHAZIPUR.
2. Govt. Opium & Alkaloid Works Undertaking Station Road, NEEMUCH (M.P.).

Total Laboratories—Fifteen (15).

4.82. Ministry have stated that facilities exist by and large in Board's laboratories for testing imported chemicals for various specifications including those given in Pharmacoposeas. The tests generally assist in determining the physical, chemical, analytical or the like characteristics composition of the tested material. There are objective standards for determining these characteristics or composition and there can hardly be a question of premia on revenue considerations.

4.83. A Study Group of Estimates Committee, which visited Mangalore, Calicut, Cochin, etc. during January—February, 1979 were informed that "testing of steel items was done at Calcutta, and it was felt that instead of sending consignments for testing to such far off place, testing facilities should be set up at nearby places."

4.84. Asked to state why a laboratory cannot be set up or identified near the port of entry, the Ministry have informed that the Customs laboratories can undertake the chemical analysis of steel samples. However, for the purpose of the Indian Customs Tariff and Import Trade Control at times determination of physical characteristics like tensile strength, grain oriented studies of metals, etc., become necessary. These characteristics can be determined only by using costly and sophisticated equipments which are at present available in the National Metallurgical Laboratory, Jamshedpur. The number of samples requiring test at Mangalore and Calicut, is small at present and on this basis there is not sufficient justification for setting up independent laboratories at these ports.

Delay in furnishing test reports

4.85. In another memorandum it has been submitted to the Committee that—

"it takes too much time to get reports when the goods are sent for laboratory tests,"

It has been suggested that—

- (i) Laboratory report should be expedited and should be submitted within a fixed time, i.e. 7 days from its receipt.
- (ii) Whenever the importer is urgently in need of the material, the same may either be released on provisional assessment after obtaining a sample. The final assessment can be done after obtaining laboratory test report.

4.86. A Public Undertaking has also suggested that "in case of delay in getting laboratory test reports the consignments should be released on the basis of the documents and undertakings given by the importers. Final assessment may be made on receipt of test report subsequently."

4.87. In another memorandum it has been suggested that "the consignments may be despatched to the godown of the actual user in BOND and samples for chemical testing may be drawn at the warehouse/godown of the actual user. Such bales may be released for use only after they have been tested and cleared by the Customs and Excise Departments. The only difference being that the clearance will not be at Bombay Port, but at the warehouse of the Company". Asked to state the reaction of the Government to the above suggestion, Ministry have stated that the request by and large is met by the procedure prevailing in the Custom House, which is as follows:—

"In the case of goods which are regularly imported, clearance is allowed on the basis of previous tests which remain valid for certain period. Usually before the expiry of the validity of a test report, samples from incoming consignments are drawn so that future consignments are not held up pending test. Further, in respect of consignments for which valid tests do not exist, the goods are permitted to be cleared provisionally on execution of a suitable bond by the importers. This apart, facility for clearance of major portion of consignment, pending test is also extended in suitable cases. The suggestion of drawal of sample at the warehouse|godown of the actual user is fraught with risk. Further drawal of sample requires considerable expertise and supervision which would not be available if it is done at the warehouse|godown of the actual user".

4.88. It has been stated that "where valid test reports are not available, the goods are permitted to be cleared provisionally on execution of a suitable bond by the importer. Further, major portion of consignments is also allowed to be cleared pending tests in suitable cases. Having regard to the nature of the complexities of various tests some of which have to be carried out at specialised Government laboratories situated at places away from the port of import, it will not be possible to fix a uniform period for tests reports.

4.89. The Ministry in their replies have stated that the question of the fixation of a time schedule of testing of samples was considered by the Board. It was felt by the Board that if any time schedule is fixed in this regard, it would dilute the responsibility of the Collectors who are expected to ensure speed and efficiency in the clearance of goods as well as in the working of the laboratories. The period of testing as a matter of fact, could depend on the working of the laboratories, the number of samples for test. Where, however, the samples have to be sent to an outside agency such as Metallurgical Laboratory, Jamshedpur or Alipur Test House, Calcutta, it will rather be difficult to prescribe a time-limit. Major portion of the consignments is allowed to be cleared pending tests in suitable cases. In any case, in order to modernise the Customs Laboratories and streamlining of their working, the Government have set up a committee to go into the working of the Customs Laboratories and to make suitable recommendations.

4.90. The Ministry have furnished the following statement showing the number of cases sent for tests during 1978 and the number in which tests reports were received within 3 months, 3—6 months and 6—12 months and above 12 months during 1978:—

Statement showing total number of cases sent for the test during 1978 and the number of cases in which test Reports were received within 3 months, 3—6 months, 6—12 months and above 12 months

Name of the Customs House	Total number of cases sent for Test during 1978	Number of cases in which Test Reports were received within 3 months	Number of cases in which Test Reports were received within 3-6 months	Number of cases in which Test Reports were received within 6—12 months	No. of cases in which Test Reports were received above 12 months	Remarks
1	2	3	4	5	6	7
Bombay Customs House	33396	33383	9	4	Nil	Nil
Cochin Customs House	1393	1393	Nil	Nil	Nil	Nil
Madras Customs House	3680	3670	8	Nil	Nil	As on 27-2-79, reports for the remaining 2 cases were pending with the Alipore Test House. One of these 2 cases relates to May 78 and another to December 78.

1	2	3	4	5	6	7
Calcutta Customs House	2827	2724	5	35	Nil.	As on 9-3-79, all the remaining 63 cases are pending with the National Test House, Alipore, Calcutta. These were sent to the Test House during February to Decem- ber, 1978.
TOTAL	41296	41170	22	39	Nil	

4.91. The Study Group of Estimates Committee were informed that "at present reports on the tests conducted by Government approved laboratories have validity for one year after which fresh reports are required to be obtained. It was suggested that the validity of test reports should be extended to three years to avoid too frequent tests."

4.92. The Ministry in their replies have stated that normal validity of test reports in respect of goods supplied by well-known manufacturers is two years. Only in few cases of supplies from new sources the normal validity of test reports is one year. In cases where validity of tests is expiring, samples can be drawn from the last available consignments before expiry of test validity at the request of the importer for the purpose of allowing a fresh validity period without withholding any clearance. *

4.93. Asked to comment on the suggestion to extend the period of validity to three years, the representative of the Central Board stated during evidence that "It could be considered. This period of two years, I think, is a fairly long period, but we will examine it."

4.94. The Indirect Taxation Enquiry Committee (Jha Committee) in its Report has made the following recommendation:—

"Volume of imports has gone up and even the pattern of imports has shown significant changes. Suggestions have been received for modernising and strengthening the existing test laboratories as also opening new ones and that these should be provided with latest technical lite-

ature to meet with the increased requirements and to avoid delay in clearance."

4.95. The Ministry have informed that in order to modernise the Customs Laboratories and improve their working and efficiency the Government had set up an Expert Committee in May/June, 1978 to examine the working of the Central Revenue Control Laboratory at New Delhi and other such laboratories under the control of Central Board of Excise and Customs. One of the terms of reference of the Committee is "utility or otherwise of tests carried out in outside laboratories". The Committee was expected to submit its report by the end of December, 1978.

4.96. The term of the Committee has, however, been extended upto the end of June, 1979 and their report is expected to be submitted by that time. Further action in this regard will be taken in the light of the Committee's recommendations.

4.97. The Committee note that there are fifteen Laboratories, which are under the control of Central Board of Excise and Customs, and they are located at New Delhi, Bombay, Calcutta, Madras, Cochin, Kandla, Goa, Baroda, Digboi, Barauni, Vishakapatnam, Ghazipur and Neemuch. Their functions are to undertake among other things, chemical analysis of samples of imported chemicals etc.

4.98. It has been represented to the Committee that it takes too much time to get the test reports. It has been suggested that the test reports should be expedited and submitted within a fixed period of time, say, seven days from its receipt. The Ministry have stated that this aspect was considered by Government and it was felt that any time-schedule fixed in this regard would dilute the responsibility of the Collectors. Besides, it will be difficult to prescribe time limit in respect of samples sent to outside Laboratories. From the Statistics furnished by the Ministry, it is seen that out of 412996 samples taken in 1978, in 41,170 cases, test reports were received within 3 months; 22 cases took 3-6 months and 39 cases 6-12 months. The remaining 65 cases were pending with National Test House, Alipore an outside Laboratory. The Committee, however, feel that in deference to the wishes of the trade and industry, if a reasonable time limit is laid down to serve as a guideline for the laboratories; it will help inculcate a sense of urgency and importance in the minds of experts responsible for furnishing Reports and it may improve the position further.

4.99. The Committee feel that in order to reduce the burden on the existing number of laboratories the normal validity period of a test report, which is two years in respect of goods supplied by well known manufacturers, and one year only in respect of supplies from new sources may be increased to three years without prejudice to the Collectors' right to draw samples for test at any earlier point of time in case of suspicion or new developments.

4.100. The Committee note that in respect of consignments for which valid test reports do not exist, the goods are permitted to be cleared provisionally on execution of suitable bond by the importers. Facility for clearance of major portion of consignment pending test, is also extended in suitable cases. The Committee recommend that the facility for removal of major portion or entire quantity of goods should be extended with suitable safeguard to all cases where the importers are prepared to execute bonds which may be prescribed in this regard.

4.101. The Committee note the recommendation made by the (Jha Committee) Indirect Taxation Enquiry Committee for modernising and strengthening the existing test laboratories. They are informed that Government have set up an Expert Committee in May/June, 1978 to modernise the Customs Laboratories and improve their working and efficiency. The said Committee is expected to submit its Report by June, 1979. The Committee would like to be apprised in due course, of the recommendations made by the Expert Committee and the action taken or proposed to be taken thereon. . .

CUSTOMS DUTY DRAWBACK SCHEME/EXEMPTION SCHEME

A. Customs Drawback Scheme—Fixation of Brand Rate

5.1. The Customs Duty drawback is allowed not only on the duties incurred on the direct inputs of raw materials and components utilised in the manufacture of export goods, but also the earlier inputs that go into manufacture of the said raw materials and components. Drawback also takes into consideration the wastages involved in the manufacture and the duty incidences on the packing materials used in the export of the goods. Drawback rates are fixed on the basis of either the average of the duty incidences on the materials or of actual duties paid by manufacturers. These rates are announced either for a class of goods—commonly known as all industry rates, or for manufacture by a particular manufacturer termed as “Brand” rates.

All Industry Rates:

5.2. The all industry rates of drawback are fixed on wide average basis after obtaining data from the leading manufacturers, export interests, Customs and Central Excise Collectorates, and Governmental technical departments like D.G.T.D., Textile Commissioner, etc. The principles involved and the manner of fixation are also discussed in the drawback Standing Committee, wherever necessary, and decision taken.

5.3. The all industry rates are generally revised every year immediately after the year's budget proposals and announced, taking into account the changes in duty incidences brought out by the budget, and also the changes in utilisation, e.i.f./assessable values, indigenous substitution etc., of the raw materials since the time of the earlier review. The rates are reviewed in between the year also wherever warranted.

Brand Rates:

5.4. The brand rates of drawback are fixed on the basis of the duties incurred by a particular manufacturer in the export of goods effected by him. For this purpose, the manufacturing exporter is

required to furnish the necessary data and information in the prescribed proforma giving information of the raw material consumption, procurement, payment of duty particulars, etc. etc. The information so furnished is got verified by the Customs/Central Excise Collectorates in which the manufactory is situated and thereafter the rates are fixed and announced by the Ministry.

5.5. According to the Ministry of Finance the fixation of brand rate, in the very nature of things, is somewhat time consuming because of the need for the manufacturer to compile the necessary data and have them verified and the rates are fixed, etc. In realisation of this inherent time factor, the Government have made provision in the Drawback Rules for obtaining provisional drawback on the basis of party's own data pending verification thereof. Initially, the Rules permitted the grant of this provisional drawback only upto 75 per cent of the amount claimed by the exporter, but the Rules have since been liberalised to provide for cent per cent payment subject to the conditions of the Rules.

5.6. The Rules also provide that where a particular manufacturer is not satisfied with the all industry rates (which as already mentioned is based on wide averages), he can come up for fixation of special brand rate on the basis of the actual duties incurred by him, subject to the compliance of the provisions of Rule 7 of the Drawback Rules.

5.7. The Ministry have informed the Committee that once the rates are fixed, the settlement of drawback claims is attended to by the Collectors of Customs and Central Excise of the ports through which the exports are made. The Drawback Shipping Bill itself is treated as a claim and this is finalised after ensuring that the goods are exported, by checking with the Export General Manifest, and ensuring that the necessary formalities of the Rules are complied with. For settlement of some of these claims, chemical tests are required to be done after drawing samples at the time of export. Since the formalities of checks, etc., take some minimum time, the Government has introduced a scheme known as Duty Drawback Credit Scheme. Under this scheme, even at the time of export, the Customs authorities certify on the Shipping Bills provisionally the drawback amount payable on the basis of the party's own declaration. Immediately after the shipment, the exporter can produce the Shipping Bill containing the certification to the Scheduled bank and obtain on this basis 90 days interest free advance to be later finally adjusted by the bank, in accordance with the advice of final drawback payable, as received from the Custom House through the Reserve Bank of India.

5.8. It has been represented in a number of memoranda to the Committee that considerable difficulties are experienced in getting drawback on customs duty on goods exported. There is delay in fixing the rates of drawback. It has been suggested that the rate of drawback should be announced within 2 months from the date of receipt of data by the Department. The Department should pay the drawback within 3 months of filing the claims.

5.9. A Member of Parliament in his memorandum submitted to the Committee has stated that :

“the industry is having difficulty in getting drawback of Customs duties on account of inefficient working and delay in disposal of cases,” and he has suggested that “the drawback should be given immediately after the shipment is affected as is being done in the case of Cash Assistance by CCI&E”.

5.10. On being asked to indicate the normal time taken to settle the drawback claims, the Ministry have stated that in so far as ‘all industry’ rates are concerned, which cover more than 80 per cent of the amount of drawback paid, these are generally announced on the due dates.

5.11. As regards the second category of rates i.e., brand rates, a sample study regarding the average time taken in the matter of fixation of this category of rates has been conducted and it reveals as under:—

Average time taken by the exporters to submit the data after exports have been effected by them.	196 days
Average time taken by the exporters in arranging for the verification of the data and/ or conducting verification by the field formations.	190 days
Average time taken by the Department in determining, auditing and announcing the rates.	129 days.
TOTAL :	515 days

5.12. It would be seen from the above that it is nearly one year after the date of export that the data are available to the Ministry for fixation of drawback rate, and most of this delay is attributable to the exporters themselves.

5.13. The Ministry have stated that no time limit has been laid down in this regard, as it is considered neither feasible nor practical, in view of various constraints, including exporters’ own difficulties, delay in furnishing data information, documents, arranging verification etc.

5.14. In regard to actual payments of drawback amount it has been reported by the Collectors of the major Custom House of Bombay, Calcutta, Madras and Cochin that, where all the information and documents are available that most of the claims are settled within 3 months wherever drawback rates are available.

5.15. On the question of cutting short the time, the Ministry have stated that the real remedy would be to effect changes in the existing law governing the drawback scheme some of which are indicated below:—

- (i) As per the existing provisions of Section 75 of the Customs Act, the drawback is linked to the actual or average duty payment on the materials used in the manufacture of the export goods, which results in meticulousness and lot of calculations. There should be a quick method of determination of rate of drawback which will require approximation and estimation, subject to the overriding factor that drawback does not exceed the duties collected on an overall basis, not with reference to an individual commodity, but for a whole class or group of commodities.
- (ii) Making the drawback scheme need-based.
- (iii) Making the drawback fuller in respect of certain materials which may be deemed to be imported in respect of which India is the net importer.
- (iv) Augmentation of staff dealing with the Drawback Scheme, both at the headquarters and in the field.

5.16. Ministry in their replies have stated that certain steps have already been taken like introducing the provision relating to deemed imports by amending section 75 of the Customs Act, 1962.

5.17. The Ministry have further stated that a Committee of officials has been appointed to go into the question of cutting short the time taken for fixation of brand rates/settlement of drawback claims.

5.18. A non official witness suggested during evidence before the Committee that—

“...after the submission of the drawback documents, etc. it takes sometimes 6-7 months to receive money. For fixing

rates, it often has taken 2-3 years which is killing. This is not a healthy way in which we can streamline our export. If necessary, it should be done on a running accounts basis declaring the import content of exports either on annual or half yearly basis. Let him make a declaration that he is an established importer. Based on this declaration, let the import authority issue a duty free import licence. This importer would periodically submit utilisation statements backed by export details, so that it is in any case being accounted for... The difficulty is about the rate fixation which takes a long time. Therefore, this method of finding out free importation is very essential. Without this the drawback rate has got very little meaning. Unless time lag is reduced to 15 days, it will not help."

5.19. According to the Ministry there is no unavoidable delay at all in the payment of drawback. 80 per cent of the drawback amount paid are on all-industry rates where the delay in fixing the rate does not arise at all. Reports from the Collectorates show that generally 90 per cent of this amount is paid within 6 weeks, and in very few cases delay beyond 3 months are reported. The balance of 20 per cent are paid at brand rates. For 10 per cent of the shipments brand rates exist and there is no delay on this account. In short, 85 per cent of the drawback due is paid within 6 weeks to two months of shipment.

5.20. According to the Ministry the suggestion made here would be quite useful in respect of those manufacturers who have a export manufacturing programme in hand utilising varying quantities of imported materials. This can be adopted within the existing system. The department has powers to fix a provisional rate in advance pending verifications of the utilisation of materials. Payment can be made on export on this basis and accounts settled from time to time on the basis of running accounts series. This procedure is being implemented on an experimental basis in one or two cases and after experience will be implemented on a wider scale.

5.21. The Ministry have furnished the following statement indicating the number of claims where rates of drawback were available and settled during the year 1978 showing the number of claims (with

Percentage) settled within 3 months and those settled in more than 3 months:—

Name of the custom House	Total No. settled during the year 1978	Total No. of claims settled within 3 months	Percentage	Total No. settled over 3 months	Percentage
(1)	(2)	(3)	(4)	(5)	(6)
Bombay	139901	118916	85	20985	15
Calcutta	46495	39796	85.6	6699	14.4
Madras	30138	29538	98	600	2
Cochin	26260	25472	97	788	3
Vizag	687	687	100	..	..
Kandla	309	90	29.1	219	70.9
Goa	85	85	100	..	..
Delhi	45622	26265	57.6	19357	42.4
Bangalore	3781	3368	89.3	413	10.7
Madurai	687	687	100	..	..
Guntur	1091	1073	98.3	18	1.7
West Bengal	3805	3114	84.2	691	15.8
TOTAL :	298861	249091	83.5	49770	16.5

[Excluding Ahmedabad and Chandigarh Central Excise Collectorates.]

5.22. According to the Ministry where rates of drawback are available, about 85 per cent of the total claims are generally being settled within 3 months. These claims where the rates are available but which cannot be settled mainly on account of the following reasons:—

- (1) awaiting documents from the exporters.
- (2) awaiting Textile Committee Certificate.
- (3) awaiting Laboratory Test Report.
- (4) awaiting Export General Manifest.
- (5) For want of evidence of final shipment certificate in cases of export originating from a port other than the port of shipment.

5.23. The Ministry have stated that no doubt a rationalisation of the Customs Import Duty and the Central Excise Duty would result to a certain extent in the simplification of the drawback procedure. The complications and difficulties in ascertaining the duty incidence on raw materials and components used in the manufacture of an export product on account of the complexities and changes in the import and central excise tariff may get reduced. However, there is a limit to the simplification of both the tariff in a developing economy where differential duty rate structures has to be for the purpose of removing imbalances in our economy. Also import duty on quite a few material will have to remain high to mop up the excessive profits on domestic consumption. Where the export product is dependent on use of such high rated import material drawback scheme will have to be replaced by the Duty Exemption Scheme.

5.24. In respect of others a simpler method would be to determine the drawback having regard to the duty incidence on the materials and the need to increase the competitive strength of the product in the world market, instead of trying to equate it to the duties shown to be incurred. By this means cash assistance and drawback could also coalesce into one system of relief for the exports from duty burden. The drawback system could also cover not only the Customs and Central Excise duties, but also the sales tax and other commodity taxes.

5.25. At present an annual amount of about Rs. 150 crores by way of drawback and about Rs. 225 crores by way of cash subsidy on exports is being disbursed. By introducing this extended system of drawback and making it need-based this amount of about Rs. 375 crores could be better utilised effectively in accordance with the needs. The structure and nature of exports could also be patterned in the way Government deems as best suited to our economy.

5.26. Commenting on the expeditious settlement of drawback claims, the Secretary, Ministry of Finance during evidence stated:—

“About drawback claims, I will only say that we are aware of the need for expeditious settlement of drawback claims in the interest of promotion of export effort of the country because unless drawback claims are settled, the exporter's capacity to sustain will be impaired, by and large, the procedures have been streamlined and these claims are increasingly being settled on a broad basis. But I would not claim that everything is perfect and the procedures cannot be further improved upon. So when, the Commerce Secretary brought to my notice some-time back

that it would be worthwhile for a group to go into the existing procedures and suggest further improvements. I readily accepted that suggestion and a Committee has been appointed under the Chairmanship of Member (Customs) with which officials of the Ministry of Commerce will also be associated."

The representative of the Ministry stated that "the report of the Committee was likely to be available in about a months' time."

B. Time Limit for Refund of Drawback over-paid to the Exporters

5.27. On being asked to indicate the time limit prescribed in the Drawback Rules within which an exporter is required to refund to Government the amount of excess drawback overpaid to him, and whether any penalty is leviable on the exporter in case he does not refund to Government the amount of drawback overpaid to him within the stipulated time, the Ministry have stated that no time-limit is prescribed in the Drawback Rules during which an exporter is required to refund the amount of drawback erroneously paid or paid in excess of what the claimant is entitled to. The excess payment is recovered in terms of Rules 14 of the Customs and Central Excise Duties Drawback Rules, 1971. While making the demand on the exporter, the Custom House specifies the time-limit within which the amount should be paid.

5.28. The Ministry have added that no penalty is prescribed under the Drawback Rules. However, if the exporter fails to repay the amount, the Custom House will take recourse to Section 142(1) of the Customs Act, as laid down in Rule 14 of the Drawback Rules.

5.29. In this connection, the Committee note that the Public Accounts Committee of Lok Sabha had in their 76th Report (1977-78) made the following observations:—

"The Committee also note that at present there is no provision in the Drawback Rules for prescription of time-limit on the exporters for refunding the irregular payment made to them after the necessary claim therefor is made. Further, there is also no provision for penalty under these Rules, in case the exporter fails to repay the amount. Judging from the number of cases of irregular payment and also the amount involved in each case, the Committee would recommend to the Department to consider the feasibility of making specific provisions for

prescription of time-limit for making refund and levying of penalty alongwith penal interest in case the exporter failed to refund."

5.30. On being asked to state whether some statutory time-limit could be prescribed and why no penalty was being recovered and only recourse was being taken to Section 142 (1) of the Act, which provides (i) deduction of amount from any money owing to such person; (ii) recover the amount so payable by detaining and selling of goods belonging to such person; and (iii) if the amount cannot be recovered to take action through Collector of District, to recover the amount from such person as arrears of land revenue, the Ministry have stated that the proper officer passing an order calling upon the exporter to refund the amount of drawback erroneously paid or paid in excess of what the exporter was entitled to does specify a reasonable time within which the exporter must do so. The desired objective is, therefore, being achieved under the existing system. It is, therefore, not felt necessary to fix any statutory time-limit. The Ministry have stated that the amounts of drawback paid erroneously or in excess have generally been refunded by the exporters themselves in cash or have been adjusted against the amounts due to them. There has, therefore, been hardly any occasion for recovering the amount by invoking the other provisions of Section 142(1) of the Customs Act, 1962.

5.31. On being asked to state what remedial measures have been taken to minimise the chances of recurrence of irregular/wrong payments of drawbacks the Ministry have stated that the following remedial measures have been taken:—

- (1) A column in the Drawback payment order to indicate 'the amount of drawback' claimed by the exporter has been introduced with a view to check calculation error, if any.
- (2) Instructions have also been issued to mark the Shipping Bill in broad letters where short shipment has taken place.
- (3) The column in the supplementary claim indicating the date of 'outward entry of the vessel' has been introduced to check the correct date of export for purpose of grant of drawback.

5.32. At the instance of the Committee, the Ministry furnished a statement showing cases involving irregular payment of drawback amounting to 10,000 or above during the last five years. It would be seen from the statement showing the names of parties to whom irregular (wrong) payment of drawback amount to Rs. 10,000/- and more were made during the period from 1973—77, that irregular (wrong) payments over Rs. one lakh were made to some of them, as shown below:—

Sr. No.	Name of the Custom House	Party's name	Amount (Rs.)	Date of recovery
1	Bombay	M/s. Madras Rubber Factory	1,24,019.83	4-3-77
2	Do.	M/s. Atul Products Ltd.	10,00,000.00	12-9-78
3	Do.	M/s. Industrial Cables Ltd.	1,61,166.40	Do.
4	Do.	M/s. Blundell Eomite Paints	1,20,900.00	1-3-77
5	Do.	M/s. Motor Industries Co.	1,45,207.40	3-2-77
6	Do.	M/s. Volcro India Ltd.	1,20,400.42	
7	Madurai	M/s. Bhaskaran and Co. Tuticorin	1,07,028.00	
8	Calcutta	M/s. Fort Gloster Industries Ltd.	1,58,985.61	5-3-73
9	Do.	M/s. India Cable Ltd.	3,62,221.29	15-2-73
10	Do.	M/s. Andhra Steel Corpn. Ltd.	1,08,570.00	5-6-76
11	Do.	M/s. Andhra Corpn. Ltd.	1,03,336.61	22-8-75
12	Do.	M/s. Andhra Corpn. Ltd.	1,98,464.16	12-3-76
13	Do.	M/s. Andhra Corpn. Ltd.	1,83,580.89	27-4-76

5.33. The Public Accounts Committee (1977-78) who had been supplied similar figures of excess payment of drawback had observed as follows in their 76th Report:—

“1.45. The Committee are surprised to note that there are quite a good number of cases pertaining to payment of irregular drawback of more than Rs. 10,000 each during the last three years in respect of Bombay and Calcutta Custom Houses. While according to Bombay Custom House compilation of a list of all such cases of over-pay-

ment will be extremely time consuming, they have furnished a list of 16 cases collected with reference to Customs Revenue Audit objections, records for which are stated to have been maintained. Out of these 16 cases, two cases involve the payment of more than Rs. 1 lakh each and two more cases of more than Rs. 50,000 each. The Committee would like to know the position of the recovery of amounts in all these cases. It is unfortunate that in spite of sufficient time that was given the Custom House has not found it possible to compile the list of all cases of irregular payment of over Rs. 10,000 during the last 3 years. It is a sad commentary on the type of records being maintained for huge financial transactions in the Custom House and the Committee would like to know the detailed reasons therefor. The Committee also note that there have been as many as 38 such cases in respect of Calcutta Custom House. Concerned over the large number of cases of irregular payment in respect of Bombay and Calcutta Custom Houses the Committee recommend that the existing procedures for checking and maintaining registers and accounts may further be examined thoroughly with a view to identifying and plugging the loopholes."

5.34. Asked to state whether any enquiry has been made to fix responsibility on the erring officials, the Ministry have stated that in 8 cases "such an enquiry was not necessary", in 3 cases, "no enquiry was held". Out of the remaining 2 cases, in one case "such an enquiry was held, the concerned officers have been warned", and in the other case, it has been stated "the enquiry was held by the Directorate of Inspection who have reported that no malafide is involved. However, the explanation of the officers concerned have been called for, for dereliction of duty". It has also been stated that instructions have been issued to all the field formations impressing upon them that the rate of drawback fixed on all industry basis relate to "articles made of 'paper' and not to 'Paper' as such."

5.35. The Committee note that at present two sets of drawback rates are announced by Government viz., (i) industry rates applicable to the industry as a whole and (ii) Brand rates which are applicable to only specific manufacturers/exporters. The all industry rates are generally revised every year immediately after the Budget and, if necessary, in between the year. These rates cover more than 80 per cent of the amount of drawback paid. The Brand

rates of drawback are fixed on the basis of the duties incurred by a particular manufacturer in the export of goods effected by him. A number of organisations have represented to the Committee that there is delay in fixing the rates. According to a non-official witness it has often taken 2-3 years' time for fixing the rates. According to the Ministry no time-limit has been laid down in this regard as it is considered neither feasible nor practicable in view of various constraints including exporters own difficulties. The Ministry have stated that according to a sample study regarding the average time taken in the matter of fixation of brand rates, it takes on an average 515 days to determine a brand rate, of which 196 days are taken by the exporter to supply data and 319 days are taken in verification of data and final determination of rate. In the Committee's opinion there can be no justification whatsoever for such a long delay and a procedure, which consumes so much time to determine the rate, cannot but be held utterly unsatisfactory, to say the least, and should have been changed long ago. The Committee strongly urge that a radical and thorough overhaul of the procedure should not be delayed any longer.

5.36. The Committee have received reports of delay in making payment of drawback to the industry. According to the Ministry there is no unavoidable delay at all in the payment of drawback. The overall position, according to the Ministry, is that 85 per cent of the drawback due is paid within 6 weeks to 2 months of shipment. In this context the Committee would like to refer to the Finance Secretary's statement during evidence that although the procedures had been streamlined, "I would not claim that everything is perfect and the procedures cannot be further improved upon." The Finance Secretary also stated that there was need for expeditious settlement of drawback claims in the interest of promotion of export effort of the country. If the exports have to be promoted and if, as claimed by the Ministry, 85 per cent of the claims are paid within 6 weeks to 2 months of shipment, the Committee see no reason why the Government should not accept the recommendation made by the Jha Committee (1978), that no case of drawback should take more than 3 months to settle and this time-limit too should be fixed statutorily. The Committee would like that this statutory period of 3 months for settlement of drawback claims should be fixed without any further hesitation. This period should start from the date of shipment of goods and where statutory time-limit is exceeded, the law should provide for payment of interest at the appropriate rate from the date of expiry of the time limit.

5.37. The Committee further recommend that the panel of officers which has been appointed by Government to go into the question of expediting settlement of drawback claims should be asked to draw up a detailed but simplified procedure to prescribe time limit for examination of drawback claims at each stage so as to make it practical for the Customs organisation to finalise all Drawback claims within the recommended period of three months

5.38. The Committee note that the Government have introduced a scheme known as Duty Drawback Credit Scheme under which even at the time of export the Custom authorities certify on shipping bills provisionally, the drawback amount payable on the basis of party's own declaration. The exporter can produce the shipping bill containing the certification to the Scheduled bank and obtain on this basis 90 days interest free advance to be later finally adjusted by the banks in accordance with the advice of final drawback payable as received from the custom houses through the Reserve Bank of India. The Committee desire that the panel of officers appointed to go into the working of the drawback scheme should examine whether the importers/exporters are taking full advantage of this scheme and if not, to simplify the scheme further to make it more attractive

5.39. A suggestion has been made to the Committee that the established importers should be given duty free import licences for materials to be used in the export goods. The importer should on running accounts basis declare annually or half-yearly the import content of his exports and periodically submit utilisation statements backed by export details. This would avoid difficulty and delays experienced in the fixation of rates of drawback, and in getting the drawback amount. According to the Department this suggestion is quite useful in respect of those manufacturers who have an export manufacturing programme in hand. The department can fix provisional rate to drawback in advance pending verification of utilisation of materials. The payment can be made on export on this basis and accounts settled from time to time on the basis of running account series. The Committee are informed that this procedure is being implemented on an experimental basis in one or two cases. The Committee suggest that the evaluation of this experiment may be made and the procedure with necessary improvements in the light of the experiment progressively extended to more and more items.

5.40. The Committee note that in a number of cases, amount of drawback paid was in excess of what the exporter was entitled to and the excess amount had to be recovered from the exporters. In a few cases enquiry was held by the Directorate of Inspection and the officers were warned or explanation of the officers was called for. The Committee are of opinion that in cases where malafide is proved necessary disciplinary action should be taken against the officers concerned. It is imperative that the excess amount of drawback paid to the exporters should be recovered from them at the earliest

C. Duty Exemption Scheme

5.41 A scheme of Duty Exemption was introduced in the beginning of 1976 (duty approved by the Cabinet Committee on exports) providing for duty free imports of certain specified raw materials and components against advance licences, for execution of specific export orders. The scheme initially covered 55 items, but it was later expanded to cover in all 95 items.

5.42. The primary objective of the Duty Exemption Scheme is to get over certain inherent constraints in the scheme of drawback that has been in force for the past few decades.

The main handicaps under the Drawback Scheme have been.—

- (i) the relief of import duty burden falls short of the duties paid, in cases where a particular material is available from both the imported and indigenous sources, since the Government fixes the drawback on weighted average basis;
- (i) the drawback becomes due only after the shipment of the goods takes place, with the result that there is blocking of funds of import duties for long periods, commencing from the date of payment of duty till the goods are manufactured and exported;
- (ii) the determination of drawback with any fair degree of accuracy calls for submission of detailed data, the verification of which involves considerable time by the field officers. Some more time is involved thereafter for the Directorate of Drawback to fix the rates.

5.43. Some of the essential features of the Duty Exemption Scheme are:—

(. The raw material|component requirements applied for by the party for execution of export orders, are determined with reasonable degree of accuracy. The Cabinet Committee has made the D.G.T.D. responsible for certification of these requirements. On the basis of this certificate, the matter is considered by the Advance Licensing Committee, in which the representative of the Directorate of Drawback is also a member. The views of the Directorate of Drawback are also taken into account, and appropriate decisions taken by the Advance Licensing Committee in respect of the quantities, technical specifications and values of the raw materials to be allowed import duty free. Likewise, the Committee also decides the quantity, technical characteristics and value of the resultant products to be exported.

(ii) Based on the above decisions, the Advance Licence and Duty Exemption Entitlement Certificate are issued by the Licensing Authorities and Directorate of Drawback respectively. The imports and exports are later governed by the descriptions|conditions|stipulations in these licences and Duty Exemption Entitlement Certificates.

(ii:) Duties are collected on the exempt materials which have not been utilised in the manner laid down in the Certificate|Notification, or which have been found in excess of the actual requirements for the manufacture of export goods.

5.44. The exemption scheme is confined to only the materials and components listed in the notification, which as already stated at present covers 95 items. Applications for increasing the coverage are considered by the Advance Licensing Committee and on the basis of its recommendations, suitable action to enlarge the scope of the notification is taken. From the introduction of this scheme about 1.50 Duty Exemption Entitlement Certificates have been issued till 31.5 1978.

5.45. The Committee asked whether it was not possible to bring all the items under duty exemption scheme, the Ministry have stated that this scheme was intended to be a complement to the drawback scheme and not a substitute. In certain situations, an exporter would find it convenient to adopt the duty exemption scheme, and at other times, the drawback scheme for the same export commodity. There would also be situations where both the schemes will

simultaneously operate, the former in so far as it concern the imported raw material inputs, and the later Central Excise duty element of indigenous material inputs. Further, Duty Exemption Scheme is available only for imports against advance licences, whereas there are so many other categories of imports like, OGL, Actual Users Replenishment licences etc. Imports of materials under these categories are also used for manufacture of exports goods and the exporters have to avail of the drawback scheme. In the circumstance both the schemes are complimentary to each other.

5.46. Under the present duty exemption scheme, relief is decided on a case to case basis on the advice of the Advance Licensing Committee. Only those materials which are normally required to be imported for export production need be covered by this scheme. To prevent any fraud, it is essential that a decision on exemption has to be taken by a High Powered Committee like the Advance Licensing Committee on a case to case basis.

5.47. The Ministry have further stated that a review has been made of the duty exemption scheme. The question of extending the duty exemption scheme to imports made in other categories like advance category of actual users is under consideration.

Adoption of Duty Exemption Scheme instead of drawback of Duty Scheme

5.48. It has been represented to the Committee by the trade and industry that the "Duty Exemption Scheme is beneficial to the trade but the trade is not making full advantage of the Scheme," and "the scheme does not appear to be working satisfactorily mainly on account of inflexibility on the part of the Customs."

5.49. A Member of Parliament in his memorandum submitted to the Committee has stated that "Duty Exemption Scheme would be adopted instead of drawback of duty scheme and it should be made applicable to more items with proper procedure duly safeguarding the revenue." In yet another memorandum submitted to the Committee it has been stated that:—

"Delays are experienced in the working of Duty Exemption Scheme. The delays mainly arise because of lack of co-ordination between the Customs Authority on the one hand and the Import Control Department on the other. Duty Exemption is granted under the scheme only when the importer concerned produces an endorsement on his

import licence to that effect from the Import Control Department. It is in the fitness of things that steps should be taken to bring about the much needed coordination between the two Departments, so as to avoid delays which defeat the underlying purpose of the Duty Exemption Scheme."

5.50. Commenting on the 'Duty Drawback Scheme' and the 'Duty Exemption Scheme', a non-official stated during evidence:—

"Our experience is that it takes 6 to 8 months to get duty exemption on items we have to export as part of a major turn-key job. My suggestion is that the present procedures involving the Finance Ministry, DGTD and so many other authorities should be removed and there should be an all-comprehensive duty exemption for all products that are used for export, on the basis of a bank guarantee and a personal affidavit of the managing Director or head of the company for the proper utilisation of the materials."

5.51. The Ministry have stated that the Duty Exemption Scheme and the Duty Drawback Scheme are complimentary to each other and not a substitute. The duty exemption scheme is, however, under review.

5.52. In regard to the coordination between the Department of Revenue and the Chief Controller of Imports and Exports it may be mentioned that decisions are taken by the Advance Licensing Committee on which Department of Revenue is represented and these decisions are implemented by both the Departments and as such there is coordination between both the Departments. Once the Advance Licence has been issued by the Import and Trade Control authorities, the Duty Exemption Entitlement Certificate is issued without delay.

5.53. The Ministry have stated that an important change in the Scheme has been introduced this year by allowing the regional licensing authorities to issue advance licences on merits, without waiting for a decision regarding duty exemption. The duty exemption aspect will be separately considered at the meeting of the Advance Licensing Committee and the advance license already issued will be made subject to the duty exemption benefits as may be decided by the Advance Licensing Committee. This will give time to the party to negotiate for imports and complete import formalities pending a decision with regard to duty exemption.

5.54. The provision has also been made to consider applications for 'Imprest' licence, i.e., without insisting; on specific export order for applying for Advance licence under duty exemption scheme.

5.55. About the relative merits of the two schemes, the Secretary, Ministry of Finance stated during evidence:—

"The Revenue Department by itself is inclined to favour the drawback scheme, as under the procedure for grant of drawback, we go into the meticulous calculation of the disadvantage or disability suffered by the exporter in the form of excise duty paid on inputs. Another scheme of compensating him for that disadvantage would be to allow duty free import of inputs. One point of view is, why should the export lock up money, why should he suffer the payment of customs duty and then claim refund of drawback from the Department, why cannot the Department allow him exemption from payment outright. The Finance Ministry accepted the validity of the argument in 1976 and said that we shall progressively move towards that direction. But I would plead that we have to make a cautious progress from the drawback scheme to the duty exemption scheme. I would like you to examine the suggestion in the light of this."

5.56. The Committee note that a scheme of duty exemption has been introduced from 1976 providing for duty free imports for certain imported raw materials and components against advance licences for execution of specific export orders. The primary objective of the scheme is to get over certain inherent constraints in the scheme of drawback that has been in force for the past few decades. The Committee have been informed that the "duty exemption scheme is beneficial to trade but trade is not making full advantage of the scheme", and "the scheme does not appear to be working satisfactory mainly on account of inflexibility on the part of Customs". It has also come to the Committee's notice that delay experienced in the working of the scheme is mainly because of lack of co-ordination between Custom Authority on one hand and the Import Control Department on the other. It has been suggested that there should be an all comprehensive duty exemption scheme for all products that are used for exports on the basis of a bank guarantee and a personal affidavit for the proper utilisation of the materials. The Committee note that since the introduction of the scheme in 1976, it has been extended to cover 95 items and only about 120 duty exemption entitlement certificate were issued till 31 March, 1978.

This only supports the view point of the industry that inspite of the fact that scheme is beneficial to the trade, full advantage of the scheme is not being taken by trade and industry and the scheme does not appear to be working satisfactorily. It has been stated by the Ministry that the Duty Exemption Scheme is under review. The Committee desire that while reviewing the working of the scheme the difficulties pointed out by the trade and the suggestion given to make it a comprehensive scheme to apply to all products used for exports should be examined and the scheme made simpler and comprehensive so as to cover the maximum possible items and to give full satisfaction to the importers and exporters.

5.57. According to the Ministry the Duty Exemption Scheme is complementary to Drawback Scheme and not a substitute. In certain situations an exporter would find it convenient to adopt the Duty Exemption Scheme and at other time Drawback Scheme for the same export commodity. In certain situations both schemes will simultaneously operate. During evidence the Finance Secretary stated that the Finance Ministry while introducing the Duty Exemption Scheme in 1976 had accepted the validity of the argument that the exporter should not lock up his money by payment of customs duty on imported raw materials used in export production and that the Ministry should allow him exemption from payment of duty outright. The Ministry, it was stated had proposed that they would progressively be moving in that direction but "we have to make cautious progress from Drawback Scheme to Duty Exemption Scheme."

5.58. As the Duty Exemption Scheme enables an importer to avoid locking up of his capital on payment of import duty and later spares him the botheration of going through a long process of getting drawback, its advantages are obvious and well-recognised. Now that the scheme has been in operation for over three years, the Ministry should have acquired enough experience of the working of this scheme to be able to extend it confidently to more items and thus meet the demand of the trade and industry. The Committee, however, feel that option to choose between the Duty Drawback Scheme and Duty Exemption Scheme should remain with the importer/exporter and he should be allowed to exercise the option without any difficulty.

5.59. The Committee are informed that there have been delays in the working of Duty Exemption Scheme also. The delays have mainly arisen because of lack of coordination between the customs authorities on the one hand and the Import Control Department on the other. The Committee would like the Government to go into this matter and bring about much needed coordination between the two Departments so as to avoid delays.

APPELLATE PROCEDURE

A. System of Appeals/Revision Applications

Appeals

6.1. Under Section 128 of the Customs Act, 1962 any Person aggrieved by any decision or order passed under this Act may, within three months from the date of the communication to him of such decision or order may appeal to the Board or to the Appellate Collector depending on whether such decision or order has been passed by a Collector of Customs or by an officer of Customs lower in rank than a collector of Customs. Under Section 129 of the Act, any person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer the duty demanded or the penalty levied. However, under proviso to the aforesaid section a discretion has been given to the Appellate authority to dispense with such deposit, either unconditionally or subject to such conditions as it may deem fit, if it is of the opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant.

Revisions Applications

6.2. Any person aggrieved by the Order-in-appeal passed by the Appellate Collector of Customs, or by the Central Board of Excise and Customs under the Customs Act, 1962 (Section 128) can prefer a Revision Application under Section 131 of the Customs Act, 1962, to the Central Government within the time-limit stipulated under Section 131 (2) of the Customs Act read with the proviso thereto. The Revision application against the Order-in-appeal passed by the Appellate Collectors of Customs and Central Excise, lies to the Additional Secretary/Joint Secretary (RAS), Government of India, Ministry of Finance, Department of Revenue. Important cases are heard/decided by a Bench comprising the Additional Secretary and a Joint Secretary or two Joint Secretaries—while the Revision application preferred against the Appellate orders passed by Central Board of Excise and Customs, lies to the Special Secretary (RAS).

6.3. The Customs Act contemplates two tiers of appellate remedy as mentioned above. The Central Government's decision in the Revision application filed by the petitioner is final within the frame

work of the Customs Act, 1962 Against this order, the only remedy open to the aggrieved person is to go to the Court of Law and file a Writ Petition.

6.4. The following table shows the number of appeals pending as on 1-2-1979:—

	Total pendency	No. of more than one year old appeals
Delhi .	1008 (966 on 1-4-78)	276 (155 on 1-4-78)
Calcutta	754 (1302 on 1-4-78)	180 (187 on 1-4-78)
Madras.	3445 (3235 on 1-4-78)	872 (1132 on 1-4-78)
Bombay .	4501 (5688 on 1-4-78)	926 (591 on 1-4-78)
TOTAL .	9708 (11191 on 1-4-78)	2254 (23%) (2065 on 1-4-78)

6.5. The Ministry have stated that the major reason for increased pendency of appeals is the periodical shortage in the strength of Appellate Collectors in Delhi, Bombay and Madras and also the increased receipts of appeals by the Appellate Collectors. There has also been a steady increase in the inflow of appeals in Bombay, Madras, Calcutta and Delhi though there is a slight declining trend in 1978. The figures of receipts and disposals of appeals during the three calendar years of 1976, 1977 and 1978 are as follows:

	Receipts			Disposals		
	1976	1977	1978	1976	1977	1978
Bombay	16,898	16,046	11,295	15,681	14,999	12,126
Madras	7,165	5,713	5,533	7,969	5,684	5,620
Calcutta .	2,169	2,853	2,544	2,334	2,708	3,152
Delhi	2,728	2,858	1,906	2,311	2,759	1943

6.6. Asked to state why the posts of Appellate Collectors were not being filled up, the representative of the Ministry stated during evidence:

"There are various exigencies. Actually in Bombay, normally the strength of Appellate Collectors should be 4. Sometimes there is a transfer. There are vacancies, sometimes in Excise, and sometimes in the Customs, at the Appellate level."

6.7. The Chairman, Central Board of Excise and Customs added:—

"As on to-day, there is no vacancy in the posts of Appellate Collectors. There is one Appellate Collector who is on leave. Other-wise the strength has been fully filled. As far as supporting staff is concerned, there are senior technical officers. There were some vacancies. Some officers were posted. Orders were issued, but they did not join. But two days back orders were issued for filling up all the posts of the supporting staff. I hope they will join.

I must clarify that the problem of vacant posts applies to every section of the Department. At certain periods perhaps the Departmental Promotion Committee may not have met."

Speedy Disposal of Revision Applications

6.8. It has been suggested in a memorandum submitted to the Committee:—

"Time limit should be fixed for hearing (within six months) and disposal (one month) of appeals and revision applications.

Appellate officers who are liable to transfer should pass orders before transfer becomes effective as otherwise a re-hearing before the next incumbent becomes necessary, which causes avoidable hardship to the party."

6.9. Asked to state whether any guidelines in this regard have been laid down, the Ministry have stated that it is desirable that time limit for hearing and disposal of appeals should be fixed. However, this may not be practicable in all cases.

6.10. In many cases fixing of personal hearing within a certain time limit, if laid down, is not possible as sometimes the adjudication case records are not available either because they might have been taken over by another investigating agency like the C.B.I. or because these might be required in connection with a court case.

Yet another reason why it may not be possible to fix hearing within a specified time limit may be that the same issue as in an appeal may be pending decision by a court. Decision in an appeal within a specified time limit after the hearing may also not be possible because sometimes the appellants raise fresh points at the hearing and such points require further investigations to be made which is a time consuming process. Sometimes, the Ministry of Law, the Licensing Authorities, the Directorate General of Technical Development or the Chief Chemist may also need to be consulted. This also takes time thereby introducing an element of uncertainty as far as decision in an appeal within a specified time limit is concerned. Another reason why it may not be possible to stick to the time limit is that at the appellants' request at the hearing, the goods forming subject matter of the appeal are required to be re-examined or re-tested which is also a dilatory process.

Time limit for filling an Appeal and Revision Application

6.11. In a memorandum submitted to the Committee it has been stated that:

"In order to have a speedy disposal of revision application and appeals the time limit may be prescribed in the Enactment itself."

6.12. In this context, Government have stated that:—

"The problem of cutting short the time taken in finally disposing of a Revision Application from the date of its receipt has been engaging the attention of the authorities concerned for quite some-time. One point which nevertheless, needs stressing is that being a quasi-judicial proceedings, there is an inherent tendency in the system itself to consume considerable length of time before the various stages of the proceedings are completely completed."

6.13. The Committee desired to be furnished with a statement showing the number and percentage of Appeals/Revision applications disposed of within 3 months, 3—6 months, 6—12 months 1 year, 2 years, 3 years and above.

6.14. The Ministry have stated that 200 Revision Application cases (already decided) were picked up at random for the purpose of survey. The result of the survey shows that 15 revision applications were disposed of within 3 months, 23 between 3 to 6 months,

55 between 6 and 12 months, 86 between 1 to 2 years, 14 between 2 to 3 years and 7 took more than 3 years. Percentage-wise these figures work out to 7½ per cent, 11½ per cent, 27½ per cent, 43 per cent, 7 per cent and 3½ per cent respectively. One broad conclusion which can be drawn is that approximately 70 per cent of the Revision applications received get disposed of within a period between 6 months to 2 years.

6.15. The Ministry have stated that it would not be feasible to prescribe an overall time-limit for disposal of revision applications, nor even a time-limit within which a final order should be passed after hearing.

6.16. The table below gives the statement showing the receipts and disposal of Customs Revision Applications during each of the last 3 years:—

Year	Total Receipts	Total Disposals
1975	5,024	4,800
1976	7,396	6,257
1977	7,863	6,259

6.17. The table below indicates the number of applications pending as on 1st April, 1976, 1977 and 1978:—

Pending as on	Total	up to 3 months	3—6 months	6—12 months	Over 1 year
1st April, 1976	4,070	1,716	655	676	1,023
1st April, 1977	5,526	1,885	1,170	1,230	1,240
1st April, 1978	7,479	1,532	1,529	2,249	2,169

6.18. It would be seen from the tables above that during all these years the disposal of revision applications has not been keeping pace with the receipt of such applications with the result that the arrears have been piling up. The number of applications pending for over 3 months has also been going up.

6.19. The following measures have been taken towards expediting the disposal of Revision applications—

- (a) A proposal is under consideration for setting up of a Zonal Unit at Bombay for disposal of Revision applications arising from that region. This will *inter alia* help in cutting down the transit delay for receipt of records to and from Bombay.

- (b) A proposal is under consideration for augmentation of the strength of the Joint Secretaries in the Revision Applications Unit with necessary additional complement of supporting staff.
- (c) A tentative decision has been taken to incorporate the procedural changes in the order regarding allocation of work to the Joint Secretaries of the Revision Applications Unit. The change will be to form a Bench of two Joint Secretaries in cases where the single Joint Secretary decides to follow the earlier Bench decision or Board's Tariff advice in a particular matter. This will not only result in reduction of the number of Bench cases but also will help in quicker disposal of such Bench cases.
- (d) Attempts are being made to dispose of simpler type of cases like Baggage cases, in *limine* by advising the applicants to enclose a copy of the Order-in-original in addition to the copy of the Order-in-appeal with their Revision application to enable the Government to dispose of such cases speedily without waiting for the Custom House records.
- (e) Requests have been made to the Administration Wing for expeditious filling up of the vacancies existing at the level of Processing officers (Senior Technical Officers, and Technical Officers). Once these vacancies are filled up, it would be possible to have quicker disposal of cases.
- (f) Accumulation of arrears at the typing stage is cleared by putting staff on overtime, from time to time to cut short the delay at this stage as far as possible.

6.20. The Ministry have informed that the average disposal of Customs Revision applications per month is around 450—500. There are three typists who are working in Custom II Branch. Till recently, the full complement of three typists was not there. These typists are also required to type other miscellaneous materials in addition to typing the fair copies of the orders passed by the Government in revision. On an average, the gap between the passing of the order and typing of the fair copies is about two months. This delay is because of the heavy load of work *vis-a-vis* the number of typists available. The inadequacy of the staff results in accumulation of the approved orders with the typists who do not get time to take them up for typing out the fair copies. In spite of putting the staff on over-time from time to time, the accumulation of orders at the typing stage cannot always be avoided. There is a case for additional typists

in the Customs Unit and I.W.S.U. have specifically been asked to make a study immediately.

6.21. In 144 appeals filed during the years 1976 and 1977, the requirement of deposit of penalty pending appeal was dispensed with. The percentage of such cases as compared to the total number of appeals filed during the aforesaid two years was 7 per cent. It is seen from the statement furnished by the Ministry that (1) in certain cases, lakhs of rupees were required to be paid as penalty and the reason advanced for dispensing with deposit in certain cases was that "financial position of the party was reported to be not sound."

6.22. In a further reply the Ministry have stated that the law provides for dispensing with pre-payment of duty or penalty when it is likely to cause "undue hardship" to an appellant. "Undue hardship" has relation to the financial condition of the appellant, the quantum of penalty or duty payable and to circumstances where the appellant has, *prima facie*, a case for admission of his appeal in the light of the facts of his case.

6.23. The discretion given to the Appellate Authorities to waive the condition of pre-payment of duty/penalty is meant to alleviate the difficulty of the appellants in genuine cases of hardship. Invariably, before any waiver of pre-payment of duty and penalty is allowed, a financial statement of movable and immovable property and assets and liabilities of the party or information relating thereto is called for and only when the appellate authority is convinced that the pre-payment would cause difficulty to the appellant and deny him the right to get justice on appeal that the waiver is granted.

6.24. The Ministry have further stated that as observed by the Supreme Court insistence on even partial payment to the extent of one-third of the amount due is considered reasonable. Facility for instalment payment of the amount due before the appeal is considered can also be given. These well known criteria are uniformly followed by the Appellate Authorities like the Board and the Appellate Collectors.

B. Court Cases

6.25. According to the information furnished by the Ministry in all 1633 cases are pending in the courts relating to the Major Custom

Houses. The Custom House-wise break-up is as under:

Name of the Custom House	More than 10 10 years old	Between 5 to 10 years	Between 1 to 5 years	Less than 1 1 year	Total
Bombay .	3	127	151	41	322
Bombay (Prev.)	—	19	248	205	472
Calcutta .	81	154	249	41	525
Madras	—	27	175	68	270
Cochin	—	1	25	18	44
TOTAL .	84	328	848	373	1,633

Setting up of special courts:

6.26. In a memorandum submitted to the Committee, it has been stated that "delay in awarding penalties and prosecution breeds corruption." In another memorandum submitted by a Member of Parliament to the Committee, it has been stated that "the present laws are quite adequate, however, in respect of regular offenders and prosecution cases, the cases should be decided quickly so that it would have sufficient impact on other prospective offenders. To have separate courts to deal with all revenue and Import Trade and Control offences would perhaps solve this delay.'

6.27. In their written replies (September, 1978) the Ministry informed that "Both the Ministries (Ministries of Finance and Home Affairs) have agreed that as a pragmatic measure *ad hoc* courts earmarked specially to deal with economic offences relating to some Central Acts may be established and that the appointment of judges should, however, be in accordance with the normal procedure of obtaining such judges from regular State judiciary.

6.28. In a written reply the Ministry have stated that Government's approval to the proposal for the setting up of Special Courts has been obtained and details are being worked out.

6.29. Clarifying the position, the representative of the Ministry of Finance stated during evidence:

"I may make it clear that it is not a special court, but earmarking of an existing court; otherwise, it may be confused with the Special Courts now under legislation."

6.30. The Ministry have further stated in a written reply, that in view of the fact that a large number of customs cases are pending in Bombay courts alone, the matter was taken up separately with the State Government of Maharashtra who have earmarked one of their courts for exclusively dealing with customs cases. Even after this, it was found that a large number of cases were not getting disposed of as speedily as possible. Another reference was, therefore, made to that Government requesting them to earmark one more court. The Government of Maharashtra have agreed, in principle, for the creation of a court of Additional Chief Metropolitan Magistrate for dealing with customs cases in Bombay.

C. Appellate Tribunal

6.31. It has been stated by a Member of Parliament in his memorandum submitted to the Committee that "the Appellate Procedure could be rationalised and instead, disposal of appeals, revisions etc., by some form of an Appellate Tribunal which may be independent, would be better."

6.32. It has been stated in another memorandum that: "several expert bodies, such as the Taxation Enquiry Commission, the Customs Reorganisation Committee, the Estimates Committee of the second Lok Sabha (49th Report), the Central Excise Reorganisation Committee, the Law Commission, the Customs and Excise Panel of the Administrative Reforms Commission and finally the Jha Committee have recommended the setting up of Appellate Tribunals. Government have been opposing the suggestion. The Federation is of the view that the choice need not be between Appellate Tribunals or the Departmental adjudication. As in the case of Income-tax, the assessee under Central Excise should be given the option, after the first appeal, either to go to an independent Appellate Tribunal set up under the Ministry of Law, or go through the Departmental Appellate procedure. Once this choice is made, after the first appeal, it should be final. After the Appellate Tribunal the assessee, as under the Income-tax procedure, should of course, have the right to go to the High Courts and the Supreme Court."

6.33. A non-official during the course of his evidence before the Committee expressed the view that "there is a definite room for an independent tribunal.... an independent tribunal will solve the problems."

6.34. The representative of an organisation of Industry have stated "enquiries with licensees and licensees and importers show that

where revenue involved is large, the appellate authorities invariably reject the contention of the importers and uphold the orders of the assessing authorities. It is also worth mentioning that while a vast majority of the appeals heard by the authorities were decided against the importers, when they go to the courts a majority of the cases is decided in favour of importers. Hence we have recommended the creation of independent appellate tribunals for taking up the cases in appeal. The Supreme Court of India, in at least two cases, have clearly recommended the creation of appellate tribunals on the lines of Income-tax Appellate Tribunals. The Tribunals should function under the Law Ministry, as in the case of Income-Tax Appellate Tribunals, so as to have complete freedom from Revenue bias.

6.35. In this connection it is noticed that a number of expert bodies such as the Taxation Enquiry Commission (1953-54), Customs Reorganisation Committee (1958), the Central Excise Reorganisation Committee (1968), the Working Group of Administrative Reforms Commission (1968), the Central Excise (SRP) Review Committee (1975) and more recently the Indirect Taxation Enquiry Committee (1978) have recommended that an independent tribunal should be set up for dealing with the disputes relating to the central excise and customs. As early as 1958 the Estimates Committee (2nd Lok Sabha) also in their 49th Report on the organisation of the Department of Revenue (Central Board of Revenue) had recommended that "the feasibility of setting up a separate Tribunal to deal with revision petitions independently of the Central Board of Revenue as suggested by the Taxation Enquiry Commission (1953-54) might be reconsidered." The Indirect Taxation Enquiry Committee headed by Shri L. K. Jha has made a recommendations regarding setting up of Appellate Tribunals. The Ministry have stated that the recommendation of the Jha Committee is under consideration of the Government. The Government has an open mind on this. No decision has however, been taken on it as yet.

6.36. In their report the Indirect Taxation Enquiry Committee (Jha Committee) (1978), recommended that:—

"A two-tier appellate machinery with a Tribunal independent of the Board for hearing appeals both on facts and law from the first court of appeal should be established. All

relevant procedural provisions in the Income Tax Act, can, with suitable adaptations, be incorporated into the Central Excise and Customs Acts, with the variation namely, that the procedure in vogue under the Income Tax Act whereby an assessee/department has to move the Tribunal for drawing up a statement of the case to the High Court be dispensed with.

6.37. On the point of setting up of Appellate Tribunal, the Finance Secretary, stated during evidence:—

“As this constitutes a major break with the traditions of the past, naturally Government have to weight the pros and cons carefully in arriving at a decision.”

6.38. The Committee feel concerned over the inordinate delay in the disposal of appeals and revision applications in respect of Customs disputes. As on 1-2-1979, the total number of appeals pending with the Custom houses in Delhi, Calcutta, Madras and Bombay were 9,708 out of which the number of appeals pending for more than one year were 2254. According to the Ministry, the reasons for increased pendency of appeals are periodic shortage in the strength of Appellate Collectors in Delhi, Bombay and Madras which is reported to have since been made good by filling all the vacancies, and the increased receipt of appeals. From the figures given to the Committee, it is seen that in the years 1976 and 1977, the disposals of appeals in almost all the collectorates did not keep pace with the receipts. In 1978, though the disposals of appeals exceeded the receipts the number of one year old appeals have increased during the same period from 18 per cent of the total pendency as on 1-4-1978 to 23 per cent as on 1-2--1979. The increase in the number of such appeals in Delhi Collectorate has been as high as 78 per cent during this period and in Bombay Collectorate too, the rise has been significant (56 per cent). According to the Ministry, though it may be desirable to fix a time-limit for disposal of appeals, this may not be practicable in all cases. While the Committee may agree with the Ministry in this regard, they cannot but deplore the long delays that are taking place in the disposal appeals especially in Delhi and Bombay Collectorates. The Committee cannot over-emphasize the importance of expeditious disposal of appeals. They feel that no appeal should ordinarily remain pending for more than six month and in no case for more than one year. The Central Board of Excise & Customs should keep a close watch over appeals pending or more than 6 months and if the number of pending appeals appears to be

going beyond the capacity of any Collectorate at any time the Central Board should set in motion special drives to clear the backlog and bring the situation under control.

6.39. As on 1st April 1978, the number of revision applications pending with the Ministry were 7479 including 2169 (27 per cent) revision applications pending for more than one year. The pendency as on 1st April 1976 and 1977 was 4070 and 5525 respectively. The Ministry have informed the Committee that the problem of cutting short the time taken in finally disposing of a revision application has been engaging the attention of the authorities concerned for quite sometime. But being a quasi-judicial proceedings there is an inherent tendency in the system itself to consume considerable length of time before the proceedings are completed. According to a random sampling of 200 revision applications only 19 per cent of applications were disposed of within 6 months while 27½ per cent cases took between 6 and 12 months, 43 per cent between 1 and 2 years, 7 per cent between 2 and 3 years and 3½ per cent took more than a year. While the number of pending revision applications has been increasing from year to year the number having risen from 4070 as on 1-4-1976 to 7479 as on 1-4-1978 and more than 54 per cent of the applications are taking more than one year to be disposed of the Ministry do not consider it feasible to prescribe an overall time-limit for disposal of revision applications, nor even a time limit within which a final order should be passed after the date of hearing. The Committee see no justification to let the revision application remain pending indefinitely even after the case has been heard. They are strongly of the opinion that after the case has been heard, the orders on the revision application should be passed and copy of the orders supplied to the applicant within a specified period to be laid down by the Government. The Committee would like the Government to issue categorical instructions in this regard under intimations to them (the Committee).

6.40. The Committee note that the Ministry have taken a number of steps with a view to expediting the disposal of revision applications. These measures include a proposal for setting up a unit at Bombay, augmentation of the strength of Joint Secretaries in the revision applications Unit with necessary additional supporting staff, procedural changes in allocation of work to Joint Secretaries, expeditious filling up of vacancies of processing officers, clearance of arrears at typing stage by putting the staff on overtime. The Committee regret that no tangible results in disposal of the pending cases have been achieved in spite of the measures reported to have been taken by the Ministry. It is rather shocking that because of reported shortage of typists, the gap between the passing of the order and

typing of the fair copies is as much as two months. In the Committee's view the delay of two months at typing stage is inexcusable.

6.41. The Committee would like the Ministry to reorganise the working of their typing staff and, if necessary, augment the typing strength, without delay to ensure that at least at this stage there is no delay in the disposal of revision applications.

6.42. Much of the delay in the revisionary proceedings could be reduced if adversary hearings were to be held. This would also give an opportunity to the customs officials to present their case before the revising authority in person and would thereby obviate the delay caused in movement of files from place to place and would reduce post hearing delays.

6.43. Under Section 129 of the Customs Act any person desirous appealing against any decision or order passed under the Act is required to deposit the duty demanded or penalty levied. But discretion has been given under the Law to the Appellate Authority to dispense with such deposits either un-conditionally or subject to such conditions as it may deem fit if it is of the opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant. The Committee notice that in certain cases pre-payment of penalty running into lakhs of rupees was waived by the Appellate Authorities on the ground that "financial position of the party was reported to be unsound". The Committee feel that the present law gives unbridled discretion to the Appellate Authorities to waive pre-payment of deposits subject to certain conditions. In para 5.38 of their 28th Report on Central Excise, the Committee have recommended that Government may make a suitable provision in the Law giving the assesses two options viz. (i) he may either pay duty claimed by the Department first before filing appeal, revision application etc. and in case he wins the appeal he may get back the amount with interest or (ii) in the alternative, he may be allowed to file the appeal without payment of the amount of duty in dispute and in case he loses he may be liable to pay duty with interest thereon. The Committee recommend that a similar provision may be made in the Custom Law also in regard to payment of duty of penalty pending appeal with a view to discouraging frivolous and dilatory appeals/revision applications and expediting recovery of custom duty.

6.44. The Committee are concerned to note that there is long delay in disposal of court cases in regard to Customs disputes. In all 1633 cases are pending in courts relating to major Custom Houses, out of which 84 cases are more than 10 years old, 328 cases between 5 and 10 years old, 848 cases between 2 and 5 years old and 373 cases less than 1 year old. A suggestion has been made to the Committee

that with a view to expediting disposal of cases, separate courts be set up to deal with revenue and import trade control disputes. The Committee have been informed by the Ministry that Government have approved the proposal for setting up special courts by ear-marking some of the existing courts for this purpose and the details are being worked out. In Bombay where a large number of Customs cases are pending the State Government of Maharashtra have ear-marked one of their courts for exclusively dealing with custom cases. The Government of Maharashtra have agreed in principle to the creation of another Court for dealing with Custom cases in Bombay. The Committee urge that the details of this proposal may be worked out expeditiously and the State Governments concerned persuaded to ear-mark adequate number of courts from among the existing courts to deal with revenue and other similar disputes so that the pendency of old cases is cleared expeditiously and there are no undue delays in future in disposing of revenue cases.

6.45. The Committee note that the need for setting up an independent Appellate Tribunal for hearing appeals in respect of Customs and Excise disputes has been emphasized by the trade and industry for quite some time. The Committee have already dealt with this matter in paras 6.38 and 6.39 of their 28th Report (1978-79) on Central Excise. The Committee reiterate that Government should set up without further delay an independent Appellate Tribunal for settling disputes relating to Excise and Customs on the lines of Income Tax Tribunals in deference to the near unanimous demand of the industry and of repeated views of the Government appointed expert bodies in this regard.

CHAPTER VII

SMUGGLING

A. Extent of Smuggling

7.1. It has been reported in a section of the Press that goods worth Rs. 300 to Rs. 400 crores were being smuggled into the country and this was an important source of black money. Commenting on this estimate, the Ministry in their reply have stated that the main indicators to gauge the extent of smuggling are (1) the volume of seizures of contraband goods effected by the Customs authorities, (2) Intelligence reports, (3) inward remittances (non-trade), (4) strength of Indian rupee *vis-a-vis* foreign currencies and (5) availability of smuggled goods in the main markets of the country.

7.2. The value of goods seized during 1975—78 (up to June) is as under:—

Year				Value Rs. in lakhs
1975	..	..	..	4,529
1976	..	..	..	3,602
1977	..	..	..	2,994
1978 (upto June)	..	..	..	1,742

These seizure figures (since 1975) do not support the view that goods worth Rs. 300 to 400 crores were being smuggled into the country. Besides, the Intelligence reports available with the Department, the increasing trend in the total value of inward remittances (non-trade), the strength enjoyed by the Indian currency *vis-a-vis* the leading foreign currencies and the non-availability of the smuggled goods in the major marketing centres generally support the view that 'smuggling' continuous to be well-contained.

7.3. There is no doubt that generation of black money is closely linked to smuggling. However, black money is also generated—perhaps to a greater extent—by evasion of other taxes like income-tax, sales tax, etc.

7.4. The Ministry have further stated that the intelligence reports received by the Government do not provide any indication in support

of the estimates made in a section of the press that goods worth Rs. 300 to 400 crores were being smuggled into the country. Taking seizures to provide abroad indicator about the extent of smuggling, it may be stated that the total value of goods seized each year, since 1975 onwards discloses a down-ward trend in smuggling. The total amount of inward remittances of Rs. 2,218.72 crores in 1978, which was higher than Rs. 1,908.33 crores in 1977 (the figures for earlier years being still less), would also lend support to the above view.

7.5. To deal firmly with the smugglers, a three-pronged drive against smugglers was launched by (A) strengthening the preventive and intelligence machinery, (B) by resorting to selective application of the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, and (C) by taking appropriate economic measures.

7.6. The representative of the Ministry of Finance stated during evidence:—

“The suggestion that there is smuggling to the extent of 300 crores or 400 crores is a guess which is difficult to support. The only Committee which went into the question of estimating the amount of smuggling—indirect—on the basis of deflection of foreign exchange—was the Kaul Committee, and its estimate was Rs. 160 to Rs. 170 crores, based on how much foreign exchange was remitted and how much was estimated to be deflected towards illegal channels. So the assumption that it is to the extent of 300 to 400 crores is difficult to support. But we do say that smuggling, in any economy of shortages or controlled economy, certainly has to be tackled in a three-pronged way, just as we have been tackling it during the last three years, punitive measures had found a place in this, but they were not enough. Therefore, since the new Government took over, we supplemented these punitive measures by suitable economic measures; like liberalisation of imports, reduction of duties on several sensitive items etc., all these have had the effect, in our opinion, of containing smuggling considerably.”

7.7. Elaborating this point, the Finance Secretary, stated during evidence:—

“Of course this Hon. body will appreciate that it would be difficult to quantify the extent of smuggling. All that I can say is that there has been general agreement on the point that the extent of smuggling is inversely related to the strength of the internal economy of the country. As my colleague was pointing out, in a period of shortage of foreign exchange when you have to operate a system of rigid import controls, there will always be differential prices—as between internal and external prices—and that always provides incentive for smuggling. Therefore, as he has pointed out, in addition to measures to control smuggling like COFEPOSA, we have worked towards the strengthening of internal economy so that we are in a position to operate a regime of liberalised imports where customs duties are maintained at a reasonable level and where there are no shortage of vital raw materials and other inputs needed by the industry and others. That is what we have been trying to do in the last few years and I think this policy is paying dividends. For example, watches, used to be smuggled on a large scale, but now, since our relatively easy foreign exchange position permitted it and we are trying to import watches, smuggling has come down.”

Smuggling of Gold

7.8. It has been reported in a section of the press that Gold worth about Rs. 1400 crores is smuggled into the country every year, and it has been estimated that 80 per cent of the yellow metal is reported to come from Kuwait, Dubai and Abu Dhabi.

7.9. The Ministry have stated that although it is not within the knowledge of the Government that gold worth about Rs. 1400 crores as stated is smuggled in to the country every year, the reports indicate that sizeable quantity of gold is smuggled into India every year. There are, no doubt, intelligence reports to suggest that attempts are being made to smuggle gold into India and that such attempts originate to a large extent, at places like Dubai, Abu Dhabi, and other places in the gulf.

7.10. The particulars of gold seized during the last three years are as follows:— ..

	Quantity (Grams).	Value. (in thousand),
1975-76	1,36,587	67,63
1976-77	1,65,246	86,56
1977-78	2,84,143	1,7747

7.11. Smuggling of gold into the country is bound to have adverse effect on the overall national economy of the country. It may also generate other malpractices such as hawala transactions in Foreign Exchange, over-invoicing of exports, smuggling out of India certain other sensitive items and black money.

7.12. With regard to the smuggling activities on the West Coast, the representative of the Ministry of Finance stated during evidence:

“Sir, the western coast accounts for 75 to 80 per cent of the total seizures made in the country. This is the main front where smuggling takes place. So, some officers might have talked about some major seizures having taken place during these days. Then, Sir, a few seizures do not give a trend. On the other hand it shows that the preventive staff are on the alert. However, an overall view taken over a longer period does indicate the trend.

In this connection, I may say that there was a specific question regarding Western coast in Rajya Sabha on 20th February 1979 and the reply given by the Minister was “according to the reports received by Government smuggling activities on the western coast continue to be under check.”

7.13. During the course of discussion on the Customs tariff (Amendment) Bill in Rajya Sabha on 26th July, 1978, a Member stated that smuggling activities were on the increase in the country. Almost 50 hundred crores of black money was being operated in the country. This money was basic factor behind the smuggling. The whole area of Gorakhpur, Bahraich bordering with Nepal had become a den of smuggling. Another Member stated that

smuggling and black marketing had increased to a great extent in the country. Much smuggling had been going on the Indo-Nepal border.

7.14. Asked as to steps taken or proposed to be taken to stop smuggling on the Indo-Nepal Border the Ministry have stated that trends in smuggling are being reviewed on a continuing basis. According to these reviews, presently, the West Coast and Indo-Nepal border are active from the smuggling point of view. Necessary efforts are being put in, to effectively tackle smuggling not only in these sectors, but in other areas as well.

7.15. It is difficult to state with any definiteness or basis the extent of black money in current circulation in the country. But, *prima facie*, it does not seem to be of the order of Rs. 50 hundred crores as stated. Easy availability of black money within the country, no doubt, facilitates smuggling.

7.16. Indo-Nepal border is known to be active to smuggling and Gorakhpur and Bahraich being close to this border are also no doubt vulnerable areas. A separate Customs Preventive Division is functioning at Gorakhpur.

7.17. The Government have taken a number of steps to effectively tackle smuggling across Indo-Nepal border. These include the following:

- (i) Customs Check-posts along the border have been increased from 78 to 90.
- (ii) Sanction has been accorded for covering the entire Indo-Nepal border with wireless network.
- (iii) Police Officers functioning at places far removed from the nearest Customs posts are proposed to be given powers of search, seizures, etc. under the Customs Act.
- (iv) A proposal is under consideration to involve the village panchayats in the anti-smuggling efforts of the Customs Department.
- (v) In order to further intensify the preventive work in Sili-guri Sector of the Indo-Nepal Border, a proposal to create a separate Customs Preventive Division in Kishanganj-Darjeeling Sector is under active consideration of the Government.

- (vi) For having more effective supervision on U.P.—Nepal Border, a proposal to create a post of Deputy Collector, Customs (Prev.) in the U.P. Sector is also under active consideration of the Government.
- (vii) To enable the Collector of Customs (Pre.) Patna to more effectively direct and supervise the anti-smuggling operations in his jurisdiction, the post of D.C. Customs at Muzaffarpur is proposed to be upgraded to that of an Addl. Collector of Customs so that all the powers under the Customs Law could be exercised by that officer.

Publicity about smuggling/seizure

7.18. Another Member during the course of debate on the aforesaid Bill has stated:—

“the particulars of the smugglers who were caught, full details of the activities for which they were caught and the action taken against them should be given wide publicity so that they lost their respect and prestige in the society. As the time passed the art of smuggling was becoming more and more scientific and systematic and big people were found involved in it”.

7.19. The Ministry have stated that publicity is being given to all important seizure cases. Instructions have been issued to all Collectors of Customs and Central Excise impressing upon them the need to give appropriate publicity to seizures of contraband etc.

7.20. A new provision—Section 135-B—was inserted in the Customs Act, in 1973. This empowers courts to publish names, places of business etc. of persons convicted under the Customs Act. The Customs (Publication of Names) Rules, 1975 have also been framed for publication of names and other particulars of (a) persons convicted by a court of law and (b) under certain conditions of those adjusted for contravention of any of the provisions of the Customs Act.

7.21. Asked about the arrangements made for educating public against smuggling, the representative of the Ministry admitted in evidence; “we don't have a separate department.”

He added:—

“Whenever big seizure takes place, publicity is given. We hold press conferences. Minister of State is taking very very keen interest in this. Press is kept fully informed.

Proceedings and questions and answers in Parliament itself get wide publicity and people know the state of affairs”.

7.22. The Chairman, Central Board of Excise and Customs:—

“There is the proposal for the Directorate of Publicity and all the publicity to be done should include marshalling public opinion against smuggling.”

7.23. The representative of the Ministry added further:—

“Apart from that we have had exhibitions of items which were found to be spurious. Some of these goods are displayed. In metropolitan cities you see many fake items. These are really not foreign goods but are made in some nook or corner of the country....I do admit we should have more publicity. We have proposals under consideration”.

B. Measures taken to combat Smuggling

Directorate of Anti-Smuggling

7.24. The Directorate of Anti-smuggling was created in 1974 for performing the functions other than those performed by the Directorate of Revenue Intelligence.

7.25. The Directorate of Anti-smuggling is responsible for over-seeing all operational matters relating to anti-smuggling work of the field formations. The main functions of the Directorate include assessment of staff and equipment needs for anti-smuggling work in Collectorates/Custom Houses, over-seeing the progress of prosecutions, and keeping a watch on the progress of adjudications in Custom cases with the field formations, evaluation of operational efficiency of vehicles and vessels in field formations engaged in anti-smuggling work; assessment of operational efficiency of the Customs Preventive Units in the field; assessment of trends of smuggling and anti-smuggling measures and issue of monthly bulletins, over-seeing of disposal of confiscated goods involved in Custom cases, training of the officers deployed in Customs on intelligence/preventive work inspection of field formations dealing with anti-smuggling work, maintaining the statistics regarding raids/searches/seizures etc. processing of complaints received from Members of Public/V.I.P./other enforcement agencies regarding anti-smuggling matters and

against the staff engaged in such matters and ad-hoc assignments and processing of assigned policy matters regarding anti-smuggling work.

7.26. The Ministry have informed that in order to curb smuggling, the anti-smuggling measures have been re-inforced more effectively. These measures include intensive patrolling on the high sea, on the coast and on the important land routes, continuance of mopping up operations in major marketing centres known for storage and sale of smuggled goods and strengthening of intelligence machinery.

7.27. As a part of the anti-smuggling strategy a three-tier system of preventive control consisting of:—

- (i) Shore Guard parties for keeping a watch on the shore;
- (ii) Road checking parties for keeping a watch and effective interception of contraband passing through important road routes; and
- (iii) City Preventive Parties for keeping a watch on the storage and disposal centres in the important cities;

was introduced in the Collectorate on the West Coast as well as on the South East Coast.

7.28. The Ministry have stated that several measures taken by the Government to liberalise imports of essential consumer items which rescarce in India, as in the case of spices, photographic films, and synthetic yarn, have already resulted in appreciable decline in the smuggling of such items. Reduction of customs duty in respect of watch parts, and abolition of duty in the case of rough diamonds and certain rough precious and semi-precious stones etc. have had also the desired effect. The Government have also taken steps to increase indigenous production of certain items sensitive to smuggling, such as watches. To further improve the supply position of watches, additional facilities were provided for increasing indigenous availability of watches under a crash programme. With these measures, it is expected that smuggling of watches is likely to come down.

7.29. To combat smuggling more effectively, the preventive and intelligence units have been strengthened patrolling along the sea coast and on the important land routes has been intensified; electronic devices such as flourescopic and frisker devices and closed circuit T.V. sets have been provided at the major International airports and customs check posts along the land border have been strengthened. Further, selective use is being made of the provisions

of COFEPOSA to paralyse the smuggling activities of big-time operations and financiers as also of the provisions of SAFEMFOPA to deprive them of their ill gotten property.

7.30. The Ministry have stated that the activities of known gangs of smugglers, financiers, foreign exchange racketeers and those operate behind the scene are always kept under discreet watch and intelligence on such activities is being updated systematically and appropriate follow-up action taken as and when required. This is a continuous process. As a result of these efforts, a number of seizures of contraband goods have been effected.

7.31. During the course of their tour to Cochin, in January, 1979, the Study Group of Estimates Committee came across complaints of harassment of people by Customs Check Posts, situated inside the State, particularly Vythiri and Menthody checkposts. The Collector admitted that they too had received some complaints of harassment and they had issued instructions to check posts not to interrogate every passerby or the residents of a place for possession of imported items except when they had definite information about smuggled goods being taken from one place to another.

Smuggling and Foreign Exchange Manipulation (Forfeiture of Property) Act, 1976

7.32. In order to deprive the smugglers and foreign exchange racketeers of ill-gotten property, the Government is also taking action to confiscate the illegally acquired property of the smugglers and their associates under the provisions of the Smugglers and Foreign Exchange Manipulators (Forefeiture of Property) Act, 1976.

Effect of Anti-smuggling Measures

7.33. Anti-smuggling measures taken by the Government have had a salutary impact in curbing smuggling. This is borne out by such indicators as increasing trend in inward remittances (non-trade) received from abroad through banking channel, decreasing trend in the quantum of contraband seized, steady strength of Indian Rupee vis-a-vis major foreign currencies and non-display of contraband goods in major marketing centres. The value of inward remittances (non-trade) received from abroad during 1977 is Rs. 1908.33 crores as against Rs. 569.31 crores in 1974, 1053.76 crores in 1975 and Rs. 1514.83 crores in 1976. During the first four months of 1978, inward remittances to the tune of Rs. 823.39 crores have been received. During 1977 contraband goods worth Rs. 29.94 crores were seized as against seizures of contraband worth Rs. 60 crores

in 1974, Rs. 45 crores in 1975 and Rs. 36 crores in 1976. During the first four months of 1978, the contraband worth Rs. 13.37 crores was seized. There are no reports regarding large-scale havalas activities. The strength of Indian rupee vis-a-vis major foreign currencies in unofficial markets continues to be steady.

Display of Smuggled Goods

7.34. The Ministry have stated that reports received from the field formations indicate that there is no general open display of smuggled goods in major marketing centres of the country. In some of the recent seizures from hawkers etc. it was even found that goods of India origin such as cosmetics, cassette tapes, liquor etc. were being sold with the labels of popular foreign brands. This also lends support to the fact that smuggled goods are not easily available in the market and unscrupulous traders are exploiting the craze of people for foreign goods.

Involvement of Customs Officials and Diplomats

7.35. During the course of discussion on the Customs Tariff Bill a Member stated:—

“Some officers were also found to be involved in cases of violation of customs laws.....A great deal of smuggling was being done through diplomatic channels also.”

7.36. The Ministry have stated that during the years 1976, 1977 and 1978, 17 customs officers were found involved in smuggling activities. Detailed particulars of these officers including designations, nature of offence and action taken against them are shown below:—

Sl. No.	Year	Designation	Nature of offence	action taken
1	2	3	4	5
1	1976	Preventive Officer (Bombay)	He took active part in smuggling of contraband goods as member of an organised gang by misusing landing certificates to clear contraband as unaccompanied baggage.	He was detained under the COFEPOSA Act on 5-5-76 & released on 22-3-77 after revocation of Emergency. Under suspension with effect from 29-4-76. The case is still under investigation.
2	1976	Preventive Officer (Bombay)	He attempted smuggling of dutiable goods out of stocks.	Goods have been confiscated. His services were terminated on 12-10-76.

1	2	3	4	5
3	1976 . 3 Examiners and 2 Appraisers (Bombay)	They released contraband goods under the guise of Chemicals as samples.	They were placed under suspension with effect from 22-11-76. As a result of departmental action, they have been removed from service with effect from 7-7-78.	
4	1976 . Air Customs Officer, Superintendent and also an Assistant Collector who has since retired. (Delhi)	Air Customs Officer and Superintendent involved in smuggling of diamonds worth Rs. 58 lakhs which were seized at Palam Airport on 19-6-76. Suspicion of involvement of the Assistant Collector as well.	Diamonds confiscated absolutely. Air Customs Officer and Superintendent placed under suspension with effect from 21-8-78. Case handed over to CBI for investigation.	
5	1977 . 2 Preventive Officers (Bombay)	They were found involved in smuggling of 6 bars of foreign marked gold weighing 60 tola from a vessel.	They were placed under suspension with effect from 19-10-77. While one was detained under COFEPOSA, the other was arrested and released on bail. Investigations are still in progress.	
6	1977. One U.D.C. (Cashier) and two Preventive Officers (Bombay).	They attempted to smuggle one bottle of whisky from the docks.	They were placed under suspension with effect from 29-7-77. Enquiries in progress.	
7	1977. Air Customs Officer (Madras)	Sureptitiously received gold jewellery valued at Rs. 14,600/- from outgoing air passengers for subsequent delivery to their relatives in India. The jewellery was to be re-exported out of India.	Suspended. Complaint for prosecution filed and the case is under trial.	
8	1977. Customs Sepoy (Patna)	The sepoy posted at Bettiah under Motihari Customs division was found involved in smuggling activities and synthetic fabrics valued at Rs. 1,497/- were seized from his residential premises on 14-4-77.	Placed under suspension with effect from 14th April, 1977.	

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7.37. The Ministry have further stated that strict vigil is kept on the activities of the officers whose integrity is doubtful. Every year an 'Agreed List' of Officers of doubtful integrity is drawn up in consultation with the CBI and the Collectors. Suitable action is taken against such officers wherever necessary. Government

servants whose integrity is doubtful can be prematurely retired under the appropriate rules.

7.38. The Ministry have further stated that Diplomatic personnel enjoy immunity from customs examination of the personal baggage and other goods imported by them for their use. Taking advantage of these privileges, the smugglers sometimes use diplomatic channels for the purpose of smuggling contraband goods. During the past three years some cases involving seizure of contraband goods from diplomatic personnel have come to the notice of Government. Details of the seizure from diplomatics from 1976 to 1978 (upto July) given below:—

Sl. No.	Year	Nature of offence	action Taken
1	2	3	4
1	1976	1. Wrist watches 1500. 40 Movie Films, 3 Recorded Cassettes, in all valued Rs. 1,50,000/- were seized at Palam Airport on 29-2-76.	Show-cause notice issued. Case pending for adjudication.
2	1976	2. 4402 Wrist watches . 70 Movie films, 60 Casic Calculators, 58 Batteries valued at Rs. 4,50,000/- were seized at Palam Airport on 29-2-76.	Show-cause notice issued. Case pending for adjudication.
3	197	.. 40 Wrist watches, 100 watch cells 370 widing gears Knobs valued at Rs. 3,14,600 were seized at Palam Airport on 1-11-77.	Show-cause notice issued.
4	197	2. 1339 Wrist watches, 30,000 player Cartridges. Needless and sound equipments. valued at Rs. 6,05,930/- were seized at Palam Airport on 16-11-77.	Show-cause notice issued.
5	1977	3. 595 Wrist watches worth Rs. 2,15,510 were seized from accompanied baggage on 25-12-77 at Bombay Airport.	Show-cause notice issued. Case pending for adjudication.
6	197	1. Miscellaneous contraband goods worth Rs. 38,600/- were seized at Bombay Airport on 8-7-78.	Investigation in progress. A person who had accompanied the diplomat has been arrested because 10 foreign marked gold slabs valued Rs. 57,500/- and other con-

1	2	3	4
			traband goods worth Rs-1040 (c.i.f.) were seized from him.
7	1978	2. 250 gold bars of 10 tola each valued Rs. 20,40,500/- were seized at Bombay Airport on 13-7-78.	One of the Indian contracts was arrested in Delhi on 14-7-78. Investigation in progress. The diplomat was arrested at Bombay on 28-7-78.
8	1978	3. Contraband textiles Calculators, watches etc., valued at Rs. 2,76,070/- were seized at Bombay airport from accompanied baggage on 17-7-78.	Investigation in progress.

Confiscation of illegally acquired property under Smugglers and Foreign Exchange Manipulators (Forefeiture of Property) Act, 1976

7.39. According to the information given to the Committee the Competent Authorities have upto 15-1-1979 passed forfeiture orders in 477 cases involving properties valued at Rs. 6.73 crores. The value of these properties, after considering the appellate orders passed by the Appellate Tribunal for Forfeited Property, New Delhi is Rs. 4.33 crores. The competent Authorities have, upto 15-1-79, initiated forfeiture proceedings in 1767 cases (including those cases in which 477 forfeiture orders have been issued). The aggregate value of the properties covered by these forfeiture proceedings is estimated at Rs. 39.50 crores.

7.40. It has been stated one of the reasons why the total number of proceedings that have become final is not very large is that the Competent Authorities could not pass any orders till the Appellate Tribunal for Forfeited Property was constituted and the Tribunal also framed rules to govern its working. It was only in January, 1977 that the Tribunal was constituted and February, 1977 that the rules were framed by the Tribunal. It has been further stated that though the Act received the assent of the President on 25 January, 1976, the first batch of forfeiture order were released in February-March, 1977, as the Rules governing appeals against the orders of forfeiture were framed by the Appellate Tribunal for forfeited properly only in February, 1977. Till such Rules were framed, the orders of forfeiture could not have been passed by the Competent Authorities.

7.41. It has been further stated that the Competent Authorities who are to initiate proceeding under this Act in respect of persons

or properties covered by this Act, have necessarily to depend on the preliminary reports which they are to get in respect of such persons and properties from the Income-Tax officers and from the Customs authorities. Without such preliminary reports, the Competent Authorities would not be in a position to initiate any proceedings under this Act as they would not be in a position to hold the *prima facie* belief that the properties in question are the illegally acquired properties of the persons covered by the Act. The Competent Authorities can initiate action under this Act only when they record that they have reason to believe that the properties in question are the illegally acquired properties of the person who is covered by this Act. As the Competent Authorities do not have any control over the Income Tax Officers or over the Customs authorities, they are not in a position to direct these officers to submit the relevant preliminary reports expeditiously. Where the preliminary reports are not made available to the Competent Authorities by the concerned Income-Tax/Customs Officers in time, it necessarily results in delaying the initiation of the forfeiture proceedings under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976. It may be noted here that the Competent Authorities have not been provided with separate manpower for undertaking such preliminary enquiries which are now done by the Income-Tax/Customs Authorities; nor do the Competent Authorities have with them any separate machinery which could undertake such preliminary enquiries speedily. The Officers who are posted with the Competent Authorities have no statutory powers of enquiry. The Income-tax/Wealth tax records of the persons covered by this Act, do not always contain the requisite materials which could form the basis for initiating action against such persons under this Act. It may be noted here that under Section 6 of the Act, the Competent Authorities have to record reasons for holding the belief that, in a given case, there is *prima facie* evidence justifying initiation of action under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976. For recording such reasons, the Competent Authorities have to have with them the *prima facie* evidence. For collecting such *prima facie* evidence, the Competent Authorities have to depend upon other agencies as pointed out earlier.

7.42. The Committee find that the Kaul Committee (Committee on Leakage of Foreign Exchange through Invoice Manipulation) had some years back estimated the value of the goods smuggled into the country at Rs. 160 to 170 crores. Conflicting reports about the value of smuggled goods into the country appear in the Press from time to time. According to one report goods worth Rs. 300 to

400 crores are being smuggled into the country. According to another report, gold worth Rs. 1400 crores is smuggled into the country every year. According to the Ministry these estimates of smuggling of goods into the country are only a guess work. It has been argued that the down-ward trends in the value of seized goods since 1975 and the increasing trend in the total value of inward remittances (non-trade), the strength enjoyed by the Indian currency vis-a-vis the leading foreign currencies, and absence of smuggled goods in the major marketing centres generally support the view that smuggling continues to be well-contained. The Ministry have, however, admitted that the reports indicate that sizeable quantity of gold is smuggled into India every year. The intelligence reports suggest that attempts are being made to smuggle gold into the country and that such attempts originate to a large extent at places like Dubai, Abu Dhabi and other places in the Gulf. The Committee feel concerned about these reports and desire that serious consideration should be given by Government to this matter. The Ministry have admitted that smuggling of gold into the country is bound to have adverse effect on the over-all national economy of the country. It may also generate malpractices such as hawala transactions in foreign exchange, over-invoicing of exports, smuggling out of India certain other sensitive items and black money. The Committee are anxious that Government should take all possible steps to prevent smuggling of gold from gulf countries.

7.43. The Committee are informed that trends in smuggling are being reviewed on a continuing basis. According to these reviews, presently the west coast and Indo-Nepal border are active from the smuggling point of view. Government have taken a number of steps to tackle smuggling across the Indo-Nepal Border. As regards the over-all measures to deal with smuggling, Government have adopted a three pronged drive against this menace by (a) strengthening preventive and intelligence machinery; (b) by resorting to selective application of the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974; and (c) by taking appropriate economic measures. These economic measures include liberalisation of imports of essential consumer items, which are scarce in India; reduction of customs duty in respect of watch parts, and abolition of duty in case of rough diamonds and precious and semi-precious stones. The preventive measures taken to combat smuggling more effectively include strengthening of preventive and intelligence units; patrolling of sea-coasts and important land routes; installation of electronic devices, such as flourescopic and frisker devices and closed circuit T V at major International Airports, and

check posts along land border. The Directorate of Anti-smuggling was created in 1974. Selective use is being made of the provisions of COFEPOSA to paralyse the smuggling activities of big time operators and financiers as also the provisions of SAFEMFOPA Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 to deprive them of their ill-gotten property. The activities of known gangs of smugglers, financiers, foreign exchange racketeers and those who operate behind the scene are kept under discreet watch and intelligence on such activities is being up-dated systematically, and appropriate follow-up action taken as and when required. The Committee desire that the effect of the various anti-smuggling measures taken by the Department should be constantly kept under review with a view to strengthening them wherever necessary from time to time. Attention should in particular be paid to the smuggling activities on the west coast which according to the Department accounts for 75 to 80 per cent of the total seizures. It is imperative that proper coordination is maintained between the anti-smuggling units of different Collectorates of Customs controlling the West Coast. The Anti-smuggling units in Cochin and Goa Collectorates should not only keep watch over smuggling activities in their regions but also remain in regular contact with their counterparts in Bombay region to know the activities and modus operandi of smugglers.

7.44. In view of the fact that smuggling has become more scientific and systematic involving big and resourceful people, Government should ensure that adequate equipment and organisation is available to meet the challenges from smugglers.

7.45. During the tour of Study Group of Estimates Committee to Cochin in January, 1979, they came across some complaints of harassment of people by the Customs check posts situated inside the State. They were informed that instructions had been issued to check posts not to interrogate every passerby or the residents of a place for possession of imported items except when they had definite information about smuggled goods being taken from one place to another. While the Committee are anxious that the preventive staff should keep a close vigil over the activities of the smugglers, they would like to emphasise that the officers in their enthusiasm should not harass innocent people.

7.46. Publicity is being given by the Department to important cases of seizures and smuggling of contraband goods. There is a proposal to set up a Directorate of Publicity. The Committee desire that the Directorate of Publicity should inter alia be given the task

of educating public opinion against smuggling, and its bad effects on economy. The Directorate should take imaginative measures to dispel from the mind of public the craze for imported goods. The Committee feel that proper education against the use of smuggled items will go a long way in reducing smuggling of such goods.

7.47. The Committee are pained to note that a number of Customs Officers have been involved in smuggling activities. During the year 1976-77 and 1978, seventeen such Officers were found to have taken active part in smuggling of contraband goods. The Committee desire that the cases against these officers should be finalised quickly. They would like to be informed about the action taken in these cases. The Committee desire that supervision over the Customs Officers should be tightened to prevent recurrence of such cases.

7.48. A more disturbing feature, which has come to the notice of the Committee is the involvement of some diplomatic personnel in smuggling activities. Taking advantage of the immunity from customs examination of personal baggage and other goods imported by diplomatic personnel, the smugglers use sometimes diplomatic channels in furtherance of their activities. During the period 1976 to 1978 (upto July, 1978) some cases of seizures from diplomats occurred involving illegal importation of wrist watches and other goods of the value of Rs. 40.91 lakhs. These cases are pending for adjudication/investigation. The Committee suggest that the Ministry should take suitable measures in consultation with the Ministry of External Affairs to check the involvement of diplomatic personnel.

7.49. The Committee have been informed that upto 15 January, 1979, the competent authorities passed forfeiture orders in 477 cases involving properties valued at Rs. 6.73 crores under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976. In all the competent authorities have initiated forfeiture proceedings in 1767 cases (including 477 cases mentioned above), and the aggregate value of the properties covered by these proceedings is estimated at Rs. 39.50 crores. The Committee are unhappy to note that there was a year's delay in the constitution of the Appellate Tribunal under the aforesaid Act. Although the Act was assented to by the President on 25 January, 1976, it was only in January, 1977 that the Appellate Tribunal was constituted. The first batch of forfeiture orders were released in February-March, 1977 as the rules governing appeals against the orders of forfeiture were formed by the Tribunal only in February, 1977. The Committee cannot but deplore this unconscionably long delay in setting up machinery under the aforesaid Act. They would

like that the inordinate delay in the appointment of the Tribunal and framing of the Rules may be looked into and the Committee apprised of the result.

7.50. The Committee note that competent authorities who are to initiate proceedings under the aforesaid act in respect of persons and properties covered by this Act have to depend on the income tax officers and Customs authorities for preliminary reports. But the Competent Authorities do not have any control over the Income-tax Officers and Customs authorities and they are not in a position to direct these Officers to submit the relevant preliminary report expeditiously. Nor have the Competent Authorities been provided with separate man-power/or machinery for undertaking such preliminary enquiries which are now being done by the Income-tax/ Customs authorities. The Officers posted with the Competent Authorities have no statutory powers of enquiry.

7.51. All this reveals a shocking state of affairs. There was an extra ordinary delay in setting up the implementation machinery envisaged under the Act passed by Parliament. The machinery set up under the Act was neither given powers nor manpower to act on their own nor given adequate control on the income tax and Customs Authorities for initiating action in respect of persons and properties covered under the Act. This is not the way in which legislative intentions of Parliament should have been given effect to. The Committee have not been informed as to whether the Competent Authorities brought their difficulties to the notice of the Government or put up any proposals for being vested with statutory or other powers to do their job properly; when the lack of coordination between the Competent Authorities and income tax and Customs authorities was brought to the notice of the appropriate quarters; what steps were attempted to bring about the desired coordination. In the Committee's opinion, the present state of affairs will result in frustrating the will of Parliament manifested in the aforesaid Act. The Committee would like the Government to make an immediate enquiry into the working of the machinery set up under the said Act and overhaul and strengthen the machinery without delay to enable it to act without constraint in the performance of its functions enjoined upon it by the said Act. The Committee would like to be informed of the action taken in the matter.

CHAPTER VIII

SEIZURE AND CONFISCATION OF GOODS

8.1. Section 110(1) of the Customs Act, 1962 empowers the proper officer to seize the goods if he has reason to believe that the goods are imported in contravention of the provisions of section 111, 113 and 115 of the Customs Act, 1962 and are liable for confiscation under the Customs Act, 1962.

8.2. A show cause notice is required to be issued within six months of the seizure of the goods asking the owner to show cause why the seized goods should not be confiscated and penalty imposed for contravention of the provisions of the Customs Act, 1962 or any other Act for the time-being in force. If no show cause memo is issued, they are liable to be returned to the owner from whose possession they were seized. However, provision exists for extension by a period not exceeding six months and such extensions are allowed by the Collector of Customs provided sufficient cause is being shown. On receipt of the reply from the owner, the case is adjudicated by the competent authority after hearing the parties.

8.3. The valuation of confiscated goods for disposal is done by a Committee consisting of two Assistant Collectors and a Gazetted officer concerned with the disposal of goods taking into account the fair price or best price which the goods can be expected to fetch under normal conditions. In case of the specialised items like diamonds precious and semi-precious stones, assistance of the trade as well as an independent valuer is taken into account.

8.4. In addition to the seized goods, goods imported in contravention of L.T.C. regulations, though regularly imported, are also confiscated by customs authorities. Such goods, are generally kept separately in the docks.

8.5. The seized goods do not become ripe for disposal immediately on seizure. They cannot be disposed of unless they are confiscated and the owner of the goods has exhausted the remedial measures by way of appeal and revision, available to him under the Customs Act. However, in case of perishable goods, which are likely to deteriorate by storage they are disposed of even prior to their confiscation. Utmost care is taken to ensure that these goods are, as far as possible, sold

for a fair price so that in case of any release of the goods on redemption, there would be sufficient balance in the sale proceeds for paying the owner after deducting fine etc. if any.

8.6. The following statement shows the details regarding seizures and value of contraband goods recovered during the seizures made under the Customs Act during the last five years:—

Year	No. of Seizures	Value of goods seized (Rs. in lakhs)
1974 . . .	49,553	6,004
1975 . . .	62,560	4,529
1976 . . .	77,252	3,602
1977 . . .	1,44,977	2,994
1978 (upto April) . . .	57,362	1,337

8.7. The following statement shows the number of cases and value of sensitive goods seized during the last five years:—

Category of goods	Number of cases					Total value (Rs.)
	1974	1975	1976	1977	1978	
Liquor Cigarettes etc.	1764	1684	1608	1471	727	1,89,70,211
Foreign Textiles etc.	9281	10453	7981	7191	4235	37,16,81,541
Radiant Yarn	243	165	118	118	126	32,75,312
Electrical goods	1376	1814	1898	1671	1371	3,99,44,206

8.8. Asked to state why the show-cause notice cannot be issued within a few days of the seizure of the goods, the Ministry have stated in a written reply that immediately after the seizure of the goods it is first necessary to carry out detailed investigations with a view to collecting all available evidence for taking action against the persons concerned in the offence by way of departmental adjudications.

and or prosecutions in Courts of law. These investigations naturally take some time. It is only on the completion of these investigations that show-cause notice could be issued. It has also been, stated that all Collectors are fully aware that it is of utmost importance to ensure that such investigations are completed as early as possible in cases where goods are seized as unclaimed and there is no prospect of attributing the offence involved to any person, showcause notices are issued within a few days of the seizure of goods.

8.9. According to the information furnished by the Ministry, at the end of July, 1978, the total number of cases pending adjudication was 7,888. Out of which 5226 cases were less than 6 months old, 1478 cases were more than 6 months old but less than 1 year old, 738 cases were more than 1 year but less than 3 years old and 446 cases were more than 3 years old.

8.10. The Public Accounts Committee in their 219th Report (5 LS) had made the following observations in regard to pendency of cases of adjudication the respect of seized goods other than gold:—

“According to the information furnished to the Committee pertaining to the years 1972, 1973 and 1974 as many as 4378, 7970 and 9005 cases respectively were pending on 30th September, 1975 in most of the Customs Houses taken together for want of adjudication or disposal orders. The value of goods other than gold seized during the period 1969-70 to 1973-74 and pending disposal as on 31st March, 1974 in some Collectorates of customs and Central Excise about which the Committee had information is very large. In this connection, mention may be made of the goods valued at Rs. 11,47,19,827 pending disposal in the Collectorate of Customs (Prev.) Bombay, Rs. 67,09,800 in Collectorate of Customs, of Central Excise, Calcutta. The Committee are disturbed by such figures and would require the Central Board of Customs and Excise to examine the matter earnestly and prevent such accumulation in future.”

8.11. The Ministry have stated in a written reply that the position of pendency of adjudication cases, more particularly the older cases, is reviewed on a continuing basis and suitable instructions issued to those Collectorates, whose pendency position needs to be improved. As a result of these measures, it is found that in almost all the collectorates, a considerable progress has been achieved in liquidating

the older cases. This is evident from the comparative statement given below:—

Name of the Collectorate	Total No. of cases	More than 1-year but less than 3-years	Percentage	More than 3-years	Percentage
1	2	3	4	5	6
			%		%
C.C.(P) Bombay . . . as on 31-7-78 (A)	304	19	6.2	13	4.2
as on 31-12-78 (B)	262	10	3.8	..	..
C.C. (P) Patna (A)	4034	408	10.0	161	4.0
(B)	3199	206	6.5	75	2.3
C.C. Calcutta (A)	294	38	13.0	77	26.5
(B)	242	38	15.6	29	11.9
C.C.E., Ahmedabad					
(A)	119	28	23.0	25	21.0
(B)	119	17	14.3	12	9.9
C.C.E. Allahabad					
(A)	89	11	12.4	16	18.0
(B)	66	6	9.09	5	7.6
C.C.E., Bangalore					
(A)	92	12	13.0	9	10.0
(B)	108	11	10.3	5	4.6
C.C.E., Chandigarh					
(A)	141	15	10.6	23	16.0
(B)	127	17	13.3	..	..
C.C.E., Delhi					
C.C.E., Delhi					
(A)	198	33	16.6	21	10.6
(B)	186	43	24.0	14	7.5

C.C.E., Guntur

(A)	.	.	.	55	8	14.6%	..	
(B)	.	.	.	75	8	10.6%	..	..

C.C.E., Jaipur

(A)	.	.	.	100	13	13.0%	10	10.0%
(B)	.	.	.	104	9	8.6%	2	1.9%

C.C.E., Madurai

(A)	.	.	.	284	48	18.0%	9	3.0%
(B)	.	.	.	386	75	10.4%	7	1.8%

C.C.E., Patna

(A)	.	.	.	41	14	34.0%	14	34.0%
(B)	.	.	.	40	2	5.0%		

From the above comparative statement, it may be seen that maximum pendencies in respect of cases pending for more than one year are in the Collectorates of Delhi (24 per cent), Madurai (19.4 per cent) and Calcutta (15.6 per cent)—As regards the disposal of cases pending over three years, considerable progress has been achieved in Calcutta and Madurai Collectorates where the pendency has gone down from 26.5 per cent to 11.9 per cent and from 30 per cent to 1.8 per cent respectively. The position in respect of cases pending over three years in Delhi Collectorate has also improved.

8.12. However, C.C., Calcutta, C.C.E. Delhi and Madurai have been instructed to bestow their personal attention to this matter and ensure that the pendency of older cases is brought down without any further delay.

8.13. The Ministry have stated that in pursuance of the decisions taken in the Collectors Conference, held in May, 1978, the need for expediting the adjudication of cases involving violation of Customs law and other laws enforced by Customs has been brought to the notice of the Custom Houses, and a time bound programme has been laid down in this regard.

Disposal of Goods

8.14. As on 31-12-1978, the value of total stock of seized and confiscated goods, lying in the Customs godowns, was Rs. 58 crores. The value of such goods ripe for disposal as on 31-12-1978 was Rs. 7.5 crores.

8.15. The value of seized|confiscated goods disposed of during the years 1976 to 1978 were as under:—

1976	.. Rs. 28.03 crores
1977	.. Rs. 13.67 crores
1978	.. Rs 6.03 crores (Provisional)

8.16. Instructions have been issued to the Collectors of Customs and Central Excise to dispose of gold and silver by depositing them in the Government Mint and foreign/Indian currencies by sending them to the Reserve Bank of India for crediting to the Government.

8.17. Instructions have been issued to the Collector of Customs and Central Excise wherever it has not been possible to dispose diamonds precious and semi precious stones, they may transfer the stock of such goods ripe for disposal in consultation with Collector of Customs Bombay for disposal in Bombay.

8.18. According to the policy I.T.D.C. are to lift the confiscated liquor either against their own import quotas or arrange for such stocks to be lifted by other hotels against their import quotas. In addition S.T.C. has been permitted recently to arrange for the purchase of the confiscated liquor for the Canteen Store Department.

8.19. Instructions have recently been issued for the sale of heterogeneous item seized in small lots and confiscated to Government through retail shops run by the Customs (other than watches) after meeting the requirements of the Government Department Research and Educational Institutions as the case may be.

8.20. Confiscated consumer items are offered by retail sale at prices fixed by a Valuation Committee to individual consumers in retail shops run by Customs Houses and Central Excise Collectorates. The Central Government Employees Consumers Cooperatives Society Ltd., New Delhi, has also been allowed to make purchases on behalf of its members on the above basis.

8.21. It has been claimed that the advantage in selling confiscated goods through retail shops run by Customs Houses is that the

goods are directly sold to individual consumers without any intermediary agency. In the past, when consumer items were being sold through cooperative societies, certain mal-practice, indulged in by such Societies had been reported.

Confiscated Goods

8.22. The following suggestions have been made in memoranda submitted to the Committee:—

- (1) "As soon as the goods are confiscated and if it is felt that their sale in the local market or to local consumer will have adverse effect, option to re-ship within stipulated period on imposition of fine should be allowed.
- (2) As regards goods seized and confiscated contraband goods, they should not be kept till the appellate remedies are over. The law should be so amended that it would empower the Government to dispose of certain confiscated goods even before the appellate remedy is over. The money realised should be held in deposit till the appeals are decided. Such a course would obviate possibility of error in valuation and loss in storage."

8.23. In a written reply, the Ministry have made the following comments:—

- "(1) Under the existing provisions of the Customs Act, 1962 option of re-shipment against appropriate fine is also given by the adjudicating officers in appropriate cases.
- (2) Normally goods seized or confiscated should not be disposed of until all the normal processes of adjudication, appeal and revision petition have been completed. However, in the following types of cases the confiscated goods may be disposed of observing the prescribed formalities and after due intimation to the party of the date, time and manner of sale. The sale proceeds are held in deposit and would be returnable to the owner if the confiscation order is set aside.
 - (i) Where goods are likely to deteriorate or perish.
 - (ii) Where the recurring cost of upkeep is disproportionately high, *e.g.*, in the case of animals;
 - (iii) Where the arrangements for storage cannot be provided except at disproportionately high cost, *e.g.*, dangerous goods."

8.24. The Ministry have further stated that the question of taking powers for early disposal of other confiscated goods had been examined earlier. Although an amendment to the Customs Act, 1962, had been drafted for taking powers for early disposal of confiscated goods, it could not be incorporated in the Customs, Central Excise and Salt and Central Board of Revenue (Amendment) Bill. On re-consideration of the matter, particularly in view of the fact that the proposed amendment to the law would result in deprivation of goods to the owner, it has been felt that the objective of early disposal of confiscated goods could, perhaps, be met by expediting the processes of appeals and revisions under the Customs|Central Excise laws. Some administrative measures have already been taken to expedite the disposal of such appeals and revisions. For example, the strength of the Central Board of Excise and Customs has been enhanced to 7 and presently two members of the Board attend, on a whole time basis, to the disposal of appeals against orders of Collectors of Customs and Central Excise. Also, Government are presently considering the recommendations of the Jha Committee in regard to the setting up of classification tribunals etc. However, if on review of these arrangements, it is found necessary to take powers under the Customs law for facilitating early disposal of confiscated goods, appropriate measures in that behalf, would be considered.

Disposal of seized goods

8.25. After the seized goods are adjudicated, either the importer pays penalty and takes them or they are disposed of by the Customs. There have been several complaints of long delays in the matter of disposal of goods. The Public Accounts Committee in their 15th Report (6LS) have also commented upon such delays. The Committee therefore called for information from the Ministry of Finance in this regard.

(i) Disposal of vehicles

8.26. The following statement shows the number of vehicles lying undisposed of as on 1st April, 1976, 1st April 1977 and 1st April, 1978 in various Customs Houses, No. of vehicles kept in Sheds|open and since when they are pending.

No. of vehicles lying with Customs		No. of such vehicles kept		How long were they lying with the Customs Houses				
Houses undisposed of as on								
1-4-76	1-4-77	1-4-78	Under Sheds	Outside in the open	Less than one year	1 to 3 years	3 to 5 years	Over 5 years
654	523	388	235	153	71	112	113	92

8.27. Subsequently, the Ministry furnished the information that as on 1st April, 1978, 388 motor vehicles were lying with the Customs formations out of which 358 are still lying with Customs formations and others have been disposed of. The Ministry have furnished information regarding vehicle Nos., date of seizure; date of confiscation and their value. They have however, not indicated the make of vehicles without it is not possible to judge whether the value is reasonable.

8.28. The amount of rent incurred during the years 1976 to 1978, on hiring garages for parking vehicles, was Rs. 13,33,874.

8.29. Reports received from the Collectorates indicate that the vehicles which could not be parked in sheds for want of space were, as far as possible, covered with Tarpauline.

8.30. Instructions have since been issued to the Collectors to ensure that proper care is taken in the storage and maintenance of seized/confiscated vehicles and prompt action taken for their expeditious disposal.

8.31. Instructions to Custom Houses provide for confiscated vehicles to be disposed of at the best available price. In this regard, the following steps are required to be taken:—

(i) Fair prices should be determined after detailed market enquiries and it should be approved by a Valuation Committee consisting of two Assistant Collectors and one Assessing Officer.

(ii) Public auctions are conducted by Government auctioneers and after wide publicity is given.

(ii) Disposal of Confiscated diamonds, precious and Semi-precious stones

8.32. From the information furnished, it is seen that as on 31st August, 1978, Diamonds of the value of Rs. 3,57,000 in C.C.E. Madras, Rs. 1,00,000 in C.C. Madras, Rs. 3,02,810 in CC(P) Bombay, Rs. 2,57,618 in CCE, Chandigarh and Rs. 1,05,739 in CCE Ahmedabad are lying ripe and awaiting disposal.

8.33. Similarly, precious stones and semiprecious stones as on 31st August, 1978, of the value of Rs. 4,74,226 in CCE Shillong, Rs. 2,12,000 in CCE Madras, Rs. 2,89,000 in CC Madras, Rs. 2,22,047 in CC Bombay and Rs. 1,67,495 in CCE Jaipur are ripe and awaiting

disposal. The precious stones and semi-precious stone in CCE Shillong of the value mentioned above, have been lying since 31st December, 1976.

8.34. The Ministry have stated that instructions have been issued to the Collectors of Customs and Central Excise that in case the diamonds, precious and semi-precious stones cannot be disposed in their jurisdiction, they may, in consultation with the Collector of Customs, Bombay, transfer such stocks ripe for disposal to Bombay, for disposal.

8.35. Collector of Central Excise Shillong has again been advised to arrange for the disposal of stocks of precious stones etc. awaiting disposal by getting in touch with Collector of Customs, Bombay or Collector of Customs, Madras.

8.36. It has been stated that unlike other consumable trade goods, disposal of diamonds require proper identification, correct valuation in consultation with panels consisting of experts, publicity for their sale through press, catalogues and through various associations, arrangement for inspection of goods etc. Even after these goods are offered for sale, response may not sometimes be good, as only a few traders may be interested in the goods. In such cases the unsold lots may have to be offered once again. All these arrangements will, no doubt, take time and every care has to be taken as the stakes involved are quite high.

8.37. Rough and uncut diamonds are sold by auction or by tender to holders of import licences against debit of their licences. Cut and polished diamonds are being disposed by auction or by tender for export out of India. No diamonds were sold to any party through private negotiations.

8.38. Whenever diamonds or precious and semi-precious stones are proposed to be disposed of, the trade is duly informed through news papers by advertisements put out through the Directorate of Advertising and Visual Publicity, New Delhi. The trade is also informed through their respective associations in all the big cities of India. The names of these associations are known to Custom Houses.

8.39. Necessary instructions have been issued to all the Collectors of Customs and Central Excise to take prompt action for disposal of confiscated diamonds and precious and semi-precious stones. The pendency position is also being regularly reviewed. Good progress in disposal has been achieved in some Collectorates (e.g., Delhi,

Bangalore, Madras, Bombay). Collectors in whose jurisdiction there was either no disposal or the progress in disposal was not satisfactory, have been asked to look into the matter personally and take appropriate steps to dispose of the pending stocks as early as possible.

Disposal of textiles

8.40. According to decision of Government, cut and polished diamonds and confiscated synthetic textiles are to be disposed of by way of re-export out of India. Steps are being taken for arranging re-export of such textiles either in the fabric form or after conversion into garments. Cut and polished diamonds are being disposed by the Cutoms Houses for export out of India.

(iv) Disposal of watches.

8.41. It has been stated that confiscated watches are handed over to the Hindustan Machine Tools. The decision to hand over watches to H.M.T. is in accordance with the decision of the Cabinet. H.M.T. on their part, are, presently, finalising detailed working arrangements for the disposal of confiscated watches.

8.42. In a subsequent note, the Ministry have stated that H.M.T. have not yet submitted the scheme for taking over of the watches. Since only watches worth 77 lakhs (35,000 watches approx.) are now awaiting disposal, (compared to their annual total indigenous production of about 3 millions), it is not likely to affect their interest in the marketing of the watches produced by them. In fact, H.M.T. have not expressed any such fear.

Storage of seized|confiscated goods

8.43. According to the Procedure for Receipt, Storage and Disposal of seized|detained and confiscated goods, once every six months the Assistant Collector, Preventive, or an Assistant Collector nominated by the Collector, shall conduct a complete stock taking of all valuables in the custody of the Custom House. Similarly, once every six months the Chief Inspector, Preventive or any other officer nominated by the Collector for the purpose shall conduct a complete stock taking of all packages containing articles other than valuables. A report regarding the checks done and results should be submitted to the Collector within a week from the date of check. The officers verifying stock should particularly examine whether the packages stored show signs of deterioration, substitution or pilferage. They should also verify the seals and satisfy themselves that the seals are intact. If the seals are intact, it shall not ordinarily be necessary to open the packages and verify contents but a token number of

packages may be opened and contents checked. The Assistant Collector, Preventive, or any other officer nominated for the purpose by the Collector shall conduct random stock challenge by surprise, approximately once a quarter.

8.44. At the instance of the Committee the Ministry have furnished the following statement showing the number of stock takings undertaken results of stock taking and action taken in that behalf:—

Customs Houses/ Collectorates	No. of Stock taken during 1976 to 1978	Results of Stock taking and action taken
1	2	3
1. C.C.E., Delhi	2	A number of packages are lying without deposit particulars on the packages showing shortages in some cases and excesses in others. Some unaccounted packages have already been opened and inventoried and resold while the rest are in the process of being inventoried and co-relation is in progress.
2. C.C. Cochin	6	No discrepancies noticed.
3. C.C.E., Bhubaneshwar	2	Do.
4. C.C.F., Nagpur	6	Do.
5. Dy. C.C. Visakhapatnam	3	Do.
6. C.C.E., Kanpur	4	Do.
7. C.C., Goa	6	Do.
8. C.C., Madras	6	Do.
9. C.C.E., Hyderabad	5	Minor defects pointed out in the record in the stock taking officers report rectified.
10. C.C.E., Madras	6	No discrepancies noticed.
11. C.C.E., Jaipur	6	Do.
12. C.C.E., Guntur	5	Do.
13. C.C.E., Indore	1	No discrepancies noticed. The goods were transferred to Indore Collectorate in January, 1978.
14. C.C.E., Shillong	6	No discrepancies noticed.

	1	2	3
15. C.C., Calcutta	.		3 1976 stock verification revealed a shortage of a big lot of fountain pens which is presumed to have been stolen along with earnest money deposit of Rs. 26,243/- and the matter was reported to the Police.
16. C.C.E., Poona	.		1 No discrepancies noticed.
17. C.C.E. Madurai	.	6	Do.
18. C.C.E., Bangalore.	.	6	Do.
19. C.C.E. (P), Bombay	.		3* Certain discrepancies in the stocks were noticed and action against the officer has been initiated.
20. C.C.E., Patna		6	No discrepancies noticed.
21. C.C. & C.E., Cochin		4	Do.
22. C.C.E., Chandigarh		4	Do.
23. C.C., Bombay	.	3	Do.
24. C.C.E., Allahabad	.	6	Do.
25. C.C.(P), Patna		3	Shortage of seized goods valued at Rs. 18,459 was noticed in 1976 in Sitamarhi godown. Matter is under enquiry to determine the responsibility
26. West Bengal, Calcutta	.	3	Stock verification revealed minor discrepancy out of natural wear and tear and dryagee in storage as such no follow-up action was considered necessary.
27. Ahmedabad	.	3	A storage of 7 rolls of art silk fabric was noticed at Customs godown, Ahmedabad during 1976 Preliminary investigation has been completed and matter is under consideration for disciplinary action against the defaulting officer.

*In one stock taking out of 7 godowns only in respect of 4 above it was completed.

8.45. From the statement it is seen that during the years 1976 to 1978, the number of times the stock verification carried out was once in C C E, Indore, and C C E, Poona, twice in C C E, Delhi and C C E, Bhubaneswar and thrice in C C, Vishakhapatnam, C C, Calcutta, C C (P), Bombay, C C Bombay, and C C (P), Patna.

8.46. The Public Accounts Committee in para 3.63 of their 219th Report (5LS) had pointed out that the stock taking reports (August 1974) in Calcutta Customs House revealed that in 493 cases the seized goods were not physically there and the Master Register did not also bear any indication of the sale receipts thereof having been deposited to the Government account. The Public Accounts Committee expressed their unhappiness at such glaringly defective maintenance of stores accounts in the Calcutta Customs House.

8.47 At the instance of the Committee the Ministry have also furnished the following statement showing the pilferage/damage/loss of goods during 1976-78

No.	Collectorate	Year	Items	Value	Enquiries held and the present position	Steps taken to prevent pilferage/loss/damage
1		3	4	5	6	7
1	C.C.E., Delhi	1976	Textiles	1,09,815	A sepoy who was caught red handed with the goods, was dismissed from service.	75% of the stores has been transferred to Central Warehousing Corporation which is adequately insured. Security measures have been tightened in the old godown.
		1977		1,014	Departmental investigations for shortage/damage has since been completed.	
				<u>1,10,829</u>	Departmental action will be initiated against the persons found guilty.	
2	C.C.E., Guntur	1977	Gold	1,09,150 (approx.)	C.B.I. has concluded that three Superintendents and one Inspector were combinedly responsible for the substitution of the gold biscuits. The matter has been referred to Central Vigilance Commission in January, 1979, in connection with initiating Departmental action.	General instructions regarding storage, stock-taking and banding over and taking over of goods are strictly followed now.
3	C.C.E., Bombay	1976	Misc. goods	7,393	The two cases of 1976 were investigated by the Police and the persons involved were convicted. Out of the three cases of 1977, one case has been reported by Police as true but undetected. The other two cases are under investigation and no departmental staff was involved.	Armed guards have been posted around the clock. At some places, Sepoys are posted on over time at night and on holidays. Supdt. (Prev.) on special patrol is visiting warehouses at night time every day.
		1977	Pocket Transistor	100		
			Textiles	1,004		
			T.V.	1,400		
			Sewing Machine	875		
			Misc. goods	12,634		
			Radio	3,000		

4	C.C., Calcutta	1976	Cash	26,243	Police have reported the loss as true but neither the money nor the culprit could be detected. After departmental enquiry one shed officer was severely warned and the other censured.	Security measures in the shed have been strengthened by providing collapsable gate. A strong iron safe was fixed in the wall in the concerned shed. The sale proceeds are invariably deposited with the Treasury on the same day.
			Fountain pens	3,500		
			Misc. goods;	8,110		
5	C.C.E., Bangalore.	1976	Calculators	2,400	Police enquiries revealed that it must have been deliberate removal by departmental officers. Responsibility on certain officers was fixed and disciplinary proceedings against them are being initiated.	Suitable measures have been taken to secure the godown. Round the clock guard is also kept.
			Transistors	5,900		

8.48. It would be seen from the above table that in Central Excise Collectorate, Delhi, textiles valuing Rs. 1,10,829 were lost. In Central Excise Collectorate, Guntur, gold valued Rs. 1,09,150 was substituted by three Superintendents and one Inspector. The matter has been investigated by the Central Bureau of Investigation and the case has been referred to Central Vigilance Commission in January, 1979. There were also cases of losses in C.C., Bombay, C.C., Calcutta and C.C.E., Bangalore.

8.49. The Ministry have stated that a study relating to storage and security arrangements has been made by the Directorate of Anti-Smuggling, which inter-alia made the following recommendations:—

- (i) Periodical surprise visits to the warehouse by senior officers to check safety and security arrangements.
- (ii) Suggestions for provision of racks in the warehouse to prevent damage or deterioration of packages kept in the godown.
- (iii) Provision of guards.
- (iv) Periodical regular stock taking of warehouse goods.

8.50. All Collectors of Customs and Central Excise have also been instructed to tighten the security measures and to ensure that stock taking at prescribed intervals are regularly undertaken.

8.51. The Committee note that the number of cases of seizure of goods imported in contravention of the Customs Act increased from 49555 in 1974 to 62569 in 1975, 77252 in 1976, 144977 in 1977 and 57362 in 1978 (upto April) but the value of goods seized decreased from Rs. 60 crores to Rs. 45 crores, 36 crores, 29 crores and 13 crores respectively. The Committee are glad to observe the increase in the number of cases of seizures which is an indicator of the alertness of the preventive machinery of the Customs Deptt. The Committee, however, feel that a study of the reasons for decrease in the value of goods seized is necessary. This would help in having an idea about the nature of goods illegally imported into the country and in planning the preventive strategy.

8.52. Under the Customs Act, the show cause notice is required to be issued within six months of seizure of goods. The Ministry have stated that it is not possible to issue show cause notices immediately after the seizure of goods as it is necessary to carry out detailed investigation with a view to collecting all available evidence for taking action against the persons concerned with the

offence by way of departmental adjudication and prosecution in the courts of Law. The Committee feel that six months is too long a period to complete investigations and issue show cause notice except in some very complicated cases. It is not unlikely that because of the provision of six months in the law for issue of a show cause notice, the officers may tend to take things easy and delay the investigations. The Committee would, therefore, like the Department to consider laying down different time limits for different types of seizures and lay down guidelines for expeditious completion of investigations and issue of show cause notices at the earliest without waiting for the expiry of the stipulated period. In view of the fact that the number of cases of seizures have been on the increase the need for cutting down the period for issue of show cause notice and simplifying the procedure for adjudication is all the greater as otherwise the accumulation of seizure cases will reach unmanageable proportions and throw the customs machinery out of gear.

8.53. The Committee note that at the end of July, 1978 these were 7888 cases pending adjudication, out of which 738 cases were 1—3 years old and 446 cases were more than 3 years old. The Committee have been informed that as a result of measures taken to review the old cases on a continuing basis, a considerable progress has been achieved in liquidation of old cases by December, 1978. The Committee, however, find that inspite of the special measures reported to have been taken the number of 1—3 years old cases in Collectrorates of Ahmedabad (14.3 per cent). Allahabad (9.09 per cent), Bangalore (10.3 per cent) and Guntur (10.6 per cent) is still very high. In the Collectorates of Calcutta, Chandigarh, Delhi and Madras, the number of 1—3 years old cases has surprisingly gone up after the special measures have been taken. The number has increased from 13 per cent to 15.6 per cent in Calcutta, 10.6 per cent to 13.3 per cent in Chandigarh, 16.6 per cent to 24 per cent in Delhi and 18 per cent to 19.4 per cent in Madurai. The Collectors concerned are stated to have been instructed to bestow their personal attention on this matter and ensure that pendency of older cases is brought down without further delay. The Committee desire that Central Board of Excise and Customs should regularly monitor the progress of disposal of old cases of seizures and ensure that these are disposed of as early as possible and that there should be no undue accumulation of old cases in future.

8.54. The Committee note that as on 31 December, 1978, while the total stock of confiscated goods lying in the Customs godowns was of the value of Rs. 58 crores, the value of such goods ripe for

disposal was only Rs. 7.5 crores. The value of confiscated goods disposed of during the last three years has been on the decline (Rs. 28.03 crores in 1976, Rs. 13.7 crores in 1977 and Rs. 6.03 crores in 1978) resulting in accumulation of larger stocks in the custody of customs organisation. Normally, goods seized or confiscated are not disposed of until all normal processes of adjudication, appeal and revision petition have been completed. The Committee have considered a suggestion that the seized and confiscated goods should not be kept till the appellate remedies are over. Instead the law should be so amended that it would empower the Government to dispose of certain confiscated goods even before the appellate remedy is over and the money realised should be held in deposit till the appeals are decided. In this regard, the Ministry have stated that the question of taking powers for early disposal of confiscated goods had been examined earlier and an amendment was proposed in the Customs Act, 1962. On reconsideration of the matter, particularly in view of the fact that the proposed amended law would result in deprivation of goods to the owner, it had been felt that the objective of the early disposal of confiscated goods could perhaps be met by expediting the process of appeals and revisions under the Customs/Central Excise Laws. The Committee have examined elsewhere in this Report the procedures for departmental appeals and revision applications and have found that these procedures are still time-consuming and have not been able to expedite disposal of appeals and revision applications. The extant procedure for dealing with seized goods and disposing of confiscated goods are also time-consuming. The long periods of storage not only result in avoidable expenditure on their storage but also result in losses and deterioration. The possibility of malpractices also cannot be ruled out. The Committee feel that if the rate of disposal of confiscated goods continue to decline as it has declined during the last three years, the accumulated stocks of confiscated goods would become unmanageable and will create numerous problems for the Government. The Government would do well therefore to take legal powers to dispose of seized and confiscated goods without waiting till appellate remedies are over and hold the proceeds in deposit to be disposed of as required under the final decision.

8.55. The Committee note that 388 vehicles were lying with the Customs Department as on 1 April, 1978, out of which 112 were lying for 1—3 years, 113 vehicles were for 3—5 years and 92 vehicles for over five years. During the period 1976—78 an amount of rent of Rs. 13.34 lakhs was incurred on hiring garages for parking the vehicles. Out of these 388 vehicles, 153 were lying in the open and must have been considerably damaged. The Committee do

not see any advantage in the Government acting as a watchman for these vehicles, which after 3-5 years would be nothing but junk and may yield only a fraction of their book value.

8.56. The Committee have been furnished with a statement indicating the details of 358 undisposed vehicles lying with Customs Houses. The details include Vehicle No., Date of seizure, date of confiscation, and their value, but the make of vehicles has not been indicated, without which it is not possible to judge whether the value fixed is reasonable. The Committee feel that complete information should have been kept by the Customs and given to the Committee in the first instance itself. The Committee would like that a complete and upto-date statement indicating the make of vehicle, year of manufacture, date of seizure, date of confiscation and value should be submitted to them.

8.57. The Committee would reiterate that the Government may examine the feasibility of disposing of such vehicles if necessary by amendment of the relevant law, immediately after their seizure, except where their disposal may weaken the case for prosecuting the smugglers and divesting themselves of the responsibility for keeping these vehicle at great cost. The Committee also recommend that case of each vehicle lying at present in Government custody may be examined critically and steps taken to dispose it of as early as possible. It should also be ensured that so long as the vehicle lies in Government custody it is kept in a safe and covered place so that it remains in good condition and fetches the best possible price at the time of disposal.

8.58. From the information furnished to the Committee, it seen that as on 31 August, 1978, diamonds and precious stones valuing 24-87 lakhs of rupees have been lying undisposed of in Madras, Bombay, Chandigarh, Ahmedabad, Jaipur and Shillong Collectorates. Instructions have been issued to the Collector concerned that in case the diamonds and precious and semi-precious stones cannot be disposed of in their jurisdiction they may in consultation with Collector of Customs, Bombay, transfer such stocks as are ripe for disposal to the Collectorate of Bombay for disposal. The Committee desire that the Central Board should ensure that diamonds, precious and semi precious stones with these collectorates are transferred and/or disposed of expeditiously. They would like the Central Board to ensure that the diamonds and stones are kept in safe custody and are duly accounted for and are not stolen, lost or replaced.

.. 8.59. The Committee have been informed that according to the decision of the Government, cut and polished diamonds and confiscate synthetic textiles are to be disposed of by way of re-export out of India. Steps are being taken for arranging re-export of such textiles either in fabric form or after conversion into garments. Cut and polished diamonds are being disposed of by customs Houses for export out of India. The Committee desire that instead of giving general instructions in this regard concrete schemes should be drawn up to re-export textiles and cut and polished diamond and responsibilities assigned to designated officers|collectorates and watch kept by the Central Board on the progress of re-export of these items.

8.60. The Committee have been informed that 35000 confiscated watches are now awaiting disposal with the customs. It has been decided to hand over the confiscated watches to Hindustan Machine Tools but the Hindustan Machine Tools have not yet finalised the detailed working arrangements for disposal of confiscated watches. The Committee desire that the matter should be pursued with the Hindustan Machine Tools and the Committee informed about the outcome in concrete terms.

8.61. The Committee note that according to the procedure for storage of seized and confiscated goods, complete stock verification of all valuables in the Customs Houses is required to be made once in six months. The Committee, however, find from the statement furnished to them that during the period of three years 1976 to 1978, stock verification was done only once in Indore and Poona Collectorates, twice in Delhi and Bhuvaneshwar collectorates and thrice in Vishakhapatnam, Calcutta, Bombay and Patna Collectorates. The Committee are not happy over the non-observance of the procedure by the Collectorates. The Public Accounts Committee in their reports have already drawn attention to these lapses. The Committee desire that it should be the responsibility of the Collectors to ensure that stock verification is done twice a year according to the procedure and the Central Board should through periodic statements, ensure compliance with the instructions issued in this regard. The Committee would like to be informed of the action taken for stock verification in each collectorate within six months.

8.62. The Committee are concerned to find some cases of pilferage and losses of goods in some collectorates during the period 1976—78. In Central Excise Collectorate, Delhi textiles valuing Rs. 1,10,829 were lost. In Central Excise Collectorate Guntur gold valued Rs. 1,09,150 was substituted by three Superintendents and one inspector.

The matter has been investigated by the Central Bureau of Investigation and the case has been referred to Central Vigilance Commission in January, 1979. The Committee would like to be informed of the action taken against the persons concerned in both these cases. The Committee also desire that necessary steps should be taken to tighten up security measures in all Collectorates to ensure that goods in the customs godowns are not lost. For this it is necessary that stock verifications should be done at regular intervals and periodical surprise visits are also made to the godowns by the Senior officers.

CHAPTER IX

AIR CUSTOMS

A. Customs Staff

9.1. There are 4 International Airport in India at Bombay, Calcutta Delhi and Madras. With the introduction of direct flights from and to Gulf countries Trivandrum Airport has also recently joined the category of international ports. It has been stated by the Ministry that the Customs Units at international airports function under the control of Additional Collectors of Customs who work under the Collector of Customs. While at Santa Cruz (Bombay) and Palam (Delhi) there are Additional Collectors exclusively in-charge of the airports, at Madras and Calcutta, the Additional Collector, in addition to the work at the airport looks after the other preventive and anti-smuggling work in the Custom House. Under the Additional Collector of Customs, there are Assistant Collectors of Customs who attend to their duties by rotation. At Bombay and Delhi Airports it is ensured that at least one Assistant Collector is available at the Airport round the clock. Assistant Collector attends to all important flights. Besides this there are Superintendents of Customs who are also gazetted officers working under the Assistant Collector. Each Superintendent of Customs generally supervise the work of 4 or 5 Air Customs Officers. The baggage of the passengers is examined by Air Customs Officers working under the supervision of Superintendents of Customs.

9.2. The Ministry have stated that after 1975 there has been an unprecedented increase in the passengers traffic as also increase in the import and export of cargo by air, specially at Santa Cruz and Palam Airport. While, there were 4 lakhs incoming passengers at Santa Cruz in 1975, the number exceeded 6.35 lakhs in 1977. Similarly at Palam, the figure of incoming passengers has also increased from 2 lakhs to about 5 lakhs. The collection of duty from the baggage of passengers has also increased at a very fast rate from 5.65 crores in 1975 at Santa Cruz Airport, the collection of revenue went upto Rs. 16.77 crores in 1977. At Palam from Rs. 1.82 crores in 1975, it went upto about Rs. 4 crores in 1977.

9.3. The Ministry have stated that with the increase in the number of flights passenger's traffic and collection of duty, there has not been a corresponding increase in the physical amenities and sanction

of extra staff. Though 24 additional posts of Air Customs Officers and 2 posts of Air Customs Inspectors were sanctioned in March, 1978 at Santa Cruz Airport, it is not sufficient to cope with the increase in the work-load. Proposal for extra staff at Santa Cruz Airport as well as at Palam are under the consideration of Government.

9.4. The airports at Delhi and Bombay were constructed long back and are incapable of handling the increase passenger traffic. Some modifications in the Arrival Hall at Santa Cruz have been undertaken. Even after the modifications are completed, the arrival hall at Santa Cruz would be able to accommodate only about 400 passengers while the peak hour traffic is around 800 passengers. In addition, lack of physical amenities like defective air-conditioning at Santa Cruz, absence of snack bar facilities in the arrival hall at Palam and Santa Cruz, inadequate Self-Service Trolleys, insufficient toilet facilities aggravate the difficulties of the passengers. This Department has taken up, at the highest level, with Ministry of Tourism and Civil Aviation as well as the International Airport Authority of India about the inadequacy of space and lack of amenities at the international airports.

9.5. Though the facilities and resources at the disposal of the Customs, particularly, the man power, have not been adequate to cope with the sudden increase in passenger traffic, continuous efforts are made so that the difficulties of passengers are minimised. In order to have a supervisory control of a higher level, Additional Collector of Customs have recently been posted at Palam and Santa Cruz Airports.

9.6. During the visit of the Study Group of the Estimates Committee to the Palam Airport on the 21st December, 1978, the Custom authorities also brought to their notice the difficulties faced on account of the inadequacy of staff. It was stated that proposals for additional staff were under consideration.

9.7. Similarly during the visit of the Study Group of the Estimates Committee to the Trivandrum Airport on 1-2-1979, the Study Group were informed that with the introduction of the direct flights from the Gulf countries to Trivandrum, the incoming as well as the outgoing international traffic had enormously increased. Originally the staff sanctioned for the Air Customs work at Trivandrum was only 2 Inspectors. This was subsequently augmented to 1 Superintendent of Central Excise, 17 Inspectors of Central Excise and 6 Sepoys. The Study Group was told that even this strength was reportedly inadequate for clearance of passengers from the Gulf countries and Colombo. Moreover the diversion of the Excise staff

to the Air Customs affected the excise work adversely. Staff proposals for the augmentation were under consideration. At the Supervisory level also, it was stated that there was need for one full time Assistant Collector for Customs work at Trivandrum and the number of Superintendents had to be suitably augmented for effective supervision over clearance.

9.8. In August, 1977, Collector of Customs, Bombay, asked for further complement of staff to cope with the growth in passenger traffic increase in frequency and size of work and increase in adjudication work etc. as below:—

Air Customs Superintendents	..	44
Air customs Officers	..	243

9.9. The Ministry have further stated that various Collectors at International Airports had been asked to give proposals regarding space and staffing at Airport and also to project the future needs. The proposals have since been received. The data received would be analysed by this Directorate and detailed Field Studies conducted as early as practicable to ascertain the staff requirements and necessary proposals will be made to the Government.

9.10. Regarding physical posting, the Ministry have stated that recruitment of Air Customs Officers has to be done by the Staff selection Commission, who had conducted an examination for this purpose sometimes back and it is expected that they would be nominating candidates for appointments against these posts very soon.

9.11. As regards the question of introducing systematic regular reviews the Ministry have stated that the staff strength at Santa Cruz Airport has already been reviewed consequent upon growth in traffic. Similarly, the staff at Palam is also under review on the same basis. The Ministry has further stated that the procedure for the clearance of International passengers is constantly kept under review and modifications made as and when found necessary to expedite their clearance to avoid undue hardship to them. Since, however, the pattern of traffic, that is to say, proportion of passengers coming from sensitive areas (such as Gulf Countries, Singapore, Africa etc.) and other non-sensitive areas was constantly changing, it was not possible to lay down any rigid norms for working out the requirements of each category of staff with a view to automatic augmentation of the staff strength, in proportion to the increase in the passenger traffic. However, the Directorate of Inspection were exploring ways and means by which ad-hoc augmentation of staff could be possible within certain limitations subject to detailed study by the Directorate of O.&M. Services later on.

9.12. Subsequently the Ministry informed the Committee that as a result of recommendations made by the Directorate of Organisation and Managements Services, Customs and Central Excise the integrated Finance, *inter-alia* had agreed to the augmentation of certain posts in the Air Customs at Bombay, Trivandrum and Delhi as on 31-10-1978 as per details given below:—

Organisation for which recommendations made	Net No. of posts recommended by Directorate of O & MS	No. of posts cleared by integrated Finance
Integrated Air Cargo-complex, Bombay	15	15
Air Port, Bombay	61	26
Escorting jobs, Bombay Custom, House	11	11
Trivandrum Airport	31	22

9.13. Augmentation of staff at the International Airports Santa-cruz and Palam cleared by integrated Finance as on 31-10-1978, are as follows:—

Designation of Post	Present sanctioned strength	Assessed strength on 3 shifts of 8 hours each basis including Leave Reserve	Addition posts required to be created
1	2	3	4
SANTACRUZ AIRPORT			
Air Customs Inspectors (Superintendent of Customs).	21	24	3
Air Customs Officers (Preventive Officers)	200	243	43
PALAM AIRPORT			
Air Customs Inspectors (Superintendent of Customs) .	12	12	
Air Customs Officers (Preventive Officers)	94	124	30

Staff strength at Trivandrum Airport

9.14. Regarding further augmentation of the staff strength a Trivandrum Airport, consequent on introduction of Gulf flights the Ministry have informed the Committee that study for requirement of staff strength for Custom clearance work was taken up for Trivandrum Airport in March, 1978 soonafter the diversion of gulf traffic from Bombay to Trivandrum. Recommendations were made for the creation of the following staff which would be independent of the assistance of Central Excise Department:—

Assistant Collector	1
Superintendent of Central Excise	1
Inspector (Central Excise)	18
Stenographer (OG)	1
Sepoys	10

9.15. The recommendations were accepted in part and one post of Superintendent, 15 posts of Inspector and 6 posts of Sepoy were sanctioned by the Board. Even this was not found to be enough. Another study was made in December, 1978. On studying the working conditions at Trivandrum Airport, the following posts have been recommended for sanction in addition to those already in position—

Assistant Collector	1
Superintendent (Central Excise)	1
Appraiser	1
Inspector	2

The proposal for creation of these posts is under consideration.

9.16. As regards the staffing of the Air Cargo complex at Trivandrum, the Committee have been informed that proposal for having an air cargo complex at Trivandrum has been accepted in principle. The following additional posts have also been sanctioned.

Assistant Collector	1
Superintendent (Central Excise)	1
Appraiser	1
Inspector	2

9.17. The posts of Assistant Collector and Appraiser will be common for Air Port and the Air Cargo Complex.

9.18. During evidence the representative of the Ministry of Finance informed the Committee on the 5th March, 1979 that in pursuance of the objectives announced by the Minister of State for Finance of clearing the passengers within the time-limit of half an hour, the Directorate of O&M and the staff Inspection Unit were jointly conducting a study at Bombay and Delhi and that the full man-power requirement would depend upon the findings of that study. In the case of Trivandrum Airport he added that the Collector had already deployed some Staff from his internal resources. The Directorate of O & M had recommended a total requirement of 31. We took into account the deployment of staff already there and therefore gave the net addition which worked out to 22.

9.19. On the question of growth of traffic at Bombay between 1975 and 1978, the witness added that:—

“There has been a considerable growth in traffic, and that is why the number of counters has been increased. We are today manning about 34 counters taking into account the present traffic. Even that may be inadequate, and that is why the present joint study by the Directorate of O & M and the Staff Inspection Unit is being carried out. We are awaiting their report. I may also add that, on 1st January, in consonance with the new policy, we have introduced an additional shift in Santa Cruz Airport and Palam Airport, so that the customs officers, who were working 12 hours at a stretch, now work eight hours at a stretch. So, some additions have been made pending the study which is now going on.”

9.20. Elaborating the point further another witness of the Ministry of Finance stated:—

“Another 43 posts have been sanctioned for providing the third shift. The proposal is for 243 additional hands which is to implement the special procedure which was introduced with effect from 1st January. It is in this context that a joint study by the Directorate of O & M and the Staff Inspection Unit is going on, and in the light of the final conclusions which will emerge, we will augment the strength.”

9.21. The Committee note that there has been phenomenal increase in passenger traffic and import and export cargo by air specially at Bombay and Delhi Airports. The number of incoming passengers has increased from 4 lakhs in 1975 to 6.35 lakhs in 1977 at Bombay airport and from 2 lakhs to 5 lakhs at Delhi airport. Similarly the

collection of duty from baggage has also increased from Rs. 5.65 crores in 1975 to Rs. 16.77 crores in 1977 at Bombay and from Rs. 1.82 crores to Rs. 4 crores at Delhi. But there has not been a corresponding increase in the physical amenities and staff to cope with the increased passenger traffic and collection of duty. However in order to have a supervisory control at a higher level, additional Collectors of Customs have recently been posted at Delhi and Bombay airports. According to the Ministry the various Collectors at International airports were asked to give proposals regarding space and staffing at airports and also to project the future needs. In pursuance of the objective announced by the Minister of State for Finance for clearing the passengers within half-an-hour, the Directorate of O&M and the Staff Inspection Unit are reported to be jointly conducting a study at Bombay and Delhi. The full requirement of staff will be determined in the light of this study.

9.22. With the introduction of direct flights from gulf countries to Trivandrum, the staff strength at the Trivandrum airport has been increased. But during their visit to Trivandrum Airport, the Study Group of the Committee were informed that even this increased strength was inadequate for the clearance of passengers. A proposal for further augmentation of staff at Trivandrum Airport is under consideration.

9.23. The incoming passengers are a source of revenue to the Country. The minimum that they expect in return is quick customs clearance which is not too difficult a task if adequate staff is deployed at the International Airports. The Committee find that even after staff studies, the additional staff is not posted expeditiously. The Committee note that another joint study of staff requirements is underway at Bombay and Delhi. The Committee are of the opinion that the staff studies should determine norms with reference to passenger traffic at peak hours and when the traffic grows, the staff strength should be increased automatically according to the norms. It should not be necessary to undertake staff study afresh everytime an increase is reported in traffic. There should be no delay in filling up the additionally sanctioned posts either. The Committee consider that it is the responsibility of the Customs Department to provide adequate staff at airports for clearance of passengers quickly so that the inconvenience caused to them because of delay in Custom Clearance is minimised.

9.24. The Committee find that whereas according to staff studies already made, Directorate of O & M had recommended 61 additional posts for Air Pool Bombay, the Integrated Finance of the Ministry

had cleared only 26 posts. For introducing 3-shift system, Bombay customs also requires 3 more Air Customs Inspectors and 43 more Air Customs Officers; Delhi too requires an additional strength of 30 Air Customs Officers. The Committee feel that where studies already made have established the need for additional staff, the sanctioning and posting of additional staff should not be delayed. The Committee would like to be informed of the progress made in the posting of additional staff.

9.25. The Committee also recommend that the additional staff proposed for Airport Customs unit at Trivandrum and the additional staff sanctioned for Air Cargo Unit there should be posted expeditiously so that the Trivandrum customs can start providing efficient service to passengers and importers/exporters at the earliest.

B. Clearance of Passengers at the International Airports

9.26. A number of non-official organisations in their memoranda submitted to the Committee had stated that there was considerable delay in the clearance of passengers at the various international airports in India. In one memorandum it was stated that "..... passengers arriving by midnight or early morning flights, already groggy with sleep, get justifiably irritated when their baggage is opened piece by piece and the things are scattered all over the customs counter and even ladies accompanied by young children and infants do not receive the consideration....." During the course of the debate on the customs Tariff (Amendment) Bill, 1978 in Lok Sabha, a Member stated ".....one feels' more offended and distressed when one finds that one is treated better abroad, but when one comes back to one's own country, one is treated as a criminal and guilty person and put to all kinds of harassment and humiliation".

9.27. In another memorandum submitted to the Committee it was stated that:—

"There should be simple procedure for clearance of passengers as is being followed by other countries. For an ordinary passenger, it takes at least 2-3 hours to complete the clearance formalities at the Customs. This is not only time consuming, but takes out all the enthusiasm of the passenger while returning here after stay abroad. If the facts are compared, the amount of customs duties that are recovered, at International Airports from the passengers in respect of their packages is quite insignificant as compared to the total establishment charges of the Customs Department at the Airports and accordingly there appears

to be no justification for the rigorous customs formalities at the airports. While Customs should be vigilant about smuggling of contraband articles, it is not necessary to harass each and every passenger. The passengers could conveniently be cleared even if their packages are to be examined within a matter of 10 minutes by an oral examination. Another reason why the passengers are stranded at the airports for several hours is due to the fact that a large number of flights come at the same time and the number of counters for examination are very limited. In such cases it would be better to do only random examination and allow the passengers to go through the Customs as is being done in most of the countries."

9.28. In reply the Ministry stated that:—

"the Customs examination of baggage commences after the Health and Immigration formalities have been gone through and the passenger's baggage has arrived in the baggage hall from the aircraft. Most countries follow two channel system for clearance of passengers. Under this system green channel is for passengers having no dutiable goods and red channel for persons having dutiable goods. In this country because of a separate set of rules for tourists and need to expedite the clearance of their baggage a three channel system has been adopted by introducing an additional channel viz. the white channel for clearance of tourists. The three channel system has helped in expediting the clearance of passengers who do not import goods in excess of the admissible allowance or who do not violate any regulations. In order to avoid delays caused in the clearance of passengers due to simultaneous arrival of number of flights during certain peak hours, the Ministry of Tourism and Civil Aviation are trying to persuade the Airlines to re-schedule the flights to the extent possible."

9.29. Subsequently the Ministry in their note furnished to the Committee stated that since the three-channel system under which tourists were cleared in the white channel caused difficulties for tourists who were used to clearance through the green channel under the two-channel system prevalent at most of the international airports, it was decided to fall in line with the international practices by introducing the two-channel system under which the green channel is meant for passengers including tourists with no dutiable

goods and the red channel for passengers who carry dutiable goods. In order that non-tourists who select the green channel do not hold up the clearance of tourists, the Customs Houses had been instructed that a few counters under the green channel should be reserved at each airports for the clearance of tourists.

9.30. In order to expedite the clearance of passengers, it has been provided that selection of passengers for examination of their baggage should be on a random basis and under the green channel, percentage selection for examination should normally never be more than 25 per cent. Instructions had been issued that passengers selecting green channel found to be carrying dutiable goods should be diverted to the red channel so that there is no hold up in the green channel. Such passengers, where possible, would be dealt with at separate counters in the red channel earmarked for this purpose. These passengers are also dealt with for mis-declaration unless it is clear that selection of green channel was through ignorance or because of illiteracy.

9.31. During evidence the Committee enquired whether a critical analysis of the working of the two channel system at the various international Airports in India had been undertaken and how far in their view it had contributed in expediting the clearance of the tourists and whether the system needed any further streamlining to avoid any harrassment to the tourists. The Ministry in written note have stated that "with the introduction of the two channel system, the pace of clearance of the passengers had considerably improved as would be evident from the table given below:—

Report for the First two weeks after launching of the Drive for Clearance of Air Passengers Expeditiously and with Courtesy (Comparative Figures of 1-week) before 31st December, 1978 i.e. one week before the Drive and thereafter).

Total Number of passengers		No. of passengers cleared through Green Channel		No. of passengers cleared through Red Channel		Average time taken		
I-week after the launching of drive	II-week after launching of drive	I-week	II-week	I-week	II-week	I-week before	I-week after (Per flight)	II-week after
1	2	3	4	5	6	7	8	9

1	2	3	4	5	6	7	8	9
DELHI								
8330	8933	7101	7126	1249	1807	*1-2 mts. (Green) 12-20 mts. (Red)	*1-mts. (Green) 8-15 mts. (Red)	NA
TRIVANDRUM								
776	NA	442	NA	324	NA	*121.5 mts.	*13 mts.	*3 mts to 11 mts.
MADRAS								
1145	1171	669	552	476	619	2 hrs. 14 mts.	1.20 mts.	1.20 mts.
CALCUTTA								
1981	1888	1862	1696	119	192	20 mts.	12 mts.	11 mts.

9.32. From a written note dated 7-2-1979 furnished to the Committee by the Collector of Customs Bombay, it is noticed that the average time taken for clearing passengers was 38 minutes per flight on 31-12-1978 and 28 minutes on 31.1.1979 (after the introduction of two channel system).

Delay in clearance of air passengers cargo sent by air:

9.33. It has been stated in a memorandum submitted to the Committee that "clearance of goods cargo similarly needs to be given the utmost priority because the very purpose of sending cargo by air would be defeated if there were delays in the Customs". "As internal passenger traffic and foreign passenger traffic are tending to increase, it is time that all airports and seaports should modernise their entire system including the reception halls with adequacy of space....."

9.34. In reply the Ministry have stated that the Government had set up an Expert Committee to recommend, *inter alia*, measures for speedy clearance of passengers through Customs. On the basis of the Committee's report the Baggage Rules were revised, with effect from 16-5-1978. The revised rules have had a good effect on the pace of clearance of passengers. Further Assistant Collectors and Customs Superintendents are posted round the clock at all the International Airports for supervision. A system of spot adjudication has been introduced to expedite disposal of adjudication cases.

9.35. In order to expedite the clearance of Air Cargo, integrated Air cargo complexes are being set up by the International Airports Authority of India at the major International Airports. After the commissioning of the Air Cargo Complex at Bombay Airport in 1977 all customs formalities relating to the clearance of air cargo are being completed at the airport itself resulting in considerable improvement in the rate of clearance of both import and export air cargo. At Delhi and Madras also in order to expedite the clearance of air cargo, facilities for completion of all customs formalities have been provided at the airports. At Calcutta, proposal for establishing an integrated cargo complex has been accepted. The requirement of speedy passenger and cargo clearance at airports have been borne in mind in planning the new terminal buildings for Bombay and Delhi airports.

General behaviour of Customs officials:

9.36. During the course of the debate on the Customs Tariff (Amendment) Bill, 1978 in Lok Sabha some Members had complained as present :

- “(i) In various other countries, the methods and manners used by Customs Officers to deal with Passengers are intelligent and smart, and yet very polite and civilised. One feels more offended and distressed when one finds that one is treated better abroad; but when one comes back to one's own country, one is treated as a criminal and guilty persons and put to all kinds of harassment and humiliation.”
- (ii) Unfortunately, when the labour class, the middle class, who had gone out and shed their blood in foreign countries working very hard, come back to India the treatment meted out to them by our beloved officers at the Customs and also the others who are in authority, I mean the people who deal with the appeals of these people—is very bad and pitiable.

9.37. When asked to state as to what action had been taken to revamp the image and streamline the functioning of the Customs and Central Excise Officers with a view to avoiding corrupt practices on the part of officers, the Ministry of Finance have stated that there are adequate arrangements for supervisory and other control in the Customs examination halls at the international airports. At Bombay and Delhi apart from the fact that Airport Superintendents (Gazetted officer) and Assistant Collectors are

posted round the clock, there is an Additional Collector of Customs also posted to ensure speedy clearance and avoidance of difficulties to the passengers. There are also instructions that when for any reason passenger clearance is delayed, passengers should be served refreshments.

9.38. Ministry have stated it was not correct that labour class and middle class persons who have found employment abroad are discriminated against. In the revised baggage rules, the duty-free allowances have been enhanced considerably and the provisions in the old baggage rules which permitted persons of Indian origin normally resident abroad to import goods free of duty as part of their baggage only after they had completed the initial stay abroad for 2 years has been dispensed with. Complaint boxes have been placed in the Arrival Halls and all complaints received are scrutinised for taking remedial action wherever necessary.

9.39. It has further been stated that with effect from 1-1-1979, a drive has been launched to clear international passengers expeditiously and with courtesy. In order to ensure that the passengers are not harassed or inconvenienced announcements are made over the public address system to welcome the passengers and to guide them in selection of proper channel. These announcements also inform the passengers that Assistant Collectors are available to assist them. At each international airport few officers are posted in the arrival hall for assisting the passengers in selection of appropriate channel and rendering guidance and help to them. At Bombay and Calcutta Airports, Assistant Collectors are available round the clock in order to supervise the clearance of passengers and to ensure that no harassment is caused to them.

9.40. In order to know the reaction of the passengers regarding the system of clearance at the airports, the suggestions that they might have for further improvements in the system for clearance of passengers, they are being given printed forms to enable them to record their impression about the speed and manner of clearance and also the suggestions that they might have for further improvements in Customs procedures. The forms are capable of being folded and mailed as a letter addressed to Minister of State, Excise and Customs. From a large number of such letters received after the introduction of drive, it is seen that the travelling public have found that the rate of clearance of passengers and the conditions prevailing at the international airports have considerably improved.

9.41. A Committee of Senior Officers was set up to identify areas, points and *modus operandi* of corruption and remedial measure that could be taken for eradication of corrupt practices in the Customs and Central Excise Departments. The report is being processed further.

9.42. Concerning the allegedly discourteous and rude behaviour by the custom officers the Ministry have stated that specific complaints when received are looked into and remedial action taken whenever warranted. It has also been stated that instructions have been issued to the Airport Officers that regardless of the status, each passenger should be treated with utmost courtesy, politeness and complaint of dis-courtesy be looked into by the senior officers.

9.43. The Committee had received a number of complaints of long delays in the clearance of passengers at the various international airports in India before the new 2-channel system was introduced w.e.f. 1-1-79. A view was expressed by a Member of Parliament in the House that "one feels more offended and distressed when one finds that one is treated better abroad, but when one comes back to one's own country, one is treated as a criminal and guilty person and put to all kinds of harassment and humiliations." It had been suggested that there appears to be no justification for rigorous custom formalities at airports and while customs should be vigilant about smuggling of contraband, items, it was not necessary to harass each and every passenger.

9.44. The Committee have been informed by the Ministry of Finance that with effect from 1-1-1979 a two-channel system (Green Channel for tourists and non-tourists having no dutiable goods to declare and Red Channel for others) for Customs clearance in line with the practice obtaining in other countries was introduced at the international airports in India. With the introduction of 2-channel system the pace of clearance of passengers is reported to have considerably improved. Selection of passengers for examination of their baggages is made on random basis and under the green channel percentage selected for examination is normally not more than 25 per cent. According to the information furnished by the Ministry during the first two weeks after the introduction of the new system, the average time taken for clearance per passenger has considerably come down. In Bombay the average time which was 1-3 hours per flight during one week before the new system, is stated to have come down to 30 minutes during first and second week after the introduction of 2-channel system. In Delhi the average time came down to 1-minute (green) and 8-15 minutes (red) per passenger. In Calcutta

it had come down to 11 minutes and in Madras 1.20 minutes. The figures of average time furnished by the Ministry are in respect of "per flight" for Bombay and "per passenger" for other Airports and as such it is difficult to compare the efficiency ratios at these airports. The Committee would like to be apprised of the average time per passenger in respect of all the international airports.

9.45. It has not been explained by the Ministry as to why the average time in clearing passengers at Calcutta is as high as 11 minutes, per passenger when at Delhi it is only 1 minute (Green channel). The Committee would like the Central Board to look into the matter and improve the situation at Calcutta so as to bring it at par with Delhi.

9.46. The Committee desire that the working of the 2-channel system should be kept under constant watch. The Committee would suggest that figures of average clearance time per passenger should be maintained in respect of each airports separately and periodically compared to see where and why the clearance time is comparatively high and remedial measures taken to keep the efficiency of customs clearance at optimum level.

9.47. A number of complaints have been made to the Committee about the behaviour of customs officers towards the passengers. It has been represented that when not-so-affluent looking Indians come back to India from abroad, they are treated in a "very bad and pitiable manner". It has been stated by the Ministry that in order to ensure that passengers are not harassed or inconvenienced announcements are made over the public address system to welcome the passengers and to guide them in selection of proper channel. These announcements also inform passengers that Assistant Collectors are available in the Customs Hall to assist them. Instructions have also been issued that regardless of the status of a passenger, he should be treated with utmost courtesy politeness and complaints of discourtesy be looked into by the Senior officers. In order to know reaction of the passengers regarding the system of clearance at airports, passengers are being given printed forms to enable them to record their impressions about the speed and manner of clearance and also their suggestions that they might have for further improvements in the customs procedure. There are also instructions that when for any reason passengers clearance is delayed, passengers should be served refreshments. According to the Department there are adequate arrangements for supervision and other control in Customs examination Hall at the International airports. The Committee welcome the instructions issued by the Department to Cus-

toms Officers to treat the passengers courteously and other arrangements reportedly made for the convenience of the passengers. But unless these instructions are carried out in letter and spirit and unless facilities provided in Customs Hall actually made available to the passengers, the image of the customs, which was not very good till some time ago, would not improve. The Committee suggest that while welcoming the incoming passengers into the Customs Hall over the public address system, passengers should also be informed of the salient points of the baggage rules particularly customs free baggage allowance, and repeatedly informed that in case of any difficulty they may meet the Assistant Collector on duty. The Assistant Collector on duty and the Customs Superintendent should, on their own also, meet the passengers at random and offer them advice and help, if it is needed.

9.48. The Committee would also suggest that suggestion form should be given to every passenger whose baggage is opened and checked and the passengers advised to send the suggestions forms, duly filled in, directly to the Collector of Customs in charge of the Airport by post. The suggestion form should be acknowledged on receipt and action taken on the suggestions intimated to the passengers concerned.

C. Baggage Rules

9.49. It was stated by one of the members in Lok Sabha during the course of discussion on the Customs Tariff (Amendment) Bill :

"The Baggage rules must be liberalised. The baggage allowance must be directly proportional to the legal remittances that the passengers have made. When they are coming after one year, may be during the past year, they have sent Rs. 20,000 back home, the baggage allowance must be proportional to the legal remittance endorsed by the Ministry or the nationalised banks."

9.50. Another member during the course of the debate on the Customs Tariff (Amendment) Bill, suggested that baggage rules should be publicised more prominently and more adequately. The Minister of State for Finance in reply to the debate stated "I issued instructions that wide publicity should be given. Let them be in a booklet form and now they are being printed in a booklet form."

9.51. Another suggestion made in the Lok Sabha was that the baggage rules should be attached with air-tickets or ship-tickets so that Passengers will know the baggage rules immediately.

9.52 Another suggestion made to the Committee has been that a copy of the current baggage rules must be given free to each passenger in English and in the case of Indian nationals in any other Indian language which is the passengers mother tongue.

9.53 The Ministry in reply have stated that in the revised baggage rules introduced w.e.f. 16 May, 1978, the allowances for various categories of passengers have been considerably enhanced. However, the suggestion to link the baggage allowances of persons of Indian origin who are resident abroad with the remittances made by them has not been found to be acceptable.

9.54 In order to give wide publicity to the baggage rules, brochures explaining the baggage rules in simple language have been printed and distributed to the Department of Tourism, Air India and Ministry of External Affairs to be sent to the Indian Embassies abroad.

9.55 In another memoranda submitted to the Committee it has been stated that :

- (i) "Our Embassies and Tourist Offices should be able to provide upto-date information on baggage regulations. The concerned staff on steamers and also aeroplanes should be able to assist passengers in making declaration etc., and should be fully conversant with the latest baggage rules."
- (ii) "Some of the passengers, both incoming and out-going may not be in the know of all the items of contraband goods and it has been suggested both in the interest of the passengers as well as the Department that a list of items prohibited entry into the country should be exhibited prominently in Airport lounges and sea-ports. In addition, printed leaflets on the subject may be distributed to the passengers in some foreign countries as in Singapore, notice of prohibited article can be displayed at the Airports."
- (iii) "The goods brought in contravention of Baggage Rules should be allowed to be cleared by them on payment of duty and prohibitive fine which would not leave any scope for making profits on such goods."

9.56 The Ministry in reply have stated that in order to give publicity to the Baggage Rules, brochures explaining the Baggage Rules in simple language have been printed and distributed to the

Department of Tourism, Air India and Ministry of External Affairs to be sent to Indian Missions abroad. Ministry of External Affairs have also been requested to ensure that these brochures are available to Indian Missions in larger number. Instructions are being issued to put up boards in the arrival and departure lounge of the airports and sea-ports mentioning broad features of the baggage rules and listing out items the import of which is not allowed under the baggage rules. As regards the suggestions that the goods imported in contravention of Baggage Rules should be allowed to be cleared on payment of duty and prohibitive fine, it has been pointed out that this in fact is the position since in cases where large quantity of goods in excess of the admissible allowances are imported, indicating the likelihood of diversion of goods into trade channels, prohibitive fines and even penalties are imposed. In suitable cases even absolute confiscation is resorted to.

9.57. During the visit of the Study Group of the Estimates Committee to the Palam Airport on the 21-12-1978, the Study Group came to know that the incoming tourists did not have any clear idea of the baggage clearance rules in vogue in India. The Committee enquired whether Government had made any study to find out whether the incoming and outgoing tourists (Indians and non-Indians) get information about the tourists baggage clearance rules in vogue in India, before entering or leaving India and what arrangements had been made by the Customs Department to disseminate information about the customs clearance rules for the benefit of tourists in India and abroad.

9.58. In reply to the Ministry have stated that though no special study has been made in this regard, all necessary steps have been taken to keep tourists and other passengers duly informed of the baggage clearance rules in vogue in India. Booklets explaining the provisions of the Baggage Rules, Tourists Baggage Rules and the Transfer of Residence Rules in simple language have been distributed to the Tourist Department for circulation to persons intending to visit India. Similarly such booklets have been dispatched to our Embassies and Missions abroad for circulation among intending passengers and tourists through the Ministry of External Affairs. The Customs Houses have also been asked to furnish copies of the Baggage Rules to members of the public on a nominal charge. The gist of the regulations are also displayed in the arrival halls and Customs Officers have been instructed to render all necessary help and information to passengers.

9.59. During their tour to Trivandrum in January, 1979, the Study Group of Estimates Committee talked to a number of incoming international passengers from Dubai in the Customs Hall. They were told by the passengers that they had no authentic information about the baggage rules, old or new. All that they know was from the newspaper reports published from time to time. Neither the Indian Mission nor Airlines nor Travel Agencies gave them any information about the baggage allowance.

9.60. Subsequently on the question of giving a copy of the current baggage rules free to each passenger and their translation into regional languages, the Member (Customs) during evidence on 3rd March, 1979 also stated:—

“.....suggestion is very good. We have already done something on these lines. We have already arranged with Air India and so also with some of the other Airlines that these printed rules will be made available to the passengers when they buy tickets abroad for coming over to India and it will be made available to them at that time. Then I have also had discussions with the Director-General of Tourism on this point so that these rules will be made available for free distribution. These will be available to the intending tourists who come to India. These will be translated in the regional languages and for tourists in some of the foreign languages also. With regard to this distribution and on a very extensive scale, we will do everything that is possible. So far as the implementation part is concerned, we hope that there will not be any complain that the passengers were not aware of these rules, because this has already been in the implementation.”

9.61. The Committee note that in the revised baggage rules introduced from 16th May, 1978 the baggage allowances for various categories of passengers have been enhanced. It is stated that in order to give wide publicity to the baggage rules, brochures explaining these rules in simple language have been printed and sent to the Department of Tourism and Ministry of External Affairs for supply to tourists through Tourist Offices in the Indian Embassies abroad. During on-the-spot study visits to Delhi and Trivandrum airports, the Committee were distressed to find that inspite of these steps reported to have been taken, the incoming tourists and passengers had no clear idea about the baggage rules in vogue in the country. The Committee desire that a gist of baggage rules should be made available to the

(1) the Indians going abroad by Airlines, travel agents etc. when they buy air tickets in the country before they leave, and (2) the foreigners/ tourists by our embassies, Tourist offices and Air India offices abroad. If information about baggage rules is not available to incoming passenger well before the commencement of the air journey, the passenger is likely to be put to a great inconvenience which can be avoided only by a systematic and timely dissemination of information in this regard.

9.62. It is stated that the Department propose to have these rules translated in regional languages and some foreign languages. The Committee desire that this should be done without loss of time and copies of the rules in foreign and regional languages should be made available to all those who may express a desire to have them.

D. Expansion of the International Airports in India and building of new terminal buildings at Santacruz, Delhi and Madras Airports

9.63. The Ministry have stated that after 1975 there has been unprecedented increase in the passengers traffic as also the increase in the import and export of cargo by air, specially at Santa cruz and Palam Airport. While there were 4 lakhs passengers at Santa cruz in 1975, the number exceeded 6.35 lakhs in 1977. Similarly at Palam, the figures had also increased from 2 lakhs to about 5 lakhs. The present traffic at Delhi Airport by 1978 end was about 11 lakhs per year and this was going to increase @ 12 per cent annually.

9.64. It has been stated that:—

“The number of counters that can be placed in the arrival hall for examination of the baggage depend on the availability of the space. The need for augmenting the space in the Customs enclosures at the various international airports, keeping in view the likely increase in the passenger traffic, during the next few years has been fully appreciated by the International Airports Authority of India and they have carried out certain modifications in the arrival hall at Santa Cruz International Airport so as to make available some more space for customs. The International Airport Authority of India have informed that it is not possible to carry out any further modifications to the existing terminal buildings at Santa Cruz and Palam. International Airport Authority have, however, assured that in the proposed new International Airport terminal complexes at Bombay and New Delhi the Customs requirements will be met as far as possible.”

9.65. It has been stated by the International Airports Authority of India that they have prepared feasibility reports for construction of Phase-II of the passengers terminal complex at Bombay (Rs. 16.04 crores), New International passenger and cargo terminal complex at Delhi Airport (Rs. 43.67 crores) and new domestic terminal complex at Madras (Rs. 9.17 crores) and these feasibility reports have been submitted to Government in February, March and August, 1978 for their approval. These proposals also provide for adequate accommodation for Customs Area to cope with the increasing traffic.

9.66. The Committee enquired as to when the approval of the Government was likely to be accorded to these proposals and what they propose to do to avoid serious difficulties in this regard in Mid 80's. In reply the Ministry have stated that keeping in view the existing passenger traffic, the space available at existing airport terminals, particularly at Bombay and Delhi was totally inadequate. Keeping in view the projection of traffic at these airports, during the next few years and also the fact that there is not much scope for further extension or modification of the existing terminal buildings, steps will have to be taken to provide additional space either by sanctioning the construction of new terminal at Bombay and Delhi airport, for which the feasibility reports have been prepared by I.A.A.I. or by considering other alternative. The construction of the first phase of the new terminal complex has been taken in hand by I.A.A.I. As the space that will be available in the first phase of the international terminal complex at Bombay, which has been sanctioned will not be adequate to meet the requirements of the various agencies concerned with the clearance of passengers, the International Airport Authority of India are reported to be considering the question of setting up a Gulf Terminal in the existing Air Cargo Complex at Bombay Airport to provide an additional space of about 80,000 sq. ft. Since the Gulf Terminal would be in the nature of a temporary arrangement and would not provide all the necessary facilities and amenities which should be available at any modern international airport and also keeping in view the likely volume of the traffic during the next few years, it appears that sanction of Phase-II of the Passengers for other international airports will have to be given serious consideration.

9.67. Subsequently the Ministry informed the Committee that the stage of consideration of the feasibility report in respect of Delhi, Bombay and Madras airports is as follows:—

- (i) **Bombay Airport (Phase-I):** This project was sanctioned in 1976 at an estimated cost of Rs. 11.00 crores. The revised estimates of the project (Rs. 16.79 crores) has been approved

by the Public Investment Board in its meeting held on 22nd February, 1979. The facilities are expected to be commissioned by mid 1980.

- (ii) Bombay Airport (Phase-II): (Capital cost: 14.89 crores) the feasibility report has been circulated to the appraising agencies in May, 1978.
- (iii) Planning Commission's appraisal report has been received in January end. The PIB Memorandum from the Ministry of Tourism and Civil Aviation is yet to come.
- (iv) Delhi Airport (Phase-I): Capital cost Rs. 43.67 crores). The feasibility report has been circulated in September, 1978, Planning Commission Appraisal report has been received in January end. PIB Memorandum from the Ministry of Tourism and Civil Aviation is yet to be received.
- (v) Madras Airport (Phase-I). (Capital cost Rs. 8.25 crores). The feasibility report has been circulated in February 1979 and is under scrutiny by the appraising agencies.

9.68. Against an outlay of Rs. 9.65 crores for 1978-79, an outlay of Rs. 16.00 crores has been provided for 1979-80, for IAAI, out of which Rs. 10.04 crores are for these International Terminal Complexes.

9.69. On the question of setting up an institutionalised body to achieve coordination between I.A.A.I., and Customs and the other concerned authorities on one forum the Ministry have stated that at each of the major international airports, Facilitation Committees headed by the Director, International Airport Authority of India had been set up. On these Committees, representatives of Customs, Immigrations Health and other agencies concerned with the clearance of passengers are represented. A High Level Facilitation Committee has also been set up under the Chairmanship of Secretary, Ministry of Tourism and Civil Aviation. On this Committee the Department of Revenue is represented by Member (Customs).

9.70. The Committee have been informed that the need for augmenting the space in the custom enclosures at the various international airports keeping in view the likely increase in the passenger traffic during the next few years has been fully appreciated by the International Airport Authority of India (I.A.A.I.) and they have carried out certain modifications in the arriving hall at Bombay International airport so as to make available some more space for Customs. According to the Authority it is not possible to carry out any further modi-

fications to the existing terminal building at Bombay and Delhi. The International Airport Authority of India have, however, assured that in the proposed new international airport terminal complexes at Bombay and New Delhi, the customs requirements will be met as far as possible.

9.71. The I.A.A.I. have prepared feasibility reports for new terminals at Bombay and Delhi airports. The construction of the first-phase of the new terminal complex at Bombay has been taken in hand. Phase-I is expected to be commissioned by mid 1980. The feasibility reports for construction of second-phase have been prepared and sent to Government for approval. As the space that will be available in the first phase of the international airport terminal complex of Bombay will not be adequate to meet the requirements of the various agencies concerned with the clearance of passengers, the International Airport Authority of India are reported to be considering the question of the setting up a Gulf Terminal in the existing Air Cargo Complex at Bombay airport to provide an additional space of about 80 thousand sq. feet. The Gulf Terminal would be in the nature of temporary arrangement and would not provide all the necessary facilities and amenities which should be available at any modern international airport. The Committee desire that the Department should ensure that at least basic amenities are provided in the proposed Gulf Terminal.

9.72. The Committee hope that the construction of first-phase of the terminal building would be completed according to the time-schedule laid down for this purpose to provide some relief to the passenger at Bombay Airport.

9.73. The Committee are informed that feasibility reports for expansion of Terminal Complexes at Bombay (Phase-II), Delhi (Phase-I), and Madras (Phase-I) have been under consideration of Government since last year. The space available at present at these airports, particularly at Bombay and Delhi air terminals is reported to be extremely inadequate and the position is sure to become more acute in the future with the growth in traffic which is taking place at fast pace. In view of this, the need for expeditious clearance of feasibility reports cannot be over emphasized. The Committee would like Government to take speedy action on the feasibility reports in the interest of relieving congestion at the International airports.

E. Amenities and Facilities to Passengers

9.74. The Ministry have stated that the international airports are under the International Airport Authority of India (IAAI) who

are responsible for the facilities to be provided to the passengers. All the International Airports in the Country have lounges with seating arrangements for passengers waiting to be cleared through customs. The airports lounges are airconditioned. The basic amenities such as toilet facilities, cool drinking water have been provided. Self-service trollies are also provided to enable the passengers to transport their baggage from the conveyor belt to the examination counters. Snack bar/canteen facilities are available within the enclosure or within easy reach of the passengers. Soft drinks/snacks at government cost are provided by the customs to the passengers whose clearances is delayed due to some reasons.

9.75. Complaint books/suggestion boxes are kept at all the Airports. However, the complaints received from passengers are rarely on account of lack of amenities.

9.76. The Committee was informed that the collectorates at major Customs Houses have been asked to undertake a Survey of the existing amenities and facilities at the airports such as effectiveness of air-conditioning plant, availability of soft drinks and snacks etc. It has been reported by the collectorates that they have conducted such surveys and have taken up the matter with the Airports Authority at the respective airports. On being asked to furnish copies of each of the surveys undertaken, the Ministry have stated that on the basis of the studies regarding the available amenities and facilities at the international airports, the concerned Collectors have been taking up the question of providing additional facilities and amenities with the concerned Directors of the International Airport Authority. Reports in regard to such survey carried out by the Custom Houses are being obtained from the concerned Collectors and will be submitted to the Committee. Copies of the survey had, however, not been furnished to the Committee till the finalisation of the report.

Provision of Physical Amenities at the International Airports. . .

9.77. It has been stated that:—

“Airports at Delhi and Bombay were constructed long back and are incapable of handling the increased passenger's traffic....In addition lack of physical amenities like defective air-conditioning at Santa Cruz, absence of snack bars facilities in the Arrival Hall at Palam. Insufficient toilet facilities aggravate the difficulties of the passengers. This department has taken up at the highest level that the Ministry of Tourism and Civil Aviation as well

as the International Airport Authority of India about the inadequacy of space and lack of amenities at the international airports."

9.78. In another memorandum submitted to the Committee it has been stated that:—

"....arrangements for receiving and placing the baggage of passengers for each and quick examination are inadequate, and the provision of hand trolleys on which passengers could place their baggage and move to the counter for examination is conspicuous by its absence."

9.79. In reply the Ministry have stated that about the shortage of self trolleys, the International Airports Authority was looking into the matter so that sufficient number of trolleys were provided. The Secretary, Ministry of Civil Aviation added during evidence that baggage trolleys at Bombay were being added in a phased manner and at Delhi additional trolleys will be provided. Elaborating further the Chairman International Airport Authority added that:

"About trolley, the position is this. In Bombay the problem is about limited space, particularly in view of the gulf passengers. They carry 5 to 10 baggages with them. We provide 100 trolleys in the central area. Their serviceability has gone down to as low as 50 per cent. We have placed orders for another 50 of them which will be installed in another six week's time."

9.80. Asked to state why the trolleys were not working to full capacity, the witness stated:—

"It is made of steel wheels. It is due to the load on the bearing that it breaks down. The load capacity was calculated on a load factor ranging between 20 to 30 Kg. In Bombay, the load factor ranges from 40 to 80 Kg. That is position."

9.81. Asked to state whether with better experience, the design could not be changed, the witness added:—

"That is being done. The new things which we have ordered will take this factor into account. They are in the process of being supplied.".....

Within 6 weeks, the position will ease when the new types which have been ordered arrive there. These ball-bearings and wheel structures are not being made on a large scale, as this is not required for any other sector. What all we see to-day are the types of trollies used at Railway Stations."

9.82. With regard to the working of the Air-conditioning system and toilet facilities etc. at Bombay and Delhi Airports, the Secretary, Ministry of Tourism and Civil Aviation, during evidence stated:—

"As regards insufficient airconditioning capability at Bombay, an air-conditioning plant of 525 tonne capacity is being added to the existing system. This is likely to be completed within this year, that is 1979.

In Delhi, also a plant of similar capacity is to be installed, which will be completed by about 1980.

In regard to insufficient toilet facilities at Bombay, it is proposed to provide additional toilet facilities when the existing hall is expanded.

At Delhi toilets are adequate but are located in front of the health and immigration areas. Therefore, it is realised that passengers have to back-track the same area to reach the toilets. In the extended hall the toilets shall be provided in the customs area so that the necessity of back-tracking is done away with.

Regarding insufficient waiting space for passengers, the position is this. At Bombay, the waiting space will be increased. Additional seats will be provided when the existing hall is expanded.

In Delhi also waiting space will be increased in the arrival hall."

9.83. Asked how coordination is maintained between the Customs and I.A.A.I., the Ministry have stated in their note that Facilitation Committees have been set up for considering issues relating to passenger clearance at the major international airports. On these Committees various agencies such as the Customs, Immigration, Health I.A.A.I and the airlines are represented. At the higher level, coordination between the Customs and the International Airport Authority of India is maintained, since Member (Customs) is one of the Members of the I.A.A.I. Board.

9.84. On the High Level Facilitation Committee which has been set up under the Chairmanship of Secretary, Department of Tourism and Civil Aviation, the Customs are represented through Member (Customs).

9.85. The Committee regret to note that not only space is inadequate in the arrival halls at international airports but even some basic amenities required by the passengers are also lacking. The air-conditioning at Bombay Airport is inadequate. There was absence of snack bar facilities in the arrival hall at Palam. Insufficient toilet facilities aggravate the difficulties of passengers. It has also been complained that the hand trollies in which passengers can move their luggage to the counters for examination are not only inadequate in number but also defective. The Customs should look into the number and condition of trollies at each airport without delay and ensure that adequate number of trollies in fit condition are always available for the use of passengers.

9.86. The Committee have been informed that collectors at the major Customs Houses had been asked to undertake the survey of the existing amenities and facilities at airports such as effectiveness of air-conditioning plants, availability of soft drinks, snack bars, self service trollies etc. These survey reports have been received and the matter has been taken up with the Airport Authority at the respective airports. The Committee feel that it is the responsibility of the Customs Department to ensure that all necessary amenities are provided to the incoming passengers in the Customs Hall. The Department should provide sufficient number of chairs for the passengers particularly for women with infants at points where they have to stand in queues for immigration and Customs clearance. The Department should also provide adequate number of toilets at the appropriate place and make available drinking water in the Customs Hall—the two basic facilities needed by passengers after long journey.

9.87. It should also be ensured that baggage is brought from the aircraft to the conveyor belt in the Customs arrival hall as quickly as possible. In case of delay in the arrival of baggage the customs officers should immediately get in touch with the representatives of the airlines concerned and sort out the difficulties.

9.88. The Committee note that Facilitation Committee have been set up for considering issues relating to passenger clearance at the International airports. On these Committees, various agencies such as Customs, Immigration, Health, International Airport Authority and Airlines are represented. On the high level a Facilitation Committee has also been set up under the Chairmanship of Secretary, Department of Tourism & Civil Aviation with Member (Customs) as one of the members. The Committee hope that the Facilitation Committees at the airports keep amenities provided and required at the airport under careful watch and ensure that the basic needs of the passengers are met in full measures.

CHAPTER X

LAND AND SEA CUSTOMS

10.1. India has international land frontiers with Pakistan, Bangladesh, Nepal and Burma. With a view to facilitate the movement of the goods as well as the passengers by road or by rail or by riverine routes, certain places have been declared as the land customs stations through which such movement can take place.

A. Working of Land Customs Station on the Indo-Bangladesh Border.

10.2. The land customs stations on the Indo-Bangladesh border fall in the jurisdiction of two Collectors namely, Collector of Central Excise, West Bengal, Calcutta and Collector of Central Excise, Shillong. There are in all 51 notified land customs stations on the Indo-Bangladesh border of which 22 are on West Bengal-Bangladesh border in the jurisdiction of Collector of Customs and Central Excise West Bengal, Calcutta and 29 on Assam-Bangladesh border in the jurisdiction of Collector of Customs and Central Excise, Shillong. Out of 22, 10 units are defunct and there is neither any passenger traffic or any movement of goods through these land customs stations since a long time. The total number of functioning land customs stations is only 12. Though the rail link between India and Bangladesh through the customs stations at Radhikapur, Gitaldih, Gede etc. is existing, movement of passenger traffic by rail has not yet been opened. The rail movement is confined only to goods traffic. Different rail routes from Calcutta to Bangladesh and vice versa are also being used for carrying cargo traffic only. Continuous movement of the passenger traffic by road through the Land Customs stations is facilitated. The passenger traffic in either direction consists mainly of Indian and Bangladesh nationals.

10.3. The average time taken to inspect the passengers baggage is about 20 minutes to half an hour. 13,500 passengers are cleared per month through Customs stations under the West Bengal Collectorate. The major portion of the passengers (average 350 per day) is cleared through one station only viz. Petrapole Road under the charge of Collector of Central Excise (West Bengal), Calcutta. It has been stated that considering the traffic movement through the Land Customs Stations on Indo-Bangladesh border, the staff is working at optimum efficiency.

B. Working of Land Customs Stations on Indo-Nepal Border

10.4. It has been stated that unlike Indo-Bangladesh or Indo-Pakistan there is open border with Nepal. The movement of passengers between India and Nepal does not require any Visa or Passport. At present, there are 21 land customs stations notified on the Indo-Nepal border for purposes of mutual trade between the two countries. These routes have been agreed to in the Treaty of Trade entered into between the HMG of Nepal and the Government of India which came into effect from 25-3-1978.

10.5. The 21 Land Customs stations have been notified for clearance of goods:—

- (a) which are imported into India from Nepal or exported from India to Nepal and which are:—
 - (i) liable to duties of customs or cess; or
 - (ii) subject to import restriction or export restrictions as the case may be;
- (b) which are exported from India to Nepal and which are entitled to rebate of duties of customs and duties of excise.

10.6. Out of the 21 land customs stations, two land customs stations fall under the jurisdiction of the Collector of Central Excise, West Bengal, Calcutta and the remaining under the jurisdiction of Collector of Customs (Preventive), Patna. Certain categories of Nepalese goods have been exempted from customs duties subject to the fulfilment of the conditions.

10.7. There is free movement of passengers between the two countries. Neither visa nor passport is required. However, the Baggage Rules of 1978 and the Tourist Baggage Rules 1978 do not apply to Indians returning from Nepal and Tourists of Nepalese origin coming from Nepal. Import of third country goods as baggage is prohibited. However, passengers coming from Pokhara or Kathmandu by land are allowed to bring third country goods which can be considered as ordinary items of baggage upto Rs. 200/- in value on payment of duty only. The average time taken in checking the passengers baggage is about 10 to 15 minutes.

C. Working of Land Customs Stations on Indo-Burma Border

10.8. Two Land Customs Stations are notified on the Indo-Burma Border. There is, however, no movement of passengers and goods traffic.

10.9. With regard to provision of facilities to passengers, it was stated that "the arrangements at some Land Custom Stations on Indo-Bangladesh border and Indo-Nepal border, are not satisfactory". When asked as to what steps the Government have taken or propose to take to provide adequate facilities to passengers at Indo-Bangladesh border and Indo-Nepal border, the Ministry have stated that the existing facilities at some of the Land Customs Stations on the Indo-Nepal and Indo-Bangladesh borders may not be considered to be quite adequate. This is primarily because suitable buildings having adequate provision of facilities to the passengers near the border are not available. However, as far as the Indo-Nepal border is concerned, land has already been acquired by the Department at some of the Land Customs Stations for construction of suitable buildings and due regard is being given to passenger amenities in the building plans.

10.10. So far as the Indo-Bangladesh border is concerned, a major portion of the passenger traffic passes through the Petropol Land Customs Station. The Ministry of Home Affairs, Government of India, have already taken suitable steps through the Government of West Bengal for construction of a composite building at the Petropol Land Customs Station which would house all concerned agencies such as Immigration and Customs with adequate provision for required passenger amenities.

10.11. Elaborating the position, regarding the Indo-Bangladesh Border, the representative of the Central Board of Excise and Customs stated during evidence:—

"With regard to the Indo-Bangladesh border, there are 15 land customs stations, but many of them are actually dormant. The important station on this border is Petropol. There, we have provided certain basic amenities for the staff; we have got certain quarters built and we have gazetted officers posted there. The total number of passengers that get cleared through Petropol every year is 1.1 lakh."

10.12. The witness added that:—

"At Dawki, Assam, the position is not bad, in Tripura also the position is not that bad as at some other stations. At Petropol, there are 270 passengers a day. It is not as if a

train load or a bus load comes. They keep on coming at an average kind of flow from 6 a.m. to 6 p.m. There is no hold-up really as such, although we very much wish that we could provide them better facilities..... The need for additions facilities is certainly there."

10.13. About the Indo-Nepal border, the witness stated:—

"We do not have proper buildings, proper examination centres. We do not have been adequate number of houses for staff. we cannot call it even an examination hall for the passengers; sometimes they are just open spaces. There is certainly room for improvement and we will certainly devote attention to this question."

D. Working of land customs stations at Indo-Pakistan Border

10.14. On the Indo-Pakistan frontier, only three land customs stations are functioning, namely, Attari, Attari Railway Station and Amritsar Railway Station. As far as Attari land customs station is concerned, the clearance of passengers by road as well as import of few commodities by road are handled, such goods being fresh and dry fruits from Afghanistan.

10.15. Two types of passengers are cleared through this land customs station, namely, international passengers and passengers from Pakistan coming to India or vice-versa, known as Indo-Pak passengers. The baggage of passengers to and from Pakistan is cleared under the Indo-Pak Baggage Rules, 1955, which were agreed to on reciprocal basis between India and Pakistan. The international passengers are cleared under the Tourist Baggage Rules 1978. A chart showing the extent of passengers traffic both incoming as well as outgoing is given below:—

Year	OUT GOING				IN COMING			
	Tourist	Indo-Pak	Total	Vehicles imported under carnet de passage	Tourist	Indo-Pak	Total	Vehicles
1975	29161	10622	39783	1815	33789	12317	46106	2213
1976	29033	17918	46951	2186	33132	16564	49696	2819
1977	25962	10294	36256	1697	31184	7887	39071	2423

10.16. The land customs station at Attari Railway Station handles only passenger traffic by rail. The rail link between India and Pakistan which had been snapped after 1965 Indo-Pak conflict was re-established in July, 1976. Though the incoming passengers are cleared at Attari railway station, they come to Amritsar railway station by

the same train for further destinations in India. Similarly, though the passengers proceeding to Pakistan are cleared at Attari railway station, they have to embark at Amritsar Railway Station. This causes inconvenience and hardship both to the passengers as well as staff of various concerned departments and the matter has been taken up with the Ministry of Home Affairs and Ministry of External Affairs for shifting the clearance facilities from Attari Railway station to Amritsar Railway Station. The position indicating the passengers traffic through Attari Railway Station is shown below:—

Year	OUT GOING			IN COMING		
	Indo-Pak Passenger	Tourist	Total	Indo-Pak Passenger	Tourist	Total
1976	9,700	3,510	13,210	14,732	5,102	19,834
1977	43,379	11,179	54,558	39,652	14,359	54,011

10.17. Cargo traffic between India and Pakistan is presently moving only by rail. Customs clearance facilities in respect of the import and export cargo from and to Pakistan are provided at Amritsar Station. After examination of the export cargo at Amritsar, the wagons are sealed and the seals are checked by Customs Officers at Attari Railway Station before the wagons move to Pakistan.

10.18. Average time taken for the clearance of passengers by road is about half an hour. This is because a large number of such passengers are tourists coming by their private cars and documents and details of the cars have to be checked. As regards passengers by rail, all the passengers are cleared within the time of the Scheduled halt of the train at Attari Railway Station which is about two hours.

10.19. It has been stated that one of the irritants in the clearance of the passengers on the Indo-Pak border is the application of Indo-Pak Baggage Rules which were agreed to on a reciprocal basis between India and Pakistan as early as 1955. A review of these rules is under consideration in consultation with the Ministry of External Affairs and the Government of Pakistan. The revision of baggage rules will go a long way in minimising the difficulties faced by the Indo-Pak passengers.

Land Customs at Indo-Pakistan Border, Attari

10.20. In June, 1978 a Study Group of the Estimates Committee visited the Attari Railway Station when Lahore-bound train had just arrived. It was noticed by the Study Group that the passengers were getting down with their bag and baggage for customs immigration clearance for which the train halts there for over 2 hours. A passenger perforce had to wait for about 2 to 2½ hours irrespective of the fact whether he goes through the customs and emigration formalities first or last. The passengers then carried their luggage with or without the help of the porters who charge high rates to the customs counters situated at the other end of the platform. After clearance they re-loaded their luggage in the train. The whole process took over 2 hours. It was felt by the Study Group that the existing arrangements was not only time consuming but also caused great hardship both physical as well as financial to a large number of passengers.

10.21. The Attari Railway Station was partially covered with shed which was too high to give adequate protection against strong wind or rain. There was also no lounge where an intending immigrant whose papers might be found incomplete or defective on examination could be kept till his return by train the next day. At present such persons were reportedly kept waiting on the open platform.

10.22. The Study Group also noticed that:—

- (i) Tourists and other people crossing the Indo-Pak border (not in their own vehicles) have to walk nearly 200 yards with their baggage to reach the check post. Even if porters are available for carrying the luggage it is highly inconvenient to them especially in hot weather and rainy season;
- (ii) The building in which the customs check post is housed is out-moded. Customs counters are of old design and hinder prompt examination and smooth movement of luggage. The existing customs complex was built long time ago when the international border was closer. Since the shifting away of the border there was need to shift the present customs complex near the present border to avoid inconvenience to the tourists and other immigrants.

10.23. The Study Group also felt that the Immigration and Customs Check Posts could be shifted from Attari Railway Station to

Amritsar as was the case in the past. They felt that pending shifting of the Customs and other check posts to Amritsar, the following arrangements could provide relief to passengers to some extent:—

- (i) The train may halt in front of the customs counters (at present the train halts away from the Counters) where the passengers may unload their luggage and the train may thereafter be shunted away as at present.
- (ii) After the passengers get customs clearance and go through immigration formalities the train may be brought back in front of the customs counters and passengers allowed to re-load their luggage and board the train.

10.24. The aforesaid observations were communicated to the Ministry of Finance, in July 1978.

The Committee were informed that these suggestions would be examined. The Committee were not informed of the outcome of the examination.

10.25. Asked to state the remedial action taken by the Ministry in the matter, the Ministry have stated that the clearance of passengers by rail to and from Pakistan at the Attari Railway Station no doubt involves some inconvenience to the passengers. While every efforts is made to provide expeditious customs clearance, the passengers in either direction have to get down for clearance and the after to re-board the train. In regard to the outgoing passengers, an attempt was made to carry out the baggage check in the train itself on an experimental basis for a day. This had to be given up because of various practical difficulties. The best course appears to be to have the clearance arrangements at the Amritsar Railway Station instead of at Attari. The views of the Ministry of Home Affairs in this matter are still awaited. The Ministry of External Affairs, however, propose to discuss this matter in an inter-ministerial meeting when this Department would press for shifting the arrangements to the Amritsar Railway Station.

1026. The Ministry of Finance subsequently also informed the Committee that the Ministry of External Affairs have no objection to the shifting of the clearance facilities from Attari Railway Station to Amritsar Railway Station.

10.27. Explaining the position about Indo-Pakistan border, the representative of the Central Board of Excise and Customs stated during evidence:—

“So far as Attari is concerned I would like to say that this is the best land customs station in India. The study team has expressed dissatisfaction with regard to the arrangement. Valuable suggestion has been received from them.

There are no other special problems except what the study team has pointed out.

One is the distance that the passengers have to walk. That is 200 meters. They have to carry bags. For this the proposal is at an advanced stage for building a new composite building, where the customs, and other agencies could be put together. But still there will be 50 meters that will have to walk. The distance between the two gates is 30 to 40 meters.....

With regard to rail traffic the difficulty arose because there is one up train and one down train. All the passengers clearance has to be concentrated within the time available. The study team has made a useful suggestion—from the outgoing trains the passengers baggage need not be off-loaded and examination should be done in the train. This is a very good suggestion.

10.28. With regard to the suggestion that the train could be stopped in front of the customs counter the witness added:—

“Immigration authorities have their own records which are very secret. They are kept behind their desks, to see whether the person is on their list or not, those records they cannot carry into the train.

Once the baggage is unloaded in front of the Customs counter, the immigration counters are at a distance. The passengers would insist on carrying their baggage to the immigration counter along with them and keep the baggage with them. But this problem will be solved if it is shifted to Amritsar.

10.29. About the height of the shed, the witness stated further:—

“If it is shifted to Amritsar, then lowering the shed would be unnecessary. I know that on that day the Committee

visited the area, it was so windy. But it is true, that there is no protection at all. It is far too high."

10.30. During the course of evidence before the Committee, the Director General (Tourism) referred to lack of proper waiting facilities, air-conditioning, drinking water, snack bar etc., at entry points by roads and stated that they were required much more at important points, one of which was Attari, on the Indo-Pak border.

10.31. The Ministry in their replies have stated that the Land Customs at Attari (Road) was established in the year 1951. The existing arrangements at the checkpoint at Attari have not been found to be quite adequate. The Ministry of Home Affairs who had carried out a spot study have brought out several deficiencies such as lack of waiting and rest rooms, toilets refreshments etc. They have also pointed out that the distance to be covered on foot from the border to the exist point is also long. The need for construction of a regular building so as to house all the clearing agencies with adequate provision of amenities to the passengers has been emphasised by the Ministry of Home Affairs. The question of construction of a composite regular building to house all agencies such as Immigration, Customs and Health etc. has been examined by the Ministry of Home Affairs who propose to entrust the construction of this building to the Public Works Department of the Government of Punjab, after a final decision is taken in this regard in a meeting which they propose to take shortly.

10.32. The Committee note that in order to regulate movement of goods as well as passengers on the international frontiers with Bangladesh, Nepal, Burma and Pakistan, 51 land customs stations have been set up on the Indo-Bangladesh border, 21 on the Indo-Nepal Border, 2 on the Indo-Burma border and 3 on the Indo-Pakistan border.

10.33. The Committee have been informed by the Ministry in the written replies furnished by them as well as in their evidence that arrangements and facilities at some of the Land Customs Stations on Indo-Nepal and Indo-Bangladesh borders are not adequate. This is stated to be primarily because suitable buildings having adequate provision of facilities to the passengers near the border are not available. As far as the Indo-Nepal border is concerned, land has already been acquired by the Department at some of the Land Customs Stations for construction of suitable buildings and due regard is being given to passenger amenities in the building plans. So far

as the Indo-Bangladesh border is concerned, a major portion of the passenger traffic passes through Petrapol Land Customs Stations. The Ministry of Home Affairs have already taken suitable steps through the Government of West Bengal for construction of a composite building at the Petrapol Land Customs Station, which would house all concerned agencies such as Immigration and Customs with adequate provision for required passenger amenities. The Committee hope that Government will take necessary steps for constructing suitable building with adequate facilities for passengers at the Indo-Nepal border and at Petrapol on Indo-Bangladesh border as quickly as possible, so as to provide reasonable facilities and amenities to international passengers crossing the borders as well as to the staff posted there on duty.

10.34. The Committee note that at the Attari Railway Station, the train ha'ts for about two hours to enable passengers to get down with their bag and baggage for customs and immigration clearance. The passengers have to wait there perforce for about 2 to 2½ hours irrespective of the fact whether the passenger goes through the customs, immigration and health authorities. These arrangements the gration clearance the passengers carry their luggage with or without the help of porters, who charge high rates for taking the luggage to the Customs counters situated at the other end of the platform. After customs clearance, the passengers reload their luggage in the train and the entire process takes over 2 hours. The Committee have studied on the spot the existing arrangement at the Attari Railway Station for clearance of passengers and their baggage by customs, immigration and health authorities. These arrangements the Committee regret to say are wholly unsatisfactory and inadequate. The procedures are time-consuming and cause great hardship, physical as well as financial, to the large number of passengers. The solution to the passengers' problems lies in shifting the immigration and customs check posts from Attari Railway Station to Amritsar Railway Station as was the case in the past.

10.35. But pending shifting of the customs and other check posts to Amritsar, the Study Group of the Committee, had after an on-the-spot study of the problems and discussions with knowledgeable persons, made certain suggestions to the Ministry in July, 1978 to re-adjust the positioning of the train at the platform and customs and immigration checks to mitigate the hardships of passengers. The Ministry had stated that the suggestions were being examined. But the Committee regret that they have not been informed of the outcome of the examination of the suggestions. The Committee urge that the arrangements suggested by them may be tried on an experi-

mental basis immediately improvements where necessary made in the light of passengers reactions, and the Committee apprised of the results within 3 months.

10.36. The Committee have noted and the Ministry have also admitted that the Attari Railway Station is only partially covered with shed, which is too high to give adequate protection against strong wind or rain. There is no holding lounge where an intending immigrant whose papers might be found incomplete or defective on examination could be kept till his return by train the next day. At present such persons are reportedly kept waiting on the open platform. The Committee strongly feel that pending the shifting of checkpost from Attari Station to Amritsar Station some stop-gap arrangements should be made to provide reasonable protection to passengers against the vagaries of weather and to make the conditions at the platform reasonably tolerable.

10.37. The Committee feel that as has been done at Airports, the Customs authorities should in consultations with Railway authorities arrange to provide trolleys at the Attari Railway Station to enable the passengers to carry their luggage to customs counters and bring it back to the train after customs clearance, without being dependent on the porters.

10.38. With regard to the shifting of the clearance facilities from Attari Railway Station to Amritsar Railway Station, the Committee note that the Ministry of External Affairs have no objection to its shifting to Amritsar, but the Ministry of Home Affairs have not yet given their concurrence. The Committee are of the view that the location of customs check post at Attari Railway Station, where the arrangements to handle the international traffic are utterly inadequate is a very unsatisfactory arrangement. The Committee feel that, for the convenience of international passengers, the Immigration and Customs Check Posts should be shifted from Attari Railway Station to Amritsar station after making suitable safeguards against smuggling and other unlawful activities. The Committee would like the Government to take an early decision in the matter.

10.39. The Committee feel that the existing arrangements at the Customs checkposts at Attari border are not at all satisfactory. The checkpost is housed in a building which is outmoded and deficient in modern facilities. Tourists are put to great inconvenience in covering a distance of about 200 metres between the checkpost and the

border, particularly in hot weather or rainy season. The need for construction of a regular building so as to house all the clearing agencies with adequate provision of amenities to the passengers has been recognised and the Ministry of Home Affairs it is stated are examining a proposal to construct a composite building there.

10.40. When the inadequacy of arrangements at the Attari Customs checkpoint has been admitted by Government and the difficulties faced by tourists are too well known, there should be no reason to delay the finalisation of the proposal to construct a new building and provide much needed relief to the tourists. The Committee would urge the Government to take an immediate decision in the matter and implement it speedily. The Committee would like the Government to make sure that the proposed building would not only meet the immediate needs of the tourists and customs, immigration and health authorities but will also have adequate scope for expansion of facilities to cope with the growing international traffic across this border.

E. Warehousing facilities at Sea Ports

10.41. Under section 61 of the Customs Act, 1962 imported goods may be kept in a private or public bonded warehouses without payment of Customs duty for a period of three years if they are non-consumable stores meant for ships and aircrafts and for one year in other case. The period of warehousing is, however, extendable on sufficient cause being shown. Likewise the period can be reduced also where the goods are likely to deteriorate, besides the other terms laid down in Chapter IX of the Customs Act, 1962.

10.42. The Ministry have further stated that if the warehoused goods are not cleared within the period upto which the goods are allowed warehousing, the proper officer may demand the full amount of duty chargeable on account of such goods together with all the penalties, rent, interest and other charges payable in respect of such goods. If the owner of the goods fails to pay any amount demanded the proper officer may, without prejudice to any other remedy, detain and sell after notice to the owner, such portion of goods in the warehouse as he deems fit. If the sale proceeds realised are less than the duty and other charges demanded the department may enforce the bond executed by the bonder at the time of warehousing to realise the balance amount.

10.43. It has been brought to the notice of the Committee that:—

“...the facility of warehousing without duty payment provided under section 61 is not normally available to A.U. assessee in spite of their agreeing to furnish a Bond for

the duty and agreeing for payment of warehousing charges. In addition, the goods are in possession of the Customs Department. This situation arises because of:—

- (i) the discretion enjoyed by custom authorities in determining the nature of goods to be stored i.e. whether they are consumable or otherwise; and
- (ii) general disinclination to defer duty collection."

10.44. It has been suggested in another memorandum to the Committee that "bonding period should be less. It should not exceed 1 year at the maximum."

• 10.45. On the question of providing warehousing facilities, a non-official witness during evidence stated:—

— "So far we have not seen whether this matter has been discussed in the Advisory Council, but in the odd cases, we have taken it up with the officials. Otherwise, it has been mentioned that it will be looked into. But the difficulty is where warehousing facilities are not available to importers, there is an escalation of financing costs. It has its own element of cost. If facilities are there in the statute book, we submit that they should not be withdrawn. If they are not adequate, there must be an approach towards expanding them and increasing them. The attitude should not be that we should not have them."

The witness further stated:—

"I will give an example why it is very difficult to pay duty on all that we have imported at one time. There is a thing which we use in summer. But we import during winter because we do not wish to run the risk of there being a strike or delay due to some other causes in the arrival of the goods. If a season is lost, it is lost for good. Import is made. Duty is some-times 100 per cent to 200 per cent. If the goods have to be cleared at one time—almost Rs. 20 to 30 lakhs are blocked. So 150 to 200 pieces are taken at one time. We do so as if we are manufacturing by and by. We ensure their availability. That is actually the purpose for which Section 61 was put. This point has been discussed in the Central Excise meetings earlier and most of the time the Government has answered that they just do not have the facilities."

10.47. The Ministry have stated that warehousing facilities may be utilised, subject to the provisions of Chapter IX of the Customs Act, 1962, by any importer whether an actual user or not. These facilities are provided liberally in the ports. However, due to congestion in the ports if the warehousing facility is not readily available there, sometimes the request of the importer for warehousing the goods at places in inland areas is also considered subject to the availability of Customs expertise at such places.

10.48. In this regard the Ministry have further stated that no such difficulty has been brought by the Trade to their notice hitherto before. Facilities should be available to the Trade subject to the provisions of Chapter IX of the Customs Act, 1962.

10.49. On the question of reducing the bonding period, the Ministry have stated that the warehousing period for imported goods, under the erstwhile Section 61 of the Customs Act, 1962, was three years. This period has, by virtue of an amendment to section 61, by the Customs, Central Excise and Salt and Central Board of Revenue (Amendment) Act, 1978 (No. 25 of 1978), been only recently reduced to one year in the case of all goods, except non-consumable stores in respect of which the period of warehousing is three years. It has been stated that it would be too early to review the position in this regard.

10.50. In another memorandum it has been stated that:—

“Section 49 is in practice, inoperative as the existing bonded warehouses within the Port Trust area are already full. Though recently Central Warehousing Corporation has made bonded space available, their terms and conditions are difficult to comply with. It is suggested that Trade Associations and forwarding agents be permitted to set up public bonded warehouses outside the Port Trust area.”

10.51. The Ministry have stated that accommodation in Port Trust Warehouses at Bombay has, sometimes, been reported as not being available. Trade, therefore, rightly feels certain difficulties in the matter. Bombay Port Trust should make increased space available. Central Warehousing Corporation can also make the facilities available. If their terms are not suitable, these could be sorted out if the Trade discusses these with the concerned officials of the Corporation.

10.52. Asked to state whether the Customs Department have taken up the matter of providing more space and accommodation with the Bombay and other Port Trusts in the country and the Central Warehousing Corporation,....the Ministry have stated that Collectors of Customs at Calcutta, Bombay, Madras and Cochin have already been instructed to take up the matter with the respective Port-Trusts for expansion of the warehousing facilities if such facilities available with them are not adequate. They have also been asked to examine the alternative of appointing suitable public warehouses having regard to the need for such facility.

10.53. Elaborating the position further, the representative of the Central Board of Excise and Customs stated during evidence:—

“I have got information from Calcutta, Madras and Bombay only a few days ago. They say that the accommodation and space available in the bonded warehouses of the Port Trust is quite adequate and in fact some empty space available.”

10.54. He, however, added that:—

“We have received some complaints from the trade ourselves where they had said that the space available with the Port Trust and the Central Warehousing Corporation is not adequate and some warehouses should be licensed.”

10.55. The witness further added that “in principle we have no objection at all” to provide more space and accommodation.

10.56. A Public Sector Undertaking in their memorandum stated that:—

“The Calcutta Customs House do not allow warehousing of material under section 49 of the Customs Act, 1962 before payment of duty. They should allow this facility and also permit warehousing facilities under Sections 59-60 without the bill of entry getting classified. This will help to reduce actual or part rent as well as possibility of pilferage.”

10.57. The Ministry have stated that the Collector of Customs, Calcutta, has reported that the Customs House records indicate that requests from Public undertakings for depositing the goods in warehouse under Section 49 of the Customs Act, 1962, without payment of duty have been acceded to. As goods deposited in a warehouse under provisions of Section 49 of the Customs Act, 1962, are not

deemed to be "Warehouse goods", provisions of Chapter IX of the Customs Act, 1962, relating to Warehousing will not be applicable to such goods. Accordingly, adequate security towards recovery of Customs duty before any goods are permitted to be deposited in a warehouse in terms of section 49 is not available to the Customs Department. In view of this, the Custom Houses have necessarily to obtain either a bank guarantee or a duty deposit to cover the Customs duty involved before allowing any goods to be deposited in terms of Section 49. So far as the provisions relating to warehousing of the dutiable goods under Section 59 and 60 are concerned a bond for twice the amount of duty is to be taken before the goods can be warehoused. Hence, the goods have to be assessed and classified.

10.58. Asked why so many conditions were being imposed, the representative of the Central Board of Excise and Customs stated during evidence:—

"I must confess there is some confusion here. I personally, feel that the duty should not be asked for, but some collectors feel it should be asked for. So, I would seek some more time."

10.59. The Committee note that warehousing facilities are available to importers for keeping goods in a private or public bonded warehouses without payment of customs duty for a period of three years if they are non-consumable stores meant for ships and aircraft and for one year in other cases. The period of warehousing is extendable on sufficient cause being shown; the period is also reduced where the goods are likely to deteriorate. If the goods are not cleared within the period upto which goods are allowed warehousing, they are liable to full duty together with all the penalties, rent, interest, and other charges payable in respect of such goods.

10.60. The Committee have been informed that warehousing facilities available at ports are not adequate. The Ministry have admitted that accommodation in Port Trust Warehouses at Bombay has not been available at times and the trade therefore rightly feels certain difficulties in the matter.

10.61. The Ministry have informed that Collectors of Customs at Calcutta, Bombay, Madras and Cochin have already been instructed to take up the matter with the respective Port Trusts for expansion of the warehousing facilities if such facilities available with them are not adequate. The Committee recommend that a comprehensive

assessment of the warehousing accommodation available at the ports and the accommodation required to store imported goods now and in the future may be made by the Central Board and the question of expansion of storage facilities in Port Trust Warehouses and of appointing other suitable warehouses examined in consultation with the authorities concerned with a view to solving the storage difficulties of importers. The Committee also suggest that the facility of warehousing the goods at places in inland areas which is permitted under the Rules should be given wide publicity and granted liberally subject to usual safeguards to meet the storage needs of importers. The Committee would like to be informed of the outcome of the assessment made and arrangements made or proposed to be made to cope with the situation.

10.62. A public sector undertaking has brought to the notice of the Committee that Calcutta Customs House is not allowing facilities of warehousing of materials under Section 49 of the Act, before payment of duty. The Ministry have stated that goods deposited in a warehouse under provisions of Section 49 of the Act are not deemed to be "Warehouse goods" and as such the Customs Houses have necessarily to obtain a bank guarantee or a duty deposit to cover the Customs duty involved before allowing any goods to be deposited in terms of Section 49 of the Act. The representative of the Ministry of Finance admitted during evidence that "there is some confusion here. In his opinion the duty should not be asked, but some collectors feel it should be asked for". The Committee would like the matter to be examined and clear instructions issued to all concerned without delay so that there is no confusion on this account anywhere.

CHAPTER XI

ORGANISATIONAL SET UP

(i) Central Board of Excise and Customs

11.1. The Central Board of Excise and Customs is one of the two statutory Boards under the Central Boards of Revenue Act, 1963 (Act No. 54 of 1963) as amended *vide* Act No. 25 of 1978. It comprises Chairman and six Members, functioning as *Ex-Officio* Additional Secretaries to the Government of India.

11.2. The main functions of the Central Board of Excise and Customs are to formulate the policies for levy and collection of Indirect Taxes (Customs|Central Excise duties etc.) and to ensure free, prompt and efficient direction of these and other policies of the Government with which the field formations under the Board are concerned. It is also responsible for Anti-smuggling operations. The Board also serves as Administrative|Appellate authority for subordinate organisations *viz* Customs and Central Excise Collectorates.

Custom Houses

11.3. The Central Board of Excise and Customs have under them field formations, called Collectorates of Central Excise and Custom Houses. The Custom House is the standard unit of field organisation for administration of Customs laws on major ports. Depending on the volume of operations and the staff employed, it is divided into several units or departments.

11.4. Collectorates of Customs (Preventive) at Bombay and Patna are responsible for preventive work along the West Coast and Indo-Nepal Boards respectively. They are under the Collector of Customs (Preventive). However, for administrative control and purposes other officers and staff in these Collectorates form part of the Custom House, Bombay and the Collectorate of Central Excise, Patna respectively.

11.5. The Collector within his jurisdiction is the highest administrative authority under the Customs Act and the Rules framed thereunder. Collector's statutory functions including adjudication of offen-

ces without any limit in the matter of value of the goods he can confiscate or penalties he can impose under the Customs Laws. He can also remit duty on goods lost or stolen and write-off irrecoverable dues without limit in either case. The power to prosecution of offenders is also vested in him.

11.6. "Air Customs Pool" has been constituted to man the custom ports at the International Airports of Palam, Bombay, Calcutta and Madras. The pool is manned by officers drawn from the various field formation on deputation for specified term.

(ii) Staff strength

11.7. The working strength of various grades of officers at each of the four Customs Houses is as follows:—

Customs Houses	Sanctioned strength as on 1-1-1978				
	Group A	Group B	Group C	Group D	Total
Bombay	84	309	2128	871	3392
Calcutta	55	211	1576	674	2516
Madras	32	97	782	249	1160
Cochin	8	37	307	139	491

11.8. The Ministry have informed that review of the organisational set up of various Units/Sections of the Custom House were undertaken from time to time. Various Committees and Study Teams have also examined the functioning of Customs and made recommendations in this regard. Directorate of O & M Services (Customs and Central Excise) was created to undertake continuous work studies for re-organisation of the Customs Department. It started functioning during the year 1977-78.

11.9. The duties of the Directorate of O & M Services as laid down by the Government at the time of its creation are appended below:—

- (i) Work measurement—evolution of norms and staffing patterns—determination of additional staff requirements.
- (ii) Matters relating to organisation and methodology of various disciplines and services concerning the Central Excise, Customs and Narcotics Departments e.g. Career

Management, Forms Management, Computation, Calculations of various data relating to the organisational developments etc.

11.10. During this first year, the Directorate of O & M Services was able to undertake work studies of five minor Customs Houses at Mangalore, Pondicherry, Cuddalore, Nagapattinam and Tuticorin. Besides, a work study of the Integrated Air Cargo Complexes at Bombay and Bangalore was completed. At Bombay Custom House, the work study relating to escorting jobs and disposal of confiscated goods was also undertaken. These studies have resulted in an economy of Rs. 21,56,459.00 consisting of Rs. 20,14,697.00 indirectly and Rs. 1,41,762.00 directly.

11.11. In addition to the work studies, proposals for additional staff in the four cases mentioned below were studied, scrutinised and necessary recommendations sent to the Board viz:—

- (a) Review of staffing for Santa Cruz Airport, Bombay.
- (b) Additional staff for Trivandrum Airport, consequent on introduction of Dubai flights.
- (c) Postal Appraising Department of Madras Custom House.
- (d) Additional staff for Integrated Air Cargo Complex, Ahmedabad.

11.12. The Ministry have further stated that a study has been made recently by the Staff Inspection Unit of the Department of Expenditure of the staff position in Bombay, Cochin and Calcutta Custom Houses. The Staff Inspection Unit suggested creation|abolition of the posts. The Staff Inspection Unit studied some departments of the Calcutta Custom House and suggested abolition of a number of posts. The Staff Inspection Unit has been requested to complete the study of the Custom House as a whole and furnish its recommendations.

11.13. The Ministry have also stated that due to heavy demands for extra staff by different Custom Houses|Central Excise Collectors, the O & M Directorate has so far devoted a major part of its time and energies to staff studies. Except small studies, no major study for systems re-organisation of Customs Department has so far been undertaken. The Directorate, however, hopes to undertake such studies in the near future.

11.14. A Public Sector Undertaking in their memorandum submitted to the Committee have stated that:—

“the Appraisers at Custom Houses are very much overloaded and as such there is considerable difficulty in clearance of material from machinery groups. Consequently, the processing of Bills of Entry is much delayed”. They have accordingly suggested that “number of Appraisers working in Custom Houses specifically the Machinery Group may be sufficiently increased so that the jobs are completed most expeditiously.”

11.15. In this context, the Ministry of Finance in a written reply stated that the strength of Appraisers in different Custom Houses is reviewed from time to time and additions are made to the extent that they can be justified. It does not, therefore, appear correct to say that the appraisers are very much overloaded and that there is considerable difficulty in clearance of material. It may be pointed out that the normal output of a machinery Appraiser is placed at about 12 to 13 Bills of Entry per day, which is considered to be quite modest. In so far as imports by the Public Sector Undertakings are concerned, it may be stated that in the Bombay Custom House a separate officer has been posted in the machinery group to look after the imports of public sector undertakings. This arrangement helps in pin-pointing delays and in taking quick remedial measures.

11.16. The Study Group of the Committee during their tour to Trivandrum was informed about the need for additional custom staff at the Airport, after diversion of gulf traffic from Bombay. The Ministry stated that a study for requirement of staff strength for Custom clearance work has taken up for Trivandrum Airport in March, 1978 soon after the diversion of gulf traffic from Bombay to Trivandrum. Recommendations were made for the creation of the additional staff which would be independent of the assistance of Central Excise Department.

11.17. The recommendations were accepted in part and one post of Superintendent, 15 posts of Inspector and 6 posts of Sepoy were sanctioned by the Board. Even this was not found to be enough. Another study was made in December, 1978. On studying the working condition at Trivandrum Airport, additional posts have been recommended for sanction in addition to those already in position. The proposal for creation of these posts is under consideration.

11.18. The representative of the Board stated during evidence "We have got same additional staff for this and there is no problem".

(iii) Setting up of Air Cargo Complex at Trivandrum

11.19. The Study Group of Estimates Committee during their tour in January, 1979, were informed that "there is a demand from the trade for air cargo complex also at Trivandrum". The Ministry have informed the Committee that the proposal for having an air cargo complex at Trivandrum has been accepted in principle. The additional posts have also been sanctioned.

11.20. The representative of the Central Board of Excise and Customs stated during evidence (March, 1979) "as soon as the staff is in position we will take care of this. The staff is likely to be in position within a week or then days."

11.21. The Committee note that a full fledged Directorate of Organisation and Methods Services was created on 1st December, 1976 to undertake continuous study for re-organisation of the Customs Department. It started functioning during the year 1977-78. The Directorate has so far devoted a major part of its time and energy to staff studies. The work studies of five minor Custom Houses at Mangalore, Pondicherry, Cuddalore, Nagapattinam and Tuticorin have been completed; besides a work study of integrated Air Cargo Complexes at Bombay and Bangalore and study relating to the escorting job and disposal of confiscated goods in Bombay Customs House were undertaken. These studies are stated to have resulted in economy of Rs. 21.56 lakhs. Proposals for additional staff at Santa Cruz Airport, Trivandrum Airport, Postal Appraising Department of Madras and Integrated Air Cargo Complex, Ahmedabad were also studied and necessary recommendations sent to the Board. The Committee desire that early action should be taken by the Board on the recommendations made by the Directorate of O&M Services.

11.22. The Committee note that except small routine studies, no major study for systems re-organisation of Customs Department has been so far been undertaken by the Directorate of O&M. The Committee would like the Directorate to concentrate on fundamental matters like organisation and methodology of various disciplines and services including administrative and procedural reforms, efficiency in management, forms of management, computation, circulation of data, anti-smuggling and anti-corruption measures etc.

11.23. The Committee note that the Staff Inspection Unit of the Department of Expenditure has also recently made a study of the staff position in Bombay, Cochin, and Calcutta Customs Houses. The studies in respect of Bombay and Cochin Custom Houses are stated to have been completed, while the study of Calcutta Customs House as a whole is yet to be completed. The Committee hope that the study of the Calcutta Customs House by S.I.U. would be completed expeditiously.

11.24. The Committee would like to be apprised of the follow-up action taken in the light of studies made by the O and M Directorate and the Staff Inspection Unit and the results achieved. The information should be furnished under various heads like Staff economy (in numbers and in terms of money) staff augmentation, procedural reforms, efficiency norms etc.

11.25. In view of the fact that both Staff Inspection Unit and O&M Directorate of the Central Board are undertaking studies of staff needs of the various wings in the Custom Houses, it becomes necessary to establish perfect liaison between the two Department so as to ensure that there is no over-lapping in the studies undertaken by them. The two organisations should keep constant coordination in selecting units for staff studies and exchange notes on methodology and ensure that they do not function at cross purposes.

11.26. The Committee are informed that in deference to the demand from the trade, the proposal to set up an air cargo complex at Trivandrum has been accepted in principle. The Committee hope that the requisite staff for manning the proposed cargo complex at Trivandrum has been posted by now as assured during evidence and the complex has started functioning in a regular way.

(iv) Hired Office Accommodation

11.27. On being asked to state the expenditure incurred every year on the hired office accommodation in Bombay and other customs houses, the Ministry have stated that the Bombay Custom House requires accommodation for office as well for storing seized and confiscated goods. In respect of accommodation taken on hire for storing seized and confiscated goods, the Custom House is paying rent at the rate of Rs. 50,76,624 per annum for the several warehouses etc. which have been taken on hire.

11.28. In respect of the accommodation taken on hire for office purposes, the Bombay Custom House is paying rent amounting to Rs. 12,03,024 per annum.

11.29. The amounts of rent being paid by other Custom Houses are as indicated hereunder:—

Name of the Custom House	Annual rent
	Rs.
Cochin	3,358.00
Visakhapatnam	36,000.00
Goa	8,819.50
Madras	36,216.00

(v) Office Accommodation in Bombay Custom House

11.30. It has been stated that the space in the New Custom House being insufficient to accommodate all the departments, it has become necessary to hire accommodation for some of the departments. Presently, the Baggage Section, the SIIB and the S.V.D. are housed in the Exchange Building near the Custom House and the Audit, M.C.D., Statistics, and the Drawback Department in the Transport House at Wadi Bunder which is quite away from the Custom House. All other departments (except the Air Complex) are in the Custom House. Apart from the heavy recurring expenditure, this arrangement adversely affects the working of the department. A new building is coming up in the compound of the Present Custom House but even after its completion, which will take about 2 more years, the Custom House will be short of space to a substantial extent. In April, 1972, the Estate Manager calculated the requirements of the Bombay Custom House as 2,55,612 sq. ft. At that time, the Custom House was occupying an area of only 1,75,294 sq. ft. The shortage at that time was, therefore, to the extent of 80,318 sq. ft. In order to cover this shortage it was decided to pull down the old Annexe Building which provided an area only of 9,808 sq. ft. and to construct in its place a multi-storeyed structure, having 12 floors, excluding the basement and the ground-floor which would provide an office area of 75,362 sq. ft. The estimated cost of construction of this building is Rs. 1,23,33,719.00 plus Rs. 9,86,698.00 as departmental charges. The Custom House is also trying to acquire a new plot of land for further construction as it will be short of office space to a substantial extent even after the new Annexe is constructed.

11.31. The Committee note that owing to shortage of accommodation, it has become necessary for the Bombay Custom House to hire accommodation both storage of seized and confiscated goods and

office purposes. The Custom House is paying a rent of Rs. 62.79 lakhs (Rs. 50,76,624 for several warehouses etc. and Rs. 12,03,024 for office accommodation) per annum. A new building is coming up in the compound of the present Customs House, but even after its completion, which will take about 2 more years, the Custom House will be short of space to a substantial extent. The Customs House is trying to acquire a new plot of land for further construction. The Committee note that in 1972, the shortage of office accommodation was calculated by Estate Manager as 80,318 sq. ft. which will be substantially met by the new building, as it would provide an office area of 75,362 sq. ft. In view of the high rent of nearly Rs. 63 lakhs per annum being paid by Bombay Custom House, the need for having a Government building for meeting all the needs of the Custom House cannot be over-emphasised. The Committee regret that the assessment of shortage of office accommodation made in 1972 has been found to be off the mark within six years and the demand has outstripped the accommodation to be available in the new building under construction even before it is ready. The Committee desire that before acquiring another plot of land for further construction, the present shortage of accommodation should be carefully assessed in consultation with the Ministry of Works and Housing and new construction if necessary, should be so planned that it is adequate not only to meet the present requirements but also provide for meeting the foreseeable increase in demand for more space. The Committee, however, desire that before going in for new construction for the customs the Ministry should explore the possibility of acquiring warehouses and office accommodation from the other public bodies and the Government should go in for new construction only, if their needs cannot be met by other Government and semi-Government organisations.

(vi) Staggering of Office hours of Customs staff at Cochin

11.32. During their tour to Cochin in January, 1979, a study Group of Estimates were informed:—

“As fish is a highly sensitive to heat, loading of fish in vessels is done only after sunset. In view of the perishable nature of this item, its loading should be given priority by customs and both the customs and the quality control cell of the Ministry of Commerce should conduct inspection of export consignments of fish together and at the same place. The exporters are at present required to pay for the overtime of the customs staff who are deputed on duty to inspect the first consignments. The customs

staff, put on late duty, should not leave the work unfinished and, if necessary, overtime should be extended to clear all the consignment offered for clearance.

Duty hours of the customs staff should be staggered to avoid the necessity of payment of overtime allowance. At present, generally speaking, fish loading is done twice a week at Cochin port and it should not be difficult for the customs authorities to stagger the working hours of customs staff on these two days on getting advance notice."

11.33. The Collector, Central Excise and Customs at Cochin, during his discussion agreed to consider staggering of office hours for customs staff for inspecting fish consignments at night to avoid the necessity of payment of overtime to the staff.

11.34. The Ministry in their replies have stated that the Collector of Customs, Cochin has reported that frozen cargo are presented for examination in the evening or after 9 p.m. Priority is always given for shipments of frozen cargo. Inspection of export consignments of frozen cargo is conducted simultaneously by Customs and Export Inspection Agency at the same place. Instructions already exist whereby on a specific request the Appraiser extends the overtime postings beyond the time originally applied for to clear all the consignments. Staggering of the postings of the staff would not obviate necessity for payment of overtime fees by the exporters. Services of the Customs staff are provided free only during the normal working hours. For any examination work conducted either before or after the normal working hours or on holidays services of the Customs staff are made available on payment of fee. Collector of Customs, Cochin has reported that the average number of shipping bills for frozen cargo filed in a day is less than 10 and hence could not justify operating a night shift on a regular basis.

11.35. Explaining the position further, the representative of the Central Board of Excise and Customs stated during evidence:—

"With regard to fish my submission is that this cargo originates from Cochin and whenever a request is made that this is to be loaded at night the services of the staff are provided on overtime. To put the staff in a regular shift for this work will be highly uneconomical....."
If we agree here then this will have implications at other places also".

11.36. In view of the fact that the amount of overtime paid was insignificant, the Committee asked why the customs authorities should not agree to the proposal and post staff on duty without charging over-time from the exporters, the Secretary, Ministry of Finance during evidence stated:—

“We are also interested in promoting exports and providing necessary facilities for the purpose. It is a question of really how much idle capacity we want to have in the staff. There is a continuing demand for services to be provided outside office hours. Anyway, we will go into this question.”

11.37. The Committee feel that there is force in the demand of the exporters of fish in Cochin that the services of the Customs staff should be made available without payment of overtime by the exporters for handling export consignments of fish which in view of the perishable nature of the commodity have to be shipped after sunset. In view of the fact that this cargo is loaded only twice a week there should be no difficulty in staggering the duty hours of the staff on these two days through a duty-roaster. During evidence, the Finance Secretary agreed to go into this question. The Committee desire that necessary steps in this regard should be taken without delay. This facility should be extended to other ports also where fish consignments have to be loaded only in the evening in view of the perishable nature of the commodity.

NEW DELHI;

SATYENDRA NARAYAN SINHA,

April 25, 1979.

Chairman,

Vaisakha 5, 1901 (S).

Estimates Committee.

APPENDIX

Summary of Recommendations/Observations

S. No	Para No. of the Report	Recommendations/Observations
(1)	(2)	(3)
<i>Customs Notifications</i>		
1	2.14 to 2.17	The Committee feel that instead of routing the notifications through Customs Houses, the Notifications, Orders etc. relating to Customs should be mailed direct from Headquarters to all the Chambers of Commerce and Industry, and trade organisations, importers and exporters who may register themselves with the Ministry for the purpose on payment basis. The notifications should be despatched the same day on which they are sent to press for publication in the Gazette. The Committee strongly urge that the proposal for the separate Directorate of Publications should be given a concrete shape without any further loss of time and the Directorate set up at the earliest to meet the genuine demand of the assesseees to be supplied with copies of Notifications, orders etc. without any delay.
<i>Publication of Customs Notifications in Newspapers</i>		
2	2.25 to 2.26	The Committee have considered the suggestions made by non-official experts and organisations of trade and commerce in regard to giving of publicity to changes in Customs duty through newspapers. The Committee are of the opinion that in order to ensure quicker and wider dissemination of the contents of customs Notifications, the practice of issuing press notes, which

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is stated to be already in vogue in respect of important notifications, should be extended to cover all the notifications having a bearing on customs duty or procedure. The Committee also commend the suggestions for the publication of reference number and gist of Notifications relating to customs duty in the commercial columns of important newspapers immediately after these are issued. This will enable the trade and industry to know of the changes in customs duty concurrently and obtain copies of the notifications, in which they may be interested, from the Ministry or Customs Houses. That Commercial publicity and issue of press notes can be started immediately for general information without waiting for the setting up of the Directorate of Publications.

Ambiguity in the Language of the Notifications and Explanatory Notes

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| 3 | 2.34
to
2.35 | The Committee are of the opinion that solution to the problem of removing ambiguity in the Customs Notifications lies in appending an "explanatory note" to each such notification explaining the purpose, scope and effect of the notification in intelligible language. They recommend that the practice of issuing "Explanatory Note" should be started immediately for the benefit of the assesseees. |
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Interpretation of Customs Notifications

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| 4 | 2.46
to
2.48 | The Committee would like the Central Board of Revenue and Customs should advise the custom officers to display objectivity in interpreting customs notifications and dispel the general impression prevailing among importers that their interpretations are biased in favour of revenue irrespective of the merits of the case. The Committee also feel that in the event of a difference of opinion between the customs appraiser |
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and the importer in the matter of classification or assessment of duty the case should be straight-way referred to the Assistant Collector incharge of the place, and, if the Assistant Collector also does not agree with the importer on the point under dispute, he should pass a "speaking order"—an order with reasons—in all cases to enable the importer to file an appeal in due course, should he so desire.

Publication of Customs Tariff and Customs Manual

5 2.67 A number of suggestions have been made to
 to the Committee by the trade and industry to
 2.70 streamline the system of publication of Customs
 manual and Customs Tariff. The Committee also
 feel that the present system is not satisfactory.

6 2.71 The Committee recommend that the Customs
 and Tariff Schedule should be updated every year
 2.72 immediately after budget and published along
 with an alphabetical index. The tariff should in-
 dicate the effective rates of duty and also give
 cross references to other relevant matters for
 ready intelligibility of the scheme of customs
 duty.

The Committee also recommend that a comprehensive Customs Manual giving among other things, details of relevant Customs rules, procedure, customs duty, auxiliary duties, countervailing duty, according to industry-wise classification should be published immediately preferably in a loose leaf ring file form. All amendments in the customs laws, procedure and duties should be published at fixed intervals say once a month or once every three months in the same form for easy replacement of the relevant pages in the Manual so as to enable the assesseees to keep their copies of the Manual up-to-date.

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The Committee feel that all important decisions given by the various periodically preferably every months and copies thereof made available on sale.

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| 7 | 2.73 | <p>The Ministry have stated that they propose to set up a Directorate of Publications to improve the present system of dissemination of information regarding customs etc. The Committee would like this Directorate to be set up quickly. The Committee desire that the proposed Directorate of Publications should, immediately after coming into being, review the present publications and decide on a rational basis as to what publications are essential and at what periodicity they should be brought out. The Committee would like to be informed of the action taken in this regard within six months.</p> |
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Customs Tariff Classification

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| 8 | 3.11 | <p>The Customs Tariff Act, 1975 based on Customs Cooperation Council Nomenclature (CCCN) was adopted with effect from 2nd August, 1976. The revised tariff did not adopt the CCCN <i>in toto</i> but certain headings of the CCCN were merged and some new sub-headings were created so as to suit the pattern of India's foreign trade. There is a general demand made to this Committee by the associations of Commerce and Industry that the Customs Tariff should be fully aligned with the CCCN (formerly Brussels Tariff Nomenclature—BTN). According to them grouping of several sub-items under one heading causes difficulties in correct classifications and clearance of goods. On the other hand, according to the Ministry these departures are improvements in the Indian Customs Tariff which have facilitated easy assessment and quick clearance of goods through Customs and none of these have caused any disputes in classification. As regards another suggestions that the explanatory notes given in the CCCN should also be introduced in the Indian Customs Tariff, the Ministry have stated</p> |
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that such notes are only the purpose of a better understanding of the nomenclature and according of the scheme of CCCN they do not have the force of law. In the Ministry's opinion it would not be desirable to incorporate these lengthy and voluminous notes as a part of the tariff. The Committee note that the Indirect Taxation Enquiry Committee, 1978 (Jha Committee) which studied the problem have recommended that in the interest of operational efficiency and to ensure comparability between the Customs Schedule and the Import Trade Control Schedule, it is imperative that the Customs Schedule is wholly CCCN based without any contractions or adaptations. According to Jha Committee this will also help in the matter of comparing international trade statistics. Further the Customs administration would derive an immediate and continuing benefit from the explanatory notes and classification opinions of the Nomenclature Committee.

In the Committee's view, there was an obvious advantage in adopting the internationally recognised and standardised nomenclature—CCCN—for Indian Customs Tariff which it appears has been lost in the process of bringing out an adapted and abridged version of the Nomenclature. Agreeing with the Jha Committee's recommendation the Committee feel that the Indian Customs Scheduled should be wholly CCCN based without any contractions or adaptations.

Tariff Values

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The Committee note that under section 14 of the Customs Act, 1962 Government may by notification fix tariff values for any class of imported goods or export goods having regard to the trend of value of such or like goods. While fixing tariff values, the market values for such goods in India are also taken into account. Tariff

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values are revised periodically having regard to trend in prices. At present, tariff values have been fixed only in respect of some items of fruits. It has been represented to the Committee that the trade and industry are not consulted in fixing the tariff values.

The Committee do not agree with the Ministry's views that as tariff value system at present applies only to a few items, no useful purpose would be served by associating the representatives of D.G.T.D. etc. for evolving guidelines for fixation of tariff values.

The Committee feel that before determining tariff value for any commodity the Ministry should invite the views of the trade and industry and take them into account while fixing or revising the tariff values.

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The Committee take note of the impression prevailing in the trade and industry that upward revision of tariff values is made by the Ministry almost immediately but the Ministry are not so prompt in announcing downward revision in the event of fall in prices. The Committee feel that if correct this is an unfair practice and should be discontinued forthwith. The Ministry should lay down guidelines for revision of tariff values and follow them uniformly.

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The Committee note that in respect of goods for which tariff values have not been fixed, customs duty is charged on the price at which such goods are offered for sale for delivery at the time and place of importation in the course of international trade. Where, however, buyer and seller are related parties, the invoice values are sometimes loaded suitably so as to bring them at par with the prices at which such or like goods would have been imported by unconnected parties. The Committee feel that there is force in

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the submission made by a Chamber of Commerce that "there is always some price difference between bulk buying and retail buying" . . . and that "a differential price of plus or minus 10 per cent as between bulk buying and retail buying should be taken as the invoice value."

The Committee are of the view that the Customs authorities should consider the question of correctness of invoice values with reference to the sources of import, quality of goods and commercial practices prevailing in different countries and make an allowance for variation of import price if justified on these and other valid considerations. The Committee also feel that a reasonable differential in price between the bulk and retail buying should also be allowed as it is a normal commercial practice that bulk or long term buyer generally gets some price concession.

Delay in clearance of Bills of Entry and their pre-audit

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In view of the fact that a number of organisations including public undertakings have complained about the cumbersome procedure and delay in clearance of the Bills of entry in the Customs Houses, the Committee feel that it is necessary that a systematic study of the procedure followed in this regard in the custom houses should be undertaken with a view to streamlining the procedure and minimising the stages for processing these bills of entry. The Committee desire that this study should be entrusted to any reputed Institute of management.

Loading of goods on Barges

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It has been represented to the Committee that the practice of loading goods on barges after customs' examination prior to the goods being taken to the mother ship is on the increase. Once

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		the goods have been examined, passed and sealed by customs and loaded on barges, and when they are out of control of exporter, they should be considered as having been entered for export irrespective of the date of departure of the mother ship or issue of a formal bill of lading. The importer should not be required to pay excess export duty if there is duty increase in the meantime. The Committee feel that there is force in the representation, and it deserves to be considered sympathetically and favourably.
14	4.28	The Committee desire that public relation officers in the various Custom Houses should render necessary help to importers in filing bills of entry and other documents and having their cases expedited.
		<i>Prior submission of Bills of Entry</i>
15	4.29	The Committee note that importers are allowed to avail themselves of the procedure of prior entry under which they can file bills of entry prior to the arrival of goods or prior to the submission of manifest by steamer agents provided that the agents have intimated the customs about expected arrival of the vessels within 7 days. It has been represented to the Committee that the advantage of this procedure cannot be taken by the importers in practice since steamer agents do not give advance intimation about the expected arrival of the vessel to the custom department. The importers have suggested a mandatory provision in the law in this regard. According to the Ministry any obligatory provision in this regard cannot be made as the reasons for not giving this intimation by the steamer agents may be beyond their control. It has been stated that in normal cases the steamer agents are expected to make advance intimation of arrival of vessel in their own interest as it facilitates the prompt turn-around of the vessel. The Committee desire that this matter should be examined in depth in

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consultation with the steamer agents and others concerned and a suitable system evolved under which the liberalised procedure of prior submission of bills of entry becomes a reality and can be availed of by importers in actual practice.

Pre-audit of Bills of Entry

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It has been represented to the Committee that at present consignments are allowed to be cleared to bonded warehouses only after Into-Bond Bills of Entry have been pre-audited by the Audit departments of Customs. This, according to a Public Sector Undertakings takes 3-4 days and on many occasions consignments incur heavy demurrages on account of delay in pre-auditing of Bills of entry. Since no custom duty is collected against the Into-Bond Bills of Entry, it has been suggested that a pre-audit of these cases need not be insisted. According to the Department, the suggestion is under examination in consultation with the Collectorates of Customs. The Committee feel that the importers should not be penalised for delay in pre-audit of Bills of Entry for which they cannot be responsible. The Committee recommend that a satisfactory solution to this problem should be found expeditiously and procedure streamlined to avoid delays on this account.

Execution of Indemnity Bond and furnishing of Bank Guarantee

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The Committee suggest the present procedure requiring a bond as well as duty deposit upto 20 per cent of the amount of provisional duty should be reviewed with a view to mitigating the hardship caused to importers/exporters consistent with the need to safeguard revenue and to ensure expeditious finalisation of the case. The Government may, if necessary, prescribe a time-limit for production of necessary documents and evidence to enable the assessment to be finalised.

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A Chamber of Commerce has brought to the notice of the Committee that inordinate delay takes place to obtain cancellation of bonds executed under the 'provisional assessment' procedure for realisation of deposits made alongwith the bonds. The Ministry have stated that bank guarantee of cash deposit is not insisted upon, if the proper officer is satisfied regarding the financial soundness of the importer. The Ministry have, however, not explained the aspect of delay in recovering amounts of deposits in cases where cash deposits have been made. The Committee feel that the question of judging the financial soundness of an importer should not be left to the unfettered discretion of the customs officer. The Ministry should issue guidelines to enable the customs officer to exercise his discretion judiciously in the matter of demanding or waiving cash deposits or bank guarantee from the importer. Secondly, where cash deposits or bank guarantees are required to be made alongwith the bonds should be cancelled without delay to enable the importers to have their deposits/bank guarantees released.

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It has been brought to the notice of the Committee that the procedures being followed at Customs Offices, Calcutta, Bombay and other Sea Ports are not uniform. By way of an instance it has been stated that, whereas the Calcutta Customs Office insists on separate execution of bond against individual purchase orders, the Bombay Customs and other Customs Houses are asking for one Indemnity Bond against the total value of the goods to be imported. The Ministry have agreed that there should be uniformity of practice and only one Bond is necessary in case the value of the bond is sufficient to cover the subsidiary contracts. The Ministry should issue clear instructions to all the field formations so

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as to ensure uniformity of practice in regard to the Indemnity Bond.

Concessional rate of duty depending on end-use

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It has been represented to the Committee that as the system of charging duty at different rates for the same item depending upon the end-use creates complications and leads to harassment, the differential rates may be eliminated and a single rate of duty for a particular item irrespective of end use introduced. The Committee agree with the Ministry that it is necessary in public interest to fix a lower rate of duty in order to keep to the minimum the cost of inputs required for the manufacture of specified items and to promote the growth of certain industries. The Committee, however, feel that the underlying purpose of this wholesome principle of differential rates of duty depending on end-use will be defeated if the importers are subjected to harassment at the time of import of such items.

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The Committee note that the importers desiring to have the benefit of concessional rate of duty are at present required to execute a bond undertaking to produce an end-use certificate from the prescribed authorities. The Committee feel that in view of the safeguards made in the form of the bond, the statement made by an importer at the time of Customs appraisal as to the end-use of the imported goods should be accepted by the customs authorities without demur. If the bond is not considered enough of a safeguard in any special case, the Customs authorities may demand additionally an affidavit of the importers' intention to put the item to specified end-use, but once these formalities are completed the goods should be cleared on payment of concessional rate of duty without delay.

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Countervailing Duty

- 21 4.55 The need consistency between Excise and Customs on the question of countervailing duty cannot be over-emphasised. To avoid any confusion on this account, it is very necessary, in the Committee's opinion, that not only the scheme of classification for the purpose of Customs and Excise should be identical as recommended by the Committee in para 2.65 of their 28th Report but that the additional duty (countervailing duty) should also be shown at least in the working schedules together with the basic customs duty, as single composite rate or separately as recommended by the Working Group of Administrative Reforms Commission, 1968. The Committee regret to note that when attention of the Government was drawn to the aforesaid recommendation made by Working Group of the Administrative Reforms Commission in its Report (October, 1968), the Ministry were unable to offer comments on the ground that the office file in which the report of the Working Group was dealt with was not readily available. This is a sad commentary on the system of maintaining records in the Ministry. The Committee would like the Ministry to look into this matter and take remedial measures at the earliest.

Refund of Customs Duty

- 22 4.69 From the figures furnished by the Department, the Committee find that as on 30th November, 1978 in the Collectorates of Bombay, Calcutta, Madras and Cochin there were 36 cases pending for more than a year, 594 cases pending for more than 6 months and 1040 cases pending for over 3 months. It has been stated by the Department that delay in payment of refunds is caused sometimes due to delay in receipt of documents from the appellant. The refund claims which are generally filed with all supporting documents are finalised within a reasonable

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period. A time schedule for finalising/appraising refund claims has been prescribed; according to the time schedule such claims have to be disposed of within approximately 90 days. The figures of pendency of refund cases in respect of major customs houses of Bombay, Calcutta, Madras and Cochin given above indicate that the actual time taken by the Customs Officers is far in excess of the time schedule prescribed by the Department. The Committee agreeing with the Jha Committee, feel that the time has come when statutory time-limit should be fixed for grant of refund and if the statutory limit is exceeded, interest on the refund amount should be paid at appropriate rate from the date of expiry of the time-limit.

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The Committee recommend that the Refund procedure should also be studied and streamlined so as to enable an importer to have actual refund not merely an order of refund within the stipulated period of 90 days. The Ministry would also do well to examine as to why the refund order, which is made after due scrutiny, cannot be straightway encashed as is reported to be the practice in the case of income-tax refund.

Duty on Goods pilfered or short landed or destroyed

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The Committee feel that the existing procedure for payment of customs duty in regard to goods pilfered, short-landed, short-shipped, lost or destroyed is not quite satisfactory as in most cases it would require an importer to pay duty for full consignment even though only a part of the consignment may actually have been received and thereafter to go through the time-consuming process of claiming refund. The Committee see no reason why the procedure in this regard cannot be simplified to require payment of duty only for the actual quantity of consignment received in

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		<p>the first instance, and if the duty has already been paid for full consignment before discovering the short-receipt, to grant instant refund of the excess duty on the spot without requiring the assessee to file any special application for refund in the normal course. If procedure stand in the way of instant refund in such cases, it may be reviewed and simplified without delay to mitigate to the extent possible the double hardship which the importers suffer, first, by not getting their consignments in full and then undergoing the ordeal of getting refund in the normal course.</p>
		<p><i>Laboratories under Central Board of Excise and Customs</i></p>
25	4 97 to 4.98	<p>The Committee feel that in deference to the wishes of the trade and industry, if a reasonable time limit is laid down to serve as a guideline for the laboratories; it will help inculcate a sense of urgency and importance in the minds of experts responsible for furnishing Reports and it may improve the position further.</p>
26	4.99	<p>The Committee feel that in order to reduce the burden on the existing number of laboratories the normal validity period of a test report, which is two years in respect of goods supplied by well-known manufacturers, and one year only in respect of supplies from new sources, may be increased to three years without prejudice to the Collectors' right to draw samples for test at any earlier point of time in case of suspicion or new developments.</p>
27	4.100	<p>The Committee note that in respect of consignments for which valid test reports do not exist, the goods are permitted to be cleared provisionally on execution of suitable bond by the importers. Facility for clearance of major portion of consignment pending test, is also extended in suitable cases. The Committee recommend</p>

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that the facility for removal of major portion or entire quantity of goods should be extended with suitable safeguard to all cases where the importers are prepared to execute bonds which may be prescribed in this regard.

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4.101

The Committee note the recommendation made by the (Jha Committee) Indirect Taxation Enquiry Committee for modernising and strengthening the existing test laboratories. They are informed that Government have set up an Expert Committee in May/June, 1978 to modernise the Customs Laboratories and improve their working and efficiency. The said Committee is expected to submit its Report by June, 1979. The Committee would like to be apprised in due course, of the recommendations made by the Expert Committee and the action taken or proposed to be taken thereon.

Customs Duty Drawback Scheme/Fixation of Brand Rates

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According to a sample study regarding the average time taken in the matter of fixation of brand rates, it takes on an average 515 days to determine a brand rate, of which 196 days are taken by the exporter to supply data and 319 days are taken in verification of data and final determination of rate. In the Committee's opinion there can be no justification whatsoever for such a long delay and a procedure, which consumes so much time to determine the rate, can not but be held utterly unsatisfactory, to say the least, and should have been changed long ago. The Committee strongly urge that a radical and thorough overhaul of the procedure should not be delayed any longer.

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Settlement of Drawback claims

30	5.36	<p>If the exports have to be promoted and if, as claimed by the Ministry, 85 per cent of the claims are paid within 6 weeks to 2 months of shipment, the Committee see no reason why the Government should not accept the recommendation made by the Jha Committee (1978), that no case of drawback should take more than 3 months to settle and this time limit too should be fixed statutorily. The Committee would like that this statutory period of 3 months for settlement of drawback claims should be fixed without any further hesitation. This period should start from the date of shipment of goods and where statutory time limit is exceeded, the law should provide for payment of interest at the appropriate rate from the date of expiry of the time limit.</p>
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The Committee further recommend that the panel of officers which has been appointed by Government to go into the question of expediting settlement of drawback claims should be asked to draw up a detailed but simplified procedure to prescribe time-limit for examination of drawback claims at each stage so as to make it practical for the Customs organisation to finalise all Drawback claims within the recommended period of three months. The Committee desire that the panel of officers appointed to go into the working of the drawback scheme should examine whether the importers/exporters are taking full advantage of this scheme and if not, to simplify the scheme further to make it more attractive.

Provisional rate of drawback

31	5.39	<p>A suggestion has been made to the Committee that the established importers should be given duty free import licences for the materials to be</p>
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used in the export goods. The importer should on running accounts basis declare annually or half-yearly the import content of his exports and periodically submit utilisation statements backed by export details. This would avoid difficulty and delays experienced in the fixation of rates of drawback, and in getting the drawback amount. According to the Department this suggestion is quite useful in respect of those manufacturers who have an export manufacturing programme in hand. The department can fix provisional rate of drawback in advance pending verification of utilisation of materials. The payment can be made on export on this basis and accounts settled from time to time on the basis of running account series. The Committee are informed that this procedure is being implemented on an experimental basis in one or two cases. The Committee suggest that the evaluation of this experiment may be made and the procedure with necessary improvements in the light of the experiment progressively extended to more and more items.

Recovery of excess amount of drawback

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The Committee note that in a number of cases, amount of drawback paid was in excess of what the exporter was entitled to and the excess amount had to be recovered from the exporters. In a few cases enquiry was held by the Directorate of Inspection and the Officers were warned or explanation of the officers was called for. The Committee are of opinion that in cases where *malafide* is proved necessary disciplinary action should be taken against the officers concerned. It is imperative that the excess amount of drawback paid to the exporters should be recovered from them at the earliest.

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Duty Exemption Scheme

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| 33 | 5.56
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5.57 | <p>The Committee note that the introduction of the duty exemption scheme in 1976, it has been extended to cover 95 items and only about 120 duty exemption entitlement certificates were issued till 31 March, 1978. This only supports the view point of the industry that in spite of the fact that scheme is beneficial to the trade, full advantage of the scheme is not being taken by trade and industry and the scheme does not appear to be working satisfactorily. It has been stated by the Ministry that the Duty Exemption Scheme is under review. The Committee desire that while reviewing the working of the scheme the difficulties pointed out by the trade and the suggestion given to make it a comprehensive scheme to apply to all products used for exports should be examined and the scheme made simpler and comprehensive so as to cover the maximum possible items and to give full satisfaction to the importers and exporters.</p> |
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Option between Duty Drawback and Duty Exemption Scheme

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| 34 | 5.58 | <p>As the Duty Exemption Scheme enable an importer to avoid locking up of his capital on payment of import duty and later spares him the botheration of going through a long process of getting drawback, its advantages are obvious and well-recognised. Now that the scheme has been in operation for over three years the Ministry should have acquired enough experience of the working of this scheme to be able to extend it confidently to more items and thus meet the demand of the trade and industry. The Committee however, feel that option to choose between the Duty Drawback Scheme and Duty Exemption Scheme should remain with the importer/exporter and he should be allowed to exercise the option without any difficulty.</p> |
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Delay in working of Duty Exemption Scheme

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| 35 | 5.59 | The Committee are informed that there have been delays in the working of Duty Exemption Scheme also. The delays have mainly arisen because of lack of coordination between the customs authorities on the one hand and the Import Control Department on the other. The Committee would like Government to go into this matter and bring about much needed coordination between the two Departments so as to avoid delays. |
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Disposal of Appeals

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| 36 | 6.38 | The Committee feel concerned over the inordinate delay in the disposal of appeals and revision applications in respect of Customs disputes. As on 1-2-1979, the total number of appeals pending with the Custom Houses in Delhi, Calcutta, Madras and Bombay were 9,708 out of which the number of appeals pending for more than one year were 2254. From the figures given to the Committee, it is seen that in the year 1976 and 1977, the disposals of appeals in almost all the Collectorate did not keep pace with the receipts. In 1978, though the disposals of appeals exceeded the receipts the number of one year old appeals have increased during the same period from 18 per cent of the total pendency as on 1-4-1978 to 23 per cent as on 1-2-1979. The increase in the number of such appeals in Delhi Collectorate has been as high as 78 per cent during this period and the Bombay Collectorate too, the rise has been significant (56 per cent). According to the Ministry, though it may be desirable to fix time-limit for disposal of appeals, this may not be practicable in all cases. While the Committee may agree with the Ministry in this regard, they cannot but deplore the long delays that are taking place in the disposal appeals especially in Delhi and Bombay Collectrates. The Committee cannot over-emphasize the im- |
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portance of expeditious disposal on appeals. They feel that no appeal should ordinarily remain pending for more than six months and in no case for more than one year. The Central Board of Excise and Customs should keep a close watch over appeals pending for more than 6 months and if the number of pending appeals appears to be going beyond the capacity of any Collectorate at any time the Central Board should set in motion special drives to clear the backlog and bring the situation under control.

Disposal of Revision applications

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As on 1st April, 1978, the number of revision applications pending with the Ministry were 7479 including 2169 (27 per cent) revision applications pending for more than one year. The pendency as on 1st April, 1976 and 1977 was 4070 and 5525 respectively. The Ministry have informed the Committee that the problem of cutting short the time taken in finally disposing of a revision application has been engaging the attention of the authorities concerned for quite sometime. But being a quasi-judicial proceedings, there is an inherent tendency in the system itself to consume considerable length of time before the proceedings are completed. According to a random sampling of 200 revision applications only 19 per cent of applications were disposed of within 6 months, while 27½% cases took between 6 and 12 months, 43% between 1 and 2 years, 7 per cent between 2 and 3 years, and 3½ per cent took more than three year. While the number of pending revision applications has been increasing from year—the number having risen from 4070 as on 1-4-1976 to 7479 as on 1-4-1978—and more than 54 per cent of the applications are taking more than one year to be disposed of the Ministry do not consider it feasible to prescribe an overall time-limit for disposal of revision application, nor even a time

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limit within which a final order should be passed after the date of hearing. The Committee see no justification to let the revision application remain pending indefinitely even after the case has been heard. They are strongly of the opinion that after the case has been heard, the orders on the revision application should be passed and copy of the orders supplied to the applicant within a specified period to be laid down by the Government. The Committee would like the Government to issue categorical instructions in this regard under intimations to them (the Committee).

Delay in typing

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The Committee regret that no tangible results in disposal of the pending cases have been achieved in spite of the measures reported to have been taken by the Ministry. It is rather shocking that because of reported shortage of typists, the gap between the passing of the order and typing of the fair copies is as much as two months. In the Committee's view the delay of two months at typing stage is inexcusable.

The Committee would like the Ministry to re-organise the working of their typing staff and, if necessary, augment the typing strength, without delay to ensure that at least at this stage there is no delay in the disposal of revision applications.

Adversary hearing

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Much of the delay in the revisionary proceedings could be reduced if adversary hearings were to be held. This would also give an opportunity to the Customs officials to present their case before the revising authority in person and would thereby obviate the delay caused in

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movement of files from place to place and would reduce post hearing delays.

Waiving prepayment of deposits

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The Committee feel that the present law gives unbridled discretion to the Appellate Authorities to waive pre-payment of deposits subject to certain conditions. In para 5.38 of their 28th Report on Central Excise, the Committee have recommended that Government may make a suitable provision in the Law giving the assessee two options viz. (i) he may either pay duty claimed by the Department first before filing appeal, revision application etc., and in case he wins the appeal he may get back the amount with interest or (ii) in the alternative, he may be allowed to file the appeal without payment of the amount of duty in dispute and in case he loses he may be liable to pay duty with interest thereon. The Committee recommend that a similar provision may be made in the Customs Law also in regard to payment of duty or penalty pending appeal with a view to discouraging frivolous and dilatory appeals/revision applications and expediting recovery of custom duty.

Court cases

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6.44

The Committee are concerned to note that there is long delay in disposal of court cases in regard to Customs disputes. In all 1633 cases are pending in courts relating to major Custom Houses, out of which 84 cases are more than 10 years old, 328 cases between 5 and 10 years old, 848 cases between 2 and 5 years old and 373 cases less than 1 year old. A suggestion has been made to the Committee that with a view to expediting disposal of cases, separate courts be set up to deal with revenue and import trade control disputes. The Committee have been informed by the Ministry that Government have

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approved the proposal for setting up special courts by ear-marking some of the existing courts for this purpose and the details are being worked out. In Bombay where a large number of Customs cases are pending the State Government of Maharashtra have ear-marked one of their courts for exclusively dealing with Customs cases. The Government of Maharashtra have agreed in principle to the creation of another Court for dealing with Customs cases in Bombay. The Committee urge that the details of this proposal may be worked out expeditiously and the State Government concerned persuaded to ear-mark adequate number of courts from among the existing courts to deal with revenue and other similar disputes so that the pendency of old cases is cleared expeditiously and there are no undue delays in future in disposing of revenue cases.

Appellate Tribunal

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The Committee note that the need for setting up an independent Appellate Tribunal for hearing appeals in respect of Customs and Excise disputes has been emphasized by the trade and industry for quite some time. The Committee have already dealt with this matter in paras 6.38 and 6.39 of their 28th Report (1978-79) on Central Excise. The Committee reiterate that Government should set up without further delay an independent Appellate Tribunal for settling disputes relating to Excise and Customs on the lines of Income Tax Tribunals in deference to the near unanimous demand of the industry and oft-repeated views of the Government appointed expert bodies in this regard.

Smuggling

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The Committee feel concerned about the reports of sizeable quantity of gold being smug-

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gled into India and desire that serious consideration should be given by Government to this matter. The Ministry have admitted that smuggling of gold into the country is bound to have adverse effect on the over-all national economy of the country. It may also generate malpractices such as hawala transactions in foreign exchange, over-invoicing of exports, smuggling out of India certain other sensitive items and black money. The Committee are anxious that Government should take all possible steps to prevent smuggling of gold from gulf countries.

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The Committee desire that the effect of the various anti-smuggling measures taken by the Department should be constantly kept under review with a view to strengthening them wherever necessary from time to time. Attention should in particular be paid to the smuggling activities on the west coast which according to the Department accounts for 75 to 80 per cent of the total seizures. It is imperative that proper coordination is maintained between the anti-smuggling units of different Collectorates of Customs controlling the West Coast. The Anti-smuggling units in Cochin and Goa Collectorates should not only keep watch over smuggling activities in their regions but also remain in regular contact with their counterparts in Bombay region to know the activities and *modus operandi* of smugglers.

In view of the fact that smuggling has become more scientific and systematic involving big and resourceful people, Government should ensure that adequate equipment and organisation is available to meet the challenges from smugglers.

Harrasment to People

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During the tour of Study Group of Estimates Committee to Cochin in January, 1979, they came

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across some complaints of harassment of people by the Customs check posts situated inside the State. They were informed that instructions had been issued to check posts not to interrogate every passerby or the residents of a place for possession of imported items except when they had definite information about smuggled goods being taken from one place to another. While the Committee are anxious that the preventive staff should keep a close vigil over the activities of the smugglers, they would like to emphasise that the officers in their enthusiasm should not harass innocent people.

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The Committee desire that the Directorate of Publicity should *inter alie* be given the task of educating public opinion against smuggling, and its bad effects on economy. The Directorate should take imaginative measures to dispel from the mind of public the craze for imported goods. The Committee feel that proper education against the use of smuggled items will go long way in reducing smuggling of such goods.

Involvement of Customs Officers

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The Committee are pained to note that a number of Customs Officers have been involved in smuggling activities. During the year 1976-77 and 1978, seventeen such Officers were found to have taken active part in smuggling of contra-band goods. The Committee desire that the cases against these officers should be finalised quickly. They would like to be informed about the action taken in these cases. The Committee desire that supervision over the Customs Officers should be tightened to prevent recurrence of such cases.

Involvement of diplomatic personal

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A more disturbing feature, which has come to the notice of the Committee is the involvement of some diplomatic personnel in smuggling

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activities. Taking advantage of the immunity from customs examination of personal baggage and other goods imported by diplomatic personnel, the smugglers use sometimes diplomatic channels in furtherance of their activities. During the period 1976 to 1978 upto July, 1978 some cases of seizures from diplomats occurred involving illegal importation of wrist watches and other goods of the value of Rs. 40.91 lakhs. These cases are pending for adjudication/investigation. The Committee suggest that the Ministry should take suitable measures in consultation with the Ministry of External Affairs to check the involvement of diplomatic personnel.

Working of the smugglers and foreign Exchange Manipulators (forfeiture of Property Act) 1976

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The Committee are unhappy to note that there was a year's delay in the constitution of the Appellate Tribunal under the aforesaid Act. Although the Act was assented to by the president on 25 January, 1976.

It was only in January, 1977 that the Appellate Tribunal was constituted. The first batch of forfeiture orders were released in February-March, 1977 as the rules governing appeals against the orders of forfeiture were framed by the Tribunal only in February, 1977. The Committee cannot but deplore this unconscionably long delay in setting up machinery under the aforesaid Act. They would like that the inordinate delay in the appointment of the Tribunal and framing of the Rules may be looked into and the Committee apprised of result.

The Committee note that competent authorities who are to initiate proceedings under the

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aforesaid act in respect of persons and properties covered by this Act have to depend on the income-tax officers and Customs authorities for preliminary reports. But the Competent Authorities do not have any control over the Income-tax Officers and Customs authorities and they are not in a position to direct these Officers to submit the relevant preliminary report expeditiously. Nor have the Competent Authorities been provided with separate man-power or machinery for undertaking such preliminary enquiries which are now being done by the Income-tax/Customs authorities. The officers posted with the Competent Authorities have no statutory powers of enquiry.

All this reveals a shocking state of affairs. There was an extraordinary delay in setting up the implementation machinery envisaged under the Act passed by Parliament. The machinery set up under the Act was neither given powers nor manpower to act on their own nor given adequate control on the Income tax and Customs Authorities for initiating action in respect of persons and properties covered under the Act. This is not the way in which legislative intentions of Parliament should have been given effect to. The Committee have not been informed as to whether the Competent Authorities brought their difficulties to the notice of the Government or put up any proposals for being vested with statutory or other powers to do their job properly, when the lack of coordination between the Competent Authorities and income tax and Customs authorities was brought to the notice of the appropriate quarters; what steps were attempted to bring about the desired coordination. In the Committee's opinion, the present state officers will result in frustrating the will of Parliament manifested in the aforesaid Act. The Committee would like the Government to make

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an immediate enquiry into the working of the machinery set up under the said Act and/or overall and strengthen the machinery without delay to enable it to act without constraint in the performance of its functions enjoined upon it by the said Act. The Committee would like to be informed of the action taken in the matter.

Seizure and Confiscation of goods

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The Committee note that the number of cases of seizure of goods imported in contravention of the Customs Act increased from 49555 in 1974 to 62569 in 1975, 77252 in 1976, 144977 in 1977 and 5736 in 1978 (upto April) but the value of goods seized decreased from Rs. 60 crores to Rs. 45 crores, 36 crores, 29 crores and 13 crores respectively. The Committee are glad to observe the increase in the number of cases of seizures which is an indicator of the alertness of the preventive machinery of the Customs Deptt. The Committee, however, feel that a study of the reasons for decrease in the value of goods seized is necessary. This would help in having an idea about the nature of goods illegally imported into the country and in planning the preventive strategy.

Time limit for expeditious completion of investigations

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The Committee feel that six months is too long a period to complete investigations and issue show cause notice except in some very complicated cases. It is not unlikely that because of the provision of six months in the law for issue of a show cause notice, the officers may tend to take things easy and delay the investigations. The Committee would, therefore, like the Department to consider laying down different time limits for different types of seizures and lay down guidelines for expeditious completion of investigations and issue of show cause

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notices at the earliest without waiting for the expiry of the stipulated period. In view of the fact that the number of cases of seizures have been on the increase the need for cutting down the period for issue of show cause notice and simplifying the procedure for adjudication is all the greater as otherwise the accumulation of seizure cases will reach unmanageable proportions and throw the customs machinery out of gear.

Adjudication of Cases

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The Committee note that at the end of July, 1978 there were 7888 cases pending adjudication, out of which 738 cases were 1—3 years old and 446 were more than 3 years old. The Committee have been informed that as a result of measures taken to review the old cases on a continuing basis, a considerable progress has been achieved in liquidation of old cases by December, 1978. The Committee, however, find that in spite of the special measures reported to have been taken the number of 1—3 years old cases in Collectorates of Ahmedabad (14.3 per cent.), Allahabad (9.09 per cent.), Bangalore (10.3 per cent.) and Guntur (10.6 per cent.) is still very high. In the Collectorates of Calcutta, Chandigarh, Delhi and Madras, the number of 1—3 years old cases has surprisingly gone up after the special measures have been taken. The number has been increased from 13 per cent. to 15.6 per cent. in Calcutta, 10.6 per cent. to 13.8 per cent. in Chandigarh 16.6 per cent. to 24 per cent. in Delhi and 18 per cent. to 19.4 per cent. in Madurai. The Committee desire that Central Board of Excise and Customs should regularly monitor the progress of disposal of old cases of seizures and ensure that these are disposed of as early as possible and that there should be no undue accumulation of old cases in future.

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Disposal of seized/confiscated goods

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The Committee note that as on 31 December, 1978, while the total stock of confiscated goods lying in the Customs godowns was of the value of Rs. 58 crores, the value of such goods ripe for disposal was only Rs. 7.5 crores. The value of confiscated goods disposed of during the last three years has been on the decline (Rs. 28.03 crores in 1976, Rs. 13.7 crores in 1977 and Rs. 6.03 crores in 1978) resulting in accumulation of large stocks in the custody of customs organisation. The extant procedure for dealing with seized goods and disposing of confiscated goods is time-consuming. The long periods of storage not only result in avoidable expenditure on their storage but also result in losses and deterioration. The possibility of malpractices also cannot be ruled out. The Committee feel that if the rate of disposal of confiscated goods continue to decline as it has declined during the last three years, the accumulated stocks of confiscated goods would become unmanageable and will create numerous problems for the Government. The Government would do well therefore to take legal powers to dispose of seized and confiscated goods without waiting till appellate remedies are over and hold the proceeds in deposit to be disposed of as required under the final decision.

Disposal of vehicles

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The Committee note that 388 vehicles were lying with the Customs Department as on 1 April, 1978, out of which 112 were lying for 1—3 years, 113 vehicles were for 3—5 years and 92 vehicles for over five years. During the period 1976—78 an amount of rent of Rs. 13.34 lakhs was incurred on hiring garages for parking the vehicles. Out of these 388 vehicles, 153 were lying in the open and must have been considerably damaged. The Committee do not see any advantage in the Government action as a watch-

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		<p>man for these vehicles, which after 3—5 years would be nothing but junk and may yield only a fraction of their book value.</p> <p>The Committee would like that a complete and upto-date statement indicating the make of vehicle, year of manufacture, date of seizure, date of confiscation and value should be submitted to them.</p>
55	3.57	<p>The Committee would reiterate that the Government may examine the feasibility of disposing of such vehicles if necessary by amendment of the relevant law, immediately after their seizure, except where their disposal may weaken the case for prosecuting the smugglers, and divesting themselves of the responsibility for keeping these vehicles at great cost. The Committee also recommend that case of each vehicle lying at present in Government custody may be examined critically and steps taken to dispose it of as early as possible. It should also be ensured that, so long as the vehicle lies in Government custody it is kept in a safe and covered place so that it remains in good condition and fetches the best possible price at the time of disposal.</p> <p style="text-align: center;"><i>Disposal of Diamond/precious stones</i></p>
56	8.58	<p>The Committee desire that the Central Board should ensure that diamond, precious and semi-precious stones with the collectorates of Madras, Chandigarh, Ahmedabad, Jaipur and Shillong are transferred to Bombay Collectorate and/or disposed of expeditiously. They would like the Central Board to ensure that the diamonds and stones are kept in safe custody and are duly accounted for and are not stolen, lost or replaced</p>
57	3.59	<p>The Committee have been informed that according to the decision of the Government cut and polished diamonds and confiscated synthetic textiles are to be disposed of by way of re-export out of India. Steps are being taken for arrang-</p>

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ing re-export of such textiles either in fabric form or after conversion into garments. Cut and polished diamonds are being disposed of by customs Houses for export out of India. The Committee desire that instead of giving general instructions in this regard concrete schemes should be drawn up to re-export textiles and cut and polished diamond and responsibilities assigned to designated officers/collectorates and watch kept by the Central Board on the progress of re-export of these items.

Disposal of Watches

58	8.60	<p>The Committee have been informed that 35000 confiscated watches are now awaiting disposal with the customs. It has been decided to hand over the confiscated watches to Hindustan Machine Tools but the Hindustan Machine Tools have not yet finalised the detailed working arrangements for disposal of confiscated watches. The Committee desire that the matter should be pursued with the Hindustan Machine Tools and the Committee informed about the outcome in concrete terms.</p>
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Pilfrequent Losses of goods in Collectorates

59	8.61 3.62	<p>The Committee find from the statement furnished to them that during the period of three years 1976 to 1978, stock verification was done only once in Indore and Poona Collectorates, twice in Delhi and Bhuvaneshwar Collectorates and thrice in Vishakhapatnam, Calcutta, Bombay and Poona Collectorates. The Committee are not happy over the non-observance of the procedure by the Collectorates. The Committee desire that it should be the responsibility of the Collectors to ensure that stock verification is done twice a year according to the procedure and the Central Board should through periodic statements ensure compliance with the instruc-</p>
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tions issued in this regard. The Committee would like to be informed of the action taken for stock verification in each collectorate within six months.

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The Committee are concerned to find some cases of pilferage and losses of goods in some collectorates during the period 1976—78 in Central Excise Collectorate, Delhi. Textiles valuing Rs. 1,10,829 were lost. In Central Excise Collectorate Guntur gold valued Rs. 109150 was substituted by three Superintendents and one inspector. The matter has been investigated by the Central Bureau of Investigation and the case has been referred to Central Vigilance Commission in January, 1979. The Committee would like to be informed of the action taken against the persons concerned in both these cases. The Committee also desire that necessary steps should be taken to tighten up security measures in all Collectorates to ensure that goods in the customs godowns are not lost. For this it is necessary that stock verification should be done at regular intervals and periodical surprise visits are also made to the godowns by the Senior officers.

Staff Strength

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to

9.25

The incoming passengers are a source of revenue to the country. The minimum that they expect in return is quick customs clearance which is not too difficult a task if adequate staff is deployed at the International Air ports. The Committee find that even after staff studies, the additional staff is not posted expeditiously. The Committee note that another joint study of staff requirements by the Directorate of O & M and Staff Inspection Unit is underway at Bombay and Delhi. The Committee are of the opinion that the staff studies should determine norms with

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reference to passenger traffic at peak hours and when the traffic grows, the staff strength should be increased automatically according to the norms. It should not be necessary to undertake staff study a fresh every time increase is reported in traffic. There should be no delay in filling up the additionally sanctioned posts either. The Committee consider that it is the responsibility of the Customs Department to provide adequate staff at airports for clearance of passengers quickly so that the inconvenience caused to them because of delay in Custom Clearance is minimised.

The Committee find that whereas according to staff studies already made, Directorate of O & M had recommended 61 additional posts for Air Pool Bombay, the Integrated Finance of the Ministry had cleared only 26 posts. For introducing 3 shift system, Bombay customs also requires 3 more Air Customs Inspectors and 43 more Air Customs Officers; Delhi too requires an additional strength of 30 Air Customs Officers. The Committee feel that where studies already made have established the need for additional staff, the sanctioning and posting of additional staff should not be delayed. The Committee would like to be informed of the progress made in the posting of additional staff.

The Committee also recommend that the additional staff proposed for Air-port Customs unit at Trivandrum and the additional staff sanctioned for Air Cargo Unit there should be posted expeditiously so that the Trivandrum customs can start providing efficient service to passengers and importers/exporters at the earliest.

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*Clearance of passengers at the International
Airports*

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9.44 | <p>According to the information furnished by the Ministry during the first two weeks after the introduction of the new system, the averages time taken for clearance per passenger has considerably come down. In Bombay the average time which was 1—3 hours per flight during one week before the new system, is stated to have come down to 30 minutes during first and second week after the introduction of 2-channel system. In Delhi the average time came down to 1-minute (green) and 8—15 minutes (red) per passenger. In Calcutta it had come down to 11 minutes and in Madras 1.20 minutes. The figures of average time furnished by the Ministry are in respect of "per flight" for Bombay and "per passenger" for other Airports and as such it is difficult to compare the efficiency ratios at these airports. The Committee would like to be apprised of the average time per passenger in respect of all the international airports.</p> |
| 63 | 9.45 | <p>It has not been explained by the Ministry as to why the average time in clearing passengers at Calcutta is as high as 11 minutes per passenger when at Delhi it is only 1 minute (Green channel). The Committee would like the Central Board to look into the matter and improve the situation at Calcutta so as to bring it at par with Delhi.</p> |
| 64 | 9.46 | <p>The Committee desire that the working of the 2-channel system should be kept under constant watch. The Committee would suggest that figures of average clearance time per passenger should be maintained in respect of each airports separately and periodically compared to see where and why the clearance time is comparatively high and remedial measures taken to keep the efficiency of customs clearance at optimum level.</p> |
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65	9.47	<p>A number of complaints have been made to the Committee about the behaviour of customs officers towards the passengers. It has been represented that when not-so-affluent looking Indians come back to India from abroad, they are treated in a "very bad and pitiable manner". The Committee welcome the instructions issued by the Department to Customs Officers to treat the passengers courteously and other arrangements reportedly made for the convenience of the passengers. But unless these instructions are carried out in letter and spirit and unless facilities provided in Customs Hall actually made available to the passengers, the image of the customs, which was not very good till some time ago, would not improve. The Committee suggest that while welcoming the incoming passengers into the Customs Hall over the public address system, passengers should also be informed of the salient points of the baggage rules particularly customs free baggage allowance, and repeatedly informed that in case of any difficulty they may meet the Assistant Collector on duty. The Assistant Collector on duty and the Customs Superintendent should, on their own also, meet the passengers at random and offer them advice and help, if it is needed.</p>
66	9.48	<p>The Committee would also suggest that suggestion form should be given to every passenger whose baggage is opened and checked and the passengers advised to send the suggestions forms, duly filled in, directly to the Collector of Customs in charge of the Airport by post. The suggestion form should be acknowledged on receipt and action taken on the suggestions intimated to the passengers concerned.</p>
		<p><i>Baggage Rules</i></p>
67	<p>9.61 to 9.62</p>	<p>During on-the-spot study visits to Delhi and Trivandrum airports, the Committee were distressed to find that in spite of the steps reported</p>

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to have been taken, to give publicity to baggage rules, the incoming tourists and passengers had no clear idea about the baggage rules in vogue in the country. The Committee desire that a gist of baggage rules should be made available to the (1) the Indians going abroad by Airlines travel agents etc. when they buy air tickets in the country before they leave, and (2) the foreigners/ tourists by our embassies, Tourist offices and Air India offices abroad. If information about baggage rules is not available to incoming passenger well before the commencement of the air journey, the passenger is likely to be put to a great inconvenience which can be avoided only by a systematic and timely dissemination of information in this regard.

Translation of Baggage rules in regional/foreign

Languages

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9.62

It is stated that the Department propose to have these rules translated in regional languages and some foreign languages. The Committee desire that this should be done without loss of time and copies of the rules in foreign and regional languages should be made available to all those who may express a desire to have them.

Expansion of International Airports in India and construction of new terminal buildings at Santa-cruz, Delhi and Madras Airports

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The Committee desire that the Department should ensure that at least basic amenities are provided in the proposed Gulf Terminal at Bombay Airport.

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The Committee hope that the construction of first-phase of the terminal building would be completed according to the time-schedule laid down for this purpose to provide some relief to the passenger at Bombay Airport.

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		<p>The Committee are informed that feasibility reports for expansion of Terminal Complexes at Bombay (Phase-II), Delhi (Phase-I), and Madras (Phase-I) have been under consideration of Government since last year. The space available at present at these airports, particularly at Bombay and Delhi air terminals is reported to be extremely inadequate and the position is sure to become more acute in the future with the growth in traffic which is taking place at fast pace. In view of this, the need for expeditious clearance of feasibility reports cannot be over emphasised. The Committee would like Government to take speedy action on the feasibility reports in the interest of relieving congestion at the international airports.</p>
		<p><i>Amenities and facilities for passengers</i></p>
70	9.85	<p>The Committee regret to note that not only space is inadequate in the arrival halls at international airports but even some basic amenities required by the passengers are also lacking. The air-conditioning at Bombay Airport is inadequate. There was absence of snack bar facilities in the arrival hall at Palam. Insufficient toilet facilities aggravate the difficulties of passengers. It has also been complained that the hand trollies in which passengers can move their luggage to the counters for examination are not only inadequate in number but also defective. The Customs should look into the number and condition of trollies at each airport without delay and ensure that adequate number of trollies in fit condition are always available for the use of passengers.</p>
71	9.86	<p>The Committee have been informed that collectors at the major Customs Houses had been asked to undertake the survey of the existing amenities and facilities at airports such as effectiveness of air-conditioning plants, availability of soft drinks, snack bars, self service</p>

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trolleys etc. These survey reports have been received and the matter has been taken up with the Airport Authority at the respective airports. The Committee feel that it is the responsibility of the Customs Department to ensure that all necessary amenities are provided to the incoming passengers in the Customs Hall. The Department should provide sufficient number of chairs for the passengers particularly for women with infants at points where they have to stand in queues for immigration and Customs clearance. The Department should also provide adequate number of toilets at the appropriate place and make available drinking water in the Customs Hall—the two basic facilities needed by passengers after long journey.

Movement of Luggage

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| 72 | 9.87 | It should also be ensured that baggage is brought from the aircraft to the conveyer belt in the Customs arrival hall as quickly as possible. In case of delay in the arrival of baggage the customs officers should immediately get in touch with the representatives of the airlines concerned and sort out the difficulties. |
| 73 | 9.88 | The Committee note that Facilitation Committee have been set up for considering issues relating to passenger clearance at the International airports. On these Committees, various agencies such as Customs, Immigration, Health, International Airport Authority and Air-lines are represented. On the high level a Facilitation Committee has also been set up under the Chairmanship of Secretary, Department of Tourism and Civil Aviation with Member (Customs) as one of the members. The Committee hope that the Facilitation Committees at the airports keep amenities provided and required at the airport under careful watch and |

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ensure that the basic needs of the passengers are met in full measures.

Land and Sea Customs

- 75 10.34 to The Committee note that at the Attari Rail-
10.35 way Station, the train halts for about two hours
of the Land Customs Stations on Indo-Nepal
and Indo-Bangladesh borders are not adequate.
The Committee hope that Government will take
necessary steps for constructing suitable building
with adequate facilities for passengers at the
Indo-Nepal border and at Petropol on Indo-
Bangladesh border as quickly as possible, so as
to provide reasonable facilities and amenities
to international passengers crossing the borders
as well as to the staff posted there on duty.

Arrangement at Indo-Pakistan Border

- 75 10.34 to The Committee note that at the Attari Rail-
10.35 way Station, the train halts for about two hours
to enable passengers to get down with their bag
and baggage for customs and immigration clear-
ance. The passengers have to wait there per-
force for about 2 to 2½ hours irrespective of the
fact whether the passenger goes through the
customs and immigration formalities first or
last. After getting immigration clearance, the
passengers carry their luggage with or without
the help of porters, who charge high rates for
taking the luggage to the Customs counters
situated at the other end of the platform. After
customs clearance, the passengers reload their
luggage in the train and the entire process
takes over 2 hours. The Committee have stu-
died on the spot the existing arrangement at the
Attari Railway Station for clearance of passen-
gers and their baggage by customs, immigration
and health authorities. These arrangements,
the Committee regret to say, are wholly unsatis-

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factory and inadequate. The procedures are time-consuming and cause great hardship, physical as well as financial, to the large number of passengers. The solution to the passengers' problems lies in shifting the immigration and customs check posts from Attari Railway Station to Amritsar Railway Station as was the case in the past.

But pending shifting of the customs and other check posts to Amritsar, the Study Group of the Committee, had after an on-the-spot study of the problems and discussions with knowledgeable persons, made certain suggestions to the Ministry in July, 1978 to readjust the positioning of the train at the platform and customs and immigration checks to mitigate the hardships of passengers. The Ministry had stated that the suggestions were being examined. But the Committee regret that they have not been informed of the outcome of the examination of the suggestions. The Committee urge that the arrangements suggested by them may be tried on an experimental basis immediately and improvements where necessary made in the light of passengers reactions, and the Committee apprised of the results within 3 months.

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10.36

The Committee have noted and the Ministry have also admitted that the Attari Railway Station is only partially covered with shed, which is too high to give adequate protection against strong wind or rain. There is no holding lounge where an intending immigrant whose papers might be found incomplete or defective on examination could be kept till his return by train the next day. At present such persons are reportedly kept waiting on the open platform. The Committee strongly feel that pending the shifting of checkpost from Attari Station to Amritsar Station some stop-gap arrangements

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should be made to provide reasonable protection to passengers against the vagaries of weather and to make the conditions at the platform reasonably tolerable.

Trolleys for carrying luggage

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10.37

The Committee feel that as has been done at Airports, the Customs authorities should in consultations with Railway authorities arrange to provide trolleys at the Attari Railway Station to enable the passengers to carry their baggage to customs counters and bring it back to the train after customs clearance, without being dependent on the porters.

Shifting of clearance facilities to Amritsar Railway Station

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10.38

With regard to the shifting of the clearance facilities from Attari Railway Station to Amritsar Railway Station, the Committee note that the Ministry of External Affairs have no objection to its shifting to Amritsar, but the Ministry of Home Affairs have not yet given their concurrence. The Committee are of the view that the location of customs check post at Attari Railway Station, where the arrangements to handle the international traffic are utterly inadequate is a very unsatisfactory arrangement. The Committee feel that, for the convenience of international passengers, the Immigration and Customs Check Posts should be shifted from Attari Railway Station to Amritsar station from after making suitable safeguards against smuggling and other unlawful activities. The Committee would like the Government to take an early decision in the matter.

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Construction of Building

- 79 10.39 to The Committee feel that the existing arrange-
 10.40 ments at the Customs checkpoints at Attari
 border are not at all satisfactory. The check-
 post is housed in a building which is outmoded
 and deficient in modern facilities. Tourists are
 put to great inconvenience in covering a distance
 of about 200 metres between the checkpoint and
 the border, particularly in hot weather or rainy
 season.

When the inadequacy of arrangements at the Attari Customs checkpoint has been admitted by Government and difficulties faced by tourists are too well known, there should be no reason to delay the finalisation of the proposal to construct a new building and provide much needed relief to the tourists. The Committee would urge the Government to take an immediate decision in the matter and implement it speedily. The Committee would like the Government to make sure that the proposed building would not only meet the immediate needs of the tourists and customs, immigration and health authorities but will also have adequate scope for expansion of facilities to cope with the growing international traffic across this border.

Warehousing facilities at Seaport

- 80 10.59 to The Committee recommend that a compre-
 10.61 hensive assessment of the warehousing accom-
 modation available at the ports and the accom-
 modation required to store imported goods now
 and in the future may be made by the Central
 Board and the question of expansion of storage
 facilities in Port Trust Warehouses and of ap-

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pointing other suitable warehouses examined in consultation with the authorities concerned with a view to solving the storage difficulties of importers. The Committee also suggest that the facility of warehousing the goods at places in inland areas which is permitted under the Rules should be given wide publicity and granted liberally subject to usual safeguards to meet the storage needs of importers. The Committee would like to be informed of the outcome of the assessment made and arrangements made or proposed to be made to cope with the situation.

Warehousing of goods under section 49 of the Act

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10.62

A Public sector undertaking has brought to the notice of the Committee that Calcutta Customs House is not allowing facilities of warehousing of materials under Section 49 of the Act, before payment of duty. The Ministry have stated that goods deposited in a warehouse under provisions of Section 49 of the Act are not deemed to be "Warehouse goods" and as such the Customs Houses have necessarily to obtain either a bank guarantee or a duty deposit to cover the Customs duty involved before allowing any goods to be deposited in terms of Section 49 of the Act. The representative of the Ministry of Finance admitted during evidence that "there is some confusion here. In his opinion the duty should not be asked, but some collectors feel it should be asked for". The Committee would like the matter to be examined and clear instructions issued to all concerned without delay so that there is no confusion on this account anywhere.

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Organisational set-up

- 82 11.21 to The Committee desire that early action should
 11.24 be taken by the Board on the recommenda-
 tions made by the Directorate of O & M Ser-
 vices.

The Committee note that except small rou-
 tine studies, no major study for systems re-orga-
 nisation of Customs Department has so far been
 undertaken by the Directorate of O & M. The
 Committee would like the Directorate to concen-
 trate on fundamental matters like organisation
 and methodology of various disciplines and ser-
 vices including administrative and procedural
 reforms, efficiency in management forms of
 management, computation, circulation of data,
 anti-smuggling and anti-corruption measures
 etc.

The Committee would like to be apprised of
 the follow-up action taken in the light of stu-
 dies made by the O & M Directorate and the
 Staff Inspection Unit and the results achieved.
 The information should be furnished under
 various heads like staff economy (in numbers
 and in terms of money) staff augmentation, pro-
 cedural reforms, efficiency norms, etc.

- 83 11.25 In view of the fact that both Staff Inspection
 Unit and O & M Directorate of the Central
 Board are undertaking studies of staff needs of
 the various wings in the Custom Houses, it be-
 comes necessary to establish perfect liaison be-
 tween the two Departments so as to ensure that
 there is no overlapping in the Studies under-
 taken by them. The two organisations should
 keep constant coordination in selecting units
 for staff studies and exchange notes on metho-
 dology and ensure that they do not function at
 cross purposes.
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Air Cargo Complex at Trivandrum

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The Committee are informed that in deference to the demand from the trade, the proposal to set up an air cargo complex at Trivandrum has been accepted in principle. The Committee hope that the requisite staff for manning the proposed cargo complex at Trivandrum has been posted by now as assured during evidence and the complex has started functioning in a regular way.

Office accommodation in Bombay, Custom House

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11.31

In view of the high rent of nearly Rs. 63 lakhs per annum being paid by Bombay Custom House, the need for having a Government building for meeting all the needs of the Custom House cannot be overemphasised. The Committee regret that the assessment of shortage of office accommodation made in 1972 has been found to be off the mark within six years and the demand has outstripped the accommodation to be available in new building under construction even before it is ready. The Committee desire that before acquiring another plot of land for further construction, the present shortage of accommodation should be carefully assessed in consultation with the Ministry of Works and Housing and new construction if necessary, should be so planned that it is adequate not only to meet the present requirements but also provide for meeting the foreseeable increase in demand for more space. The Committee, however, desire that before going in for new construction for the customs the Ministry should explore the possibility of acquiring warehouses and office accommodation from the other public bodies and the Government should go in for new construction only, if their needs cannot be met by other Government and semi-Govern-

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ment organisations.

*Staggering of office hours of Customs staff at
Cochin*

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11.37

The Committee feel that there is force in the demand of the exporters of fish in Cochin that the services of the Customs staff should be made available without payment of overtime by the exporters for handling export consignments of fish which in view of the perishable nature of the commodity have to be shipped after sunset. In view of the fact that this cargo is loaded only twice a week, there should be no difficulty in staggering the duty hours of the staff on these two days through a duty-roaster. During evidence, the Finance Secretary agreed to go into this question. The Committee desire that necessary steps in this regard should be taken without delay. This facility should be extended to other ports where fish consignments have to be loaded only in the evening in view of the perishable nature of the commodity.