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**FORTY-THIRD REPORT**  
**ESTIMATES COMMITTEE**  
**(1993-94)**

**(TENTH LOK SABHA)**

**MINISTRY OF FINANCE**  
**DEPARTMENT OF REVENUE—**  
**CENTRAL BOARD OF EXCISE AND CUSTOMS**

*[Action Taken by Government on the recommendations contained in the  
Seventeenth Report of Estimates Committee (Tenth Lok Sabha) on the  
Ministry of Finance — Department of Revenue — CBEC]*



*Presented to Lok Sabha on 26 April, 1994*

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*April, 1994/Chaitra, 1916 (S)*

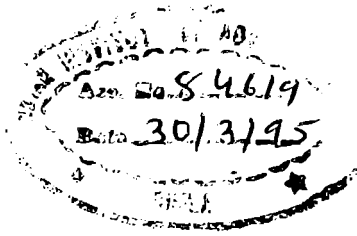
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COMPOSITION OF THE ESTIMATES COMMITTEE  
(1993-94)

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## INTRODUCTION

I, the Chairman of the Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Forty-Third Report on action taken by Government on the recommendations contained in the Seventeenth Report of Estimates Committee (Tenth Lok Sabha) on the Ministry of Finance (Department of Revenue) Central Board of Excise and Customs.

2. The Seventeenth Report was presented to Lok Sabha on 28th April, 1992. Government furnished their replies indicating action taken on the recommendations contained in that Report on 18th November, 1993. The Draft Report was considered and adopted by the Committee on 8th April, 1994.

3. The Report has been divided into the following chapters:—

- I. Report;
- II. Recommendations/Observations which have been accepted by Government;
- III. Recommendations/Observations which the Committee do not desire to pursue in view of Government's reply;
- IV. Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee; and
- V. Recommendations/Observations in respect of which final replies of Government are still awaited.

4. An analysis of action taken by Government on the recommendations contained in the Seventeenth Report of Estimates Committee (Tenth Lok Sabha) is given in Appendix-I. It would be observed therefrom that out of 82 conclusions/observations/recommendations made in the Report, 40 recommendations *i.e.* 48.80% have been accepted by the Government and the Committee do not desire to pursue 30 recommendations *i.e.* 36.60% in view of Government's replies. Replies of Government in respect of 9 recommendations *i.e.* 10.96% have not been accepted by the Committee. Final replies of Government in respect of 3 recommendations *i.e.* 3.64% are still awaited.

NEW DELHI;  
*April 18, 1994*  

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*Chaitra 28, 1916 (S)*

DR. KRUPASINDHU GUPTA  
*Chairman,*  
*Estimates Committee.*



## CHAPTER I

### REPORT

1.1 This Report of the Estimates Committee deals with action taken by Government on the recommendations contained in their Seventeenth Report (Tenth Lok Sabha)—Ministry of Finance (Department of Revenue)—Central Board of Excise and Customs. The Report was presented to Lok Sabha on 28th April, 1992.

1.2 Action Taken Notes have been received in respect of all the 82 conclusions/observations/recommendations contained in the Report.

1.3 Action Taken Notes on the observations/recommendations of the Committee have been categorised as follows:

- (i) Recommendations/observations which have been accepted by the Government.

3, 4, 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 22, 23, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 48, 49, 50, 55, 56, 57, 58, 60, 67, 68, 69, 70, 71, and 75

(Total 40, Chapter-II)

- (ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government replies:

1, 2, 6, 19, 20, 21, 24, 25, 26, 27, 28, 43, 44, 45, 46, 47, 53, 54, 59, 61, 66, 72, 73, 74, 76, 77, 78, 79, 80, 81(i) & (iii)

(Total 30, Chapter-III)

- (iii) Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee:

13, 14, 15, 29, 30, 62, 63, 64 and 65

(Total 9, Chapter-IV)

- (iv) Recommendations/Observations in respect of which final replies are still awaited:

51, 52, 81 and 81(ii)

(Total 3, Chapter-V)

1.4 The Committee will now deal with action taken by Government on some of the recommendations.

#### *Strengthening of Economic Intelligence*

*Recommendations (Sl. Nos. 11 & 12, Paras 2.66 & 2.67)*

1.5 The Committee found that economic intelligence through diplomatic channels was not being obtained owing partly to the reluctance on the part of the concerned countries to part with information as also lack of expertise in our embassy staff. To overcome this handicap the Customs officials of different ranks were posted in various Embassies in London, Singapore and South-Eastern countries. In the absence of appropriate treaties for intelligence sharing with the developed countries, which accounted for a major share of our foreign trade a serious impediment in this exercise had been experienced.

1.6 The Committee desired that immediate steps should be taken to strengthen intelligence gathering arrangements at the Centres of international trade and officers experienced in intelligence gathering and having knowledge about international trade practices should be posted at these places.

1.7 The Ministry in their action taken replies have stated that necessary steps for intelligence sharing like Treaty/Agreement with different countries are being pursued. Government is also identifying such countries where dynamics of foreign trade affect India. Necessary steps for further strengthening intelligence network are being taken.

1.8 The Committee appreciate the efforts being made by the Government in all possible avenues of economic intelligence gathering and intelligence sharing. The Committee, however, desire the Government to share with them in detail the necessary steps being taken for further strengthening the network for obtaining economic intelligence including those countries where dynamics of foreign trade affect India. The Committee also desire that they be apprised of the progress achieved in signing Treaty/Agreement with different countries for intelligence sharing within a period of three months.

*Setting up of Special Courts*

*Recommendation (Sl. No. 18, Para 2.73)*

1.9 The Committee were dismayed to point out that no special courts had been set up so far to try cases under the NDPS(Amendment) Act, 1989. They desired the Ministry to take up the matter with the State Governments at appropriately high level for setting up such courts at the earliest.

1.10 The Ministry in their reply have stated as follows:—

“Section 36 of the N.D.P.S. Act enjoins upon constitution of special courts by Governments for trial of offences under NDPS Act. Such special courts are to be headed by Sessions Judge or Additional Judge. With the intensification of anti-drug measures about 26,789 cases have been booked under N.D.P.S. Act and are pending trial. Communications have been sent to all the State Governments, Union

Territories, for constitution of special courts. So far, the following States have created special courts:—

Sl. No.	Name of States/UTs	Number of Courts
1.	Goa	1
2.	Maharashtra	8 (7 under formation)
3.	Manipur	4
4.	Meghalaya	5
5.	Tripura	1
6.	West Bengal	4
7.	Tamilnadu	6
8.	Rajasthan	1

1.11 At present, 30 special courts have so far been created. The State Governments/Union Territories have again been reminded for constitution of special courts in the affected areas. Secretary (Revenue) has written to the Chief Secretaries in this regard on 13.07.1993.

1.12 The Committee note that only 30 special courts in eight States have so far been set up for trial of cases under the Narcotic Drug and Psychotropic Substances Act. The Secretary (Revenue) has written to Chief Secretaries urging State Governments/Union Territories to constitute special courts in the affected areas. The Committee desire that in the interest of administration of justice in time as also giving deterrent punishment to the guilty, the Ministry should continue to pursue the matter at the highest level with the remaining State Governments/Union Territories for setting up such courts without further delay. The progress achieved in setting up of special courts as also the trial of cases in these special courts may be reported to the Committee within the period of three months.

#### *Anti-Smuggling Measures*

##### *Recommendation (Paras 2.68 to 2.70, Sl. Nos. 13—15)*

1.13 The Committee were informed that to combat smuggling, Government had taken various measures like confiscation of smuggled goods, imposition of penalty and prosecution of persons involved in smuggling activities. In addition, Directorate of Revenue Intelligence organised raids and searches. Anti-smuggling machinery had been upgraded by providing sophisticated anti-smuggling equipments, such as metal detectors, night vision binoculars, baggage X-Ray, machines, etc. From the figures furnished regarding the amount of contraband seized during the last six years, the Committee came to this conclusion that the anti-smuggling activities remained unabated. However, the Committee appreciated the various measures like partial convertibility of rupee, the

facility provided to NRI to bring to India limited quantities of gold and the scheme for Gold Bonds announced during the Budget Session for the financial year 1992-93. The Committee expected that these steps coupled with the liberalisation of economy and the expected improvement in the quantity and quality of industrial products in India would curtail smuggling activities. The Committee underlined the need for the Ministry to exercise greater vigilance in this liberalised economic environment as the above measures had the potential of degeneration into a money laundering device. The Committee desired the Ministry to monitor the situation tightly, take timely corrective measures and ensure that anti-smuggling measures be made more affective so that smuggling did not remain an attractive economic proposition.

1.14 The Ministry in their action taken reply have *inter-alia* stated that the Government appreciate the apprehensions expressed by the Committee. Government is also aware of the possible misuse of gold import scheme. Smuggling is a clandestine activity and anti-smuggling agencies do check smuggling to the extent possible. However, field formations and economic vigilance agencies have been geared up and suitably alerted.

1.15 The Committee desire the Government to spell out specific measures taken for gearing up field formations, and economic intelligence agencies and also state the impact that have created by these measures in combating smuggling within the period of three months.

#### *Fixation of Time Limit*

##### *Recommendation (Paras 2.84 & 2.85, Sl. Nos. 29 & 30)*

1.16 The Committee found that even though a provisional time limit of three to six months had been fixed for finalisation of various categories of cases, in a large number of cases the Ministry has not adhered to the stipulated time limit. The delay in finalising these cases had in fact ranged between six months to over three years. The Committee desired the Ministry to take earnest steps to bring down the arrears of these cases as early as possible. In this connection they had desired the Ministry either to increase the number of special courts or make the classification more simplified.

1.17 The Ministry in their Action Taken Reply have stated:

“Since these matters are decided by the executive officers in their quasi-judicial capacity, the Ministry keeps a close watch on these pendencies, especially those over a 6 months, through monthly reports from collectors as well as the analysis done by Directorate General of Inspections. The pendency position is also reviewed and discussed in the periodical conferences of Collectors, which are chaired by the Members of the Board.”

1.18 The Committee regret to observe that the reply of the Ministry is quite evasive. The Ministry has not mentioned in its reply the steps taken by the Government for increasing the number of special courts and efforts if any made for simplifying the classification to bring down the arrears of these cases as recommended. The Committee reiterate their earlier recommendation and desire the Ministry to take expeditious steps for bringing down the arrears of cases by increasing the number of special courts and by making the classification simpler.

### *Inspections*

#### *Recommendations (Sl. Nos. 31 & 32, Paras 3.81 & 3.82)*

1.19 The Directorate of Preventive Operations carried out periodical and selective inspections of records of seizure, confiscation, rewards, pricing of seized goods, storage and disposal of goods. However, there was no fixed periodicity for such inspections. The Committee desired that these inspections should be carried out regularly and a definite periodicity be prescribed for such inspections to enable the Directorate to know and review the various lapses and defaults found in maintaining records of seizure, confiscation and pricing of seized goods in all the Collectorates.

1.20 The Ministry in their action taken reply have stated as under:—

“Instructions exist for field formations to undertake regular periodical stock taking of godowns. However, considering the large number of formations which are engaged in anti-smuggling activities in the Preventive Collectorate/Customs Houses/Central Excise Collectorates and the existing small set-up in the Directorate of Preventive Operations for this purpose, it has not been possible for the Directorate to maintain fixed periodicity of inspections of every formation or to conduct the stock taking or stock verification of seized/confiscated goods lying at every godown.

With a view to give effect to the recommendations of the Estimates Committee, and estimate of the workload is being worked out so that the periodicity of such inspections, stock taking and stock verification could be fixed in the light of the existing manpower resources. Proposal for further augmentation of staff is under consideration.”

1.21 The Committee note that estimate of workload is being worked out so that periodicity of such inspection and stock taking could be fixed in the light of existing manpower. Proposals for further augmentation of staff are also under consideration. The Committee desire that estimate of workload for the purpose should be expeditiously worked out and early steps taken for further augmentation of staff for fixing periodicity of inspections at reasonable durations.

### *Inspection*

#### *Recommendations (Sl. Nos. 33 to 35, Paras 3.83 to 3.85)*

1.22 The Committee found that the existing arrangements of inspections carried out by Directorate General of Inspections were inadequate as the

Directorate was finding it difficult to maintain the inspection schedule due to paucity of staff. The Committee were informed that 53 posts in various grades were vacant and even the norms for carrying out inspections were formulated years back. The Committee have, therefore, desired the Ministry.

- (i) to review existing norms of inspections;
- (ii) to fill up expeditiously the existing vacancies and also to draw up a panel in advance of eligible persons; and
- (iii) to identify the critical areas so that greater attention could be accorded and quality approach should be brought into play in carrying out inspections.

1.23 The Ministry in their action taken reply have stated as follows:

"It is correct that the existing arrangement for inspection by the Directorate General of Inspection is inadequate and the staff strength of this office has been unable to cope with the increase in the number of Collectrates/Customs Houses. The norms regarding periodicity of inspections to be carried out by this Directorate were also prescribed long back. As such, this organization has been unable to stick to prescribed norms of inspection. The organizational resources, structure and functioning of the Directorate General of Inspection are being re-examined.

The process of reviewing the norms of inspections has already been set into motion, and efforts are being made to give a qualitative edge to inspections by concentrating more on core areas related to revenue, to efficiency of tax administrations and preventive administration and to effectiveness of public grievance redressal systems. It is also proposed to introduce elements of surprise and intelligent selection in the programme of inspections so as to overcome the handicap in quantitative coverage.

It may be added that *vide* Board's letter F. No. 223/2/8B-CX-6 dated 10.8.1989 senior field officers, including Principal Collectors, Collectors and Addl. Collectors were asked to undertake certain minimum number of inspections of field units. In addition, it was desired that the emphasis during inspection should be shifted to problems, systems and procedures instead of the routine and the format of inspection reports was modified to reflect the new approach. These have added a qualitative edge to field inspections. As regards the Directorate of Inspection they have undertaken, in addition to inspection oriented functions, special studies applying to them a task oriented approach. These have been found to be highly useful.

The Committee's observations regarding filling up of the existing vacancies and drawing up of panel of eligible persons in advance, for

filling up the vacancies that may arise during the year, have been duly noted by the Board and action in this regard has been initiated.”

1.24 The Committee appreciate that in pursuance of their recommendations the process of reviewing norms of inspections has been initiated and efforts are being made by Government to give a qualitative edge to inspections by concentrating more on core areas related to revenue, efficiency of tax administration, preventive administration, and effectiveness of public grievance redressal systems. As regards the filling up of vacancies (53 posts in various grades in the Directorate General of Inspection), the Committee are not fully satisfied with the reply given by the Ministry wherein it has been stated that “the Committee’s observations have been duly noted by the Board and action in this regard has been initiated.” The Committee are of the view that since adequacy of staff strength commensurate with the workload, is an essential pre-requisite for the qualitative performance of an organisation, the existing vacancies in various grades against the sanctioned strength in the Directorate General of Inspection should be filled up expeditiously and the progress reported to the Committee within a period of three month.

#### *Directorate of Audit*

##### *Recommendations (Sl. Nos. 36 & 37, Paras 3.86 & 3.87)*

1.25 The Committee were constrained to note that serious attention had not been paid hitherto, to the Directorate of Audit which was handicapped by not only the inadequacy of field audit staff but also lack of fixed periodicity in regard to internal audit of Collectorates of Central Excise and the Custom Houses.

1.26 The Committee desired that urgent steps might be taken to remove inadequacies in the internal audit set up. The Committee also desired to be apprised of the steps taken in this regard.

The Ministry in their reply have stated as follows:—

“Directorate of Audit was created in 1976 to function as a nodal agency between the Board and the Customs and Central Excise field formations. The new scheme of Internal audit came into effect on 1.2.78. The then Directorate of Inspection and Audit mooted proposals for a specific staff sanction for this Directorate as early as on 4.11.78. This has been followed up regularly over the period between then and 1992, even reducing upon the staff projected as being required in 1978. This was done in keeping with the constraints of the economy as also because of Deputy Financial Advisor had mentioned in 1982 that it was not an opportune moment for the Directorate to seek any additional sanction given the constraints of expenditure. As a result, this Directorate after 16 years of its creation, has continued to have a sanction of merely one Director and one Deputy Director with a stenographer each.”

Staff proposals duly recommended by the Directorate of O & M have been submitted on 1.10.93 for obtaining the Departments sanction for additional staff. They are under consideration.

As soon as the resource position of the Directorate improves, it should be possible to prescribe and implement the periodicity of audit inspection of the Collectorates of Central Excise and Custom Houses.

During a review of the scheme of internal audit of factories by the collectorate staff, it was observed that deficiencies in the audit performance were to be ascribed to inadequacy of staff and their training. The need for additional staff has since been partly met after the implementation of cadre review proposals. It is now proposed to undertake a specially designed training programme for audit parties.

On the Customs side, the system of concurrent audit was introduced in 1986 and working of the same was reviewed in 1992. Proposals for the re-organization of the existing scheme and some changes in the Customs procedures are under consideration.

1.27 The Committee are surprised to note that Directorate of Audit, after 16 years of its creation has continued to have a sanction of merely one Director and one Deputy Director with a Stenographer each. However, staff proposals duly re-examined by the Directorate of O & M have been submitted on 13.10.93 for obtaining the Department's sanction for additional staff. They are under consideration.

1.28 The Ministry have further informed that as soon as the resource position of the Directorate improves, it should be possible to prescribe and implement the periodicity of audit inspection of the Collectorates of Central Excise and Custom Houses.

1.29 The Committee expect that staff proposals submitted for obtaining the Department sanction would be favourably considered by adequate staff provided early so that the Directorate is no longer handicapped in carrying out the audit work regularly and with fixed periodicity.

1.30 The Committee also desire that specially designed training programme proposed to be undertaken for audit parties in Collectorates of Excise as also reorganisation of system of concurrent audit in Customs and some changes in the Customs procedure reported to be under consideration should be expeditiously finalised and the Committee apprised accordingly.

#### *Reward Scheme*

##### *Recommendation (Sl. Nos. 51, 52, Paras 3.101, 3.102)*

1.31 The Committee desired that the existing reward scheme should be substituted by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Government. The Committee also desired that quantum of such awards should be high enough to be sufficiently rewarding. The amount of such awards should



also be reviewed from time to time so that their value and importance were not diminished.

1.32 The Ministry in their action taken reply has stated that:

“Reward scheme is under challenge in the Supreme Court. Since the matter is *sub judice* before the highest Court, reward scheme will be reviewed only after Supreme Court gives its final decision.”

1.33 The Committee note that at present reward scheme is under challenge in the Supreme Court. The Committee, however, desire the Ministry to apprise them of the judgement of the Supreme Court as also action proposed to be taken by the Government thereon.

*Filling up of Vacancies in Tribunal*

*Recommendation (Sl. Nos. 55 & 56, Paras 4.80 & 4.81)*

1.34 The Committee were unhappy to find that the appeals lying before Excise Customs and Gold (Control) Appellate Tribunal were not disposed off expeditiously during the year 1987 to 1990 and the number of pending cases have grown from 27,216 to 39,451. Some cases had been pending since 1975. The Committee were unhappy to note that some posts of members, particularly of judicial members; in the Tribunal remained vacant for nearly 22 months. The Committee, therefore, had desired that urgent steps, including setting up of more benches of Tribunals, be taken to bring down the pendency of cases. The Committee also desired that suitable directions be issued to Collectorates to indentify appeals involving similar cases so that those could be taken up by the Tribunal simultaneously.

1.35 The Ministry in their action taken reply have stated as follows:

“The Members of the Tribunal are drawn from two streams—Technical Members drawn from the Indian Customs and Central Excise Service and Judicial Members drawn from the Bar/Central or State Judicial or legal services. There have been a number of vacancies of both judicial as well as Technical Members. While the vacancies of Judicial Members have continued for over a year because of non-availability of suitable candidates, selections for the three vacancies of Technical Members were completed last year. The selected Technical Members has retired on 7.3.93. Action to fill up this vacancy has been initiated. The vacancies of Judicial Members were duly Advertised and Chief Justices of various High Courts were also addressed by the Chairman of the Selection Committee, who is a Judge of the Supreme Court. Applications in response thereto are being processed for holding interviews by the Selection Committee. The increase in the pendency figure account of the fact that the number of appeals and stay applications filed before the Tribunal has been consistently higher than the disposals.

A proposal for setting up more Benches to liquidate pendency of appeals is under consideration of the Government. With the setting

up of more Benches of the Tribunal, the pendency figure with the Tribunal would come down to a considerable extent."

1.36 The Committee note that a proposal for setting up more Benches to liquidate pendency of appeals is under consideration of the Government. The Committee desire that apart from filling up the existing vacancies in the Tribunal the Ministry should accord top most priority to setting up more Benches of the Tribunal.

1.37 The Committee desire that the existing vacancies should be filled up immediately and planning for filling up any vacancy being caused due to retirement or otherwise be done well in advance.

1.38 The Committee will also like the Ministry to issue necessary directions to all the Collectorates to take suitable steps for clubbing of appeals of similar type of cases. They would also like to be apprised of the action taken in this regard.

#### *Legal Advice*

##### *Recommendation (Sl. Nos. 62—65, Paras 4.87 to 4.80)*

1.39 The Committee have been informed that the Central Board of Excise and Customs obtains legal assistance from the Ministry of Law in those cases where Department has to file statutory appeals to the Supreme Court, and to defend appeals and Special Leave Petitions (SLP) filed by the assesseees. Moreover, where legal interpretation is involved with regard to formation of policy, rules and regulations and the issue of notifications, the Ministry of Law assists the Board. In the ordinary courts, the cases of the Board are defended by lawyers drawn from the panel prepared by the Ministry of Law.

1.40 The Committee, after considering the adequacy of existing arrangements for providing legal advice and other related assistance in defending cases in the courts, felt that while the Ministry of Law should continue to act as nodal agency, there is scope for delegation of more powers in this regard to the Ministry of Finance. The Committee, therefore, recommended that the panel of lawyers including high fee lawyers should, *ab initio*, be drawn by the respective revenue Board Collectorates and finally approved by Ministry of Finance after time-bound consultation with Ministry of Law.

1.41 The Committee were also in favour of the Collectorate and equivalent offices, which accounted for a very large number of Government related litigation, to have 'Integrated Legal Advice' on the pattern of Internal Finance for facilitating expeditious vetting of counter-affidavits.

1.42 The Minister of Finance in their action taken replies have welcomed the delegation of these powers to them. However, they have not taken up above recommendations of the Committee with the Ministry of Law for implementation. The Committee desire the Ministry of Finance to

take up the matter with the Ministry of Law and intimate the outcome in this regard to the Committee.

1.43 In regard to a recommendation contained in Para 6.41 (iii) of the Report, the Ministry of Finance have communicated that the Department of Small Scale Industries and Agro & Rural Industries have been requested to furnish their reply directly to the Committee. So far no reply has been received from them. The Committee regret to observe that the Ministry of Finance being the nodal Ministry should have furnished the action taken reply on receipt from that Department to the Committee. The Committee expect them to be cautious in future.

*Implementation of Recommendations*

1.44 The Committee would like to emphasise that the greatest importance has to be attached to the implementation of the Recommendations accepted by the Government. They expect the Government to take expeditious steps in implementing such recommendations. In case it is not possible to implement the recommendations in letter and spirit for any reason, the matter should be reported to the Committee in time with reasons for non-compliance.

1.45 The Committee desire that the replies in respect of recommendations contained in Chapter V of the Report may be furnished to the Committee at the earliest.

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

#### **Recommendation Sl. Nos. 3&4 (Paras 1.31 & 1.32)**

The Committee find the demand of the Indian Revenue Service Officers' Association for encadrement of the post of Chairman and Members of the Board to be reasonable keeping in view the fact that for filling those posts there, perhaps, cannot be more suitable officers than the senior and experienced officers of the Indian Revenue Service. The Committee avert that like the members of other higher civil services, they too would have worked in senior positions in and outside their department/and by virtue of their experience in the field, would more often than not possess considerable knowledge about the working of various sectors of the economy. The Committee cannot visualise a situation where a sufficiently senior and experienced candidates from these services will not be available for appointment to these high posts. Therefore, they feel that the Government should have no hesitation in selecting a person belonging to Indian Revenue Service to these posts.

The Committee are surprised at the contradictory views expressed by the Ministry in regard to the suggestion of having a Member (Finance) in the Board of Central Excise and Customs as also in the CBDT. While at one stage the Ministry felt that such a post can be created to obviate the need for giving Secretarial status to the Chairmen of the two Boards, it has now been argued that the scale and nature of expenditure in the two Boards is not such as would justify a fullfledged Member in the Board. The Committee, however, are inclined to agree with the latter view of the Ministry.

#### **Reply of the Government**

Since paras No. 1.31 (S. No. 3) 1.32 (Sl. No. 4) are only Conclusions Action Taken Notes in respect of these paras have not been furnished.

[F. No. 291/292 CX9 dt. 12.11.93]

#### **Recommendation Sl. No. 5 (Para 1.33)**

The posts of Chairmen and Members of CBEC may be preferably filled from the Indian Revenue Service till such time the two Boards continue to exist in the present form.

#### **Reply of the Government**

The posts of Chairmen and Members of Central Board of Excise & Customs, as also CBDT, have by convention, been filled for the last

several years from amongst the members of the respective revenue services only, although these posts are ex-cadre posts.

**Recommendation Sl. No. 7 (Para 2.62)**

The Committee regret to note that the aspect of coordination amongst different intelligence agencies including Directorate General of Revenue Intelligence and Directorate General of Anti-Evasion has not been dealt with in a satisfactory manner. They find that the functions of Central Economic Intelligence Bureau (CEIB) established in 1986 for the purpose were permitted to overlap with the functions of intelligence agencies already operating, without clearly defining their respective fields of responsibility. Needless to say, the functioning of Central Economic Intelligence Bureau became a matter of controversy. The Bureau, ceased to function in 1988 in the manner envisaged. The Committee note that it was after considerable gap that in August 1990, the arrangements for coordination of intelligence activities have been rationalised with the setting up of Economic Intelligence Council, of which the CEIB after its role having been redefined, is one of the constituents. The other members of the Council are drawn from Central Board of Excise and Customs (CBEC), Central Board of Direct Taxes (CBDT), Central Bureau of Investigations (CBI), Directorate of Revenue Intelligence (DRI) and Directorate General of Anti-Evasion (DGAE) etc. The Director General of Economic Intelligence Council (EIC) also functions as the head of the CEIB. The Committee fail to understand why such rationalisation could not have been thought of *ab-initio* and deprecate the fact that precious time of 4 years, during which Economic Intelligence apparatus of the country could have been considerably strengthened, has been lost.

**Reply of the Government**

Since para No. 2.62 (S.No.7) is only Conclusion, Action Taken Notes in respect of this para has not been furnished.

[Vide F.No. 291/(2)/92 CX9 12.11.93]

**Recommendation Sl. No. 8 (Para 2.63)**

The Committee desire that question of coordinating economic intelligence activities should be given most serious attention and its implications for the overall national security environment be fully recognised. They further desire that all possible efforts should be made to optimise the efficiency and effectiveness of various economic intelligence agencies.

**Reply of the Government**

The existing arrangements for coordinating the work among the enforcement and investigation agencies dealing with the economic offences under the Department of Revenue have been reviewed recently by the

Government and it has been decided to constitute an Economic Intelligence Review Committee to facilitate coordination among the various enforcement agencies dealing with economic offences. The Economic Intelligence Review Committee will have the following functions:

- (a) Review of the working of the various Enforcement and Intelligence agencies and inter-agency coordination in major cases.
- (b) Laying guidelines for a plan of action.
- (c) Discussion on emerging trends in the *modus operandi* of major offenders and suggestion of measures for dealing with them.
- (d) Devising methods for better exchange of intelligence among the various agencies.
- (e) Introduction of systemic changes in the intelligence and enforcement agencies in order to convert them into more effective instruments of action.

2. The Committee will be headed by Secretary (Revenue) and will include heads of the various enforcement/investigation agencies under the Department of Revenue. Representatives of CBI/IB/RAW, etc. would be called as invitees to the meetings of the Committee as and when necessary.

**Recommendation Sl. No. 9 (Para 2.64)**

The Committee are apprised that in checking nefarious activities *viz.*, import-export frauds, smuggling and trafficking in drugs, the enforcement agencies feel handicapped for want of intelligence, a considerable portion of which is required to be obtained from overseas sources. They are further informed that apart from the Interpol Channel, other bilateral arrangements for intelligence sharing also exist particularly between the customs authorities and the respective narcotics control agencies. The Committee had further informed that customs authorities find the Interpol Channel, of which CBI is a nodal agency in the country time consuming. This assumes added significance in view of the fact that in most situations involved smuggling drug trafficking or import-export frauds, time invariably is a critical factor.

**Reply of the Government**

The Committee are rightly apprised. Apart from Interpol Channel, Govt. has entered into bilateral agreement with a number of countries for intelligence sharing and cooperation in enforcement etc. Intelligence sharing arrangements for tackling drug related crimes amongst SAARC countries have been further strengthened. Representatives of the MEA have been appointed as Drug Liaison Officers for India.

(Approved by the Additional Secretary to the Govt. of India)

[F.No.715/6/92-CUS(AS)]

**Recommendation Sl. No. 10 (Para 2.65)**

Mindful of the absolute necessity of having an organised and efficient system of intelligence gathering from overseas sources the Committee

desire that all available channels including that of interpol should be fully utilised for obtaining the necessary intelligence. They are not in favour of the stipulation that all intelligence sharing should be confined to the Interpol channel.

The Committee also desire that redoubled efforts may be made to ensure that intelligence sharing arrangements amongst the SAARC countries are strengthened further.

#### **Reply of the Government**

The Government shares the view with the Committee. All available channels including that of interpol are being utilised for obtaining intelligence if concern to Govt. Sharing intelligence amongst the SAARC countries have been strengthened. Further avenues for collection of intelligence are being explored.

(Approved by the Additional Secretary to the Government of India)  
[F.No. 715/6/92-CUS(AS)]

#### **Recommendation Sl. No. 11 (Para 2.66)**

The Committee are also informed that efforts to obtain economic intelligence through diplomatic channels have not borne fruit owing, partly, to the reluctance on the part of the concerned countries to part with information as also lack of expertise in our embassy staff. They are also informed that in the absence of appropriate treaties for intelligence sharing with the developed countries, which account for a major share of our foreign trade a serious impediment in this exercise has been experienced. The Committee are also informed that to overcome this handicap the customs officials of different ranks have been posted in various embassies in London, Singapore and South Eastern countries. The Committee, however, note that not only have the area of unlawful economic activities concerning India been expanding, particularly in Far East, USA and Western Europe, the focus of such activities have also been shifting from these places to Singapore, Bangkok and Frankfurt.

#### **Reply of the Government**

Government is aware of the cause of concern to the Committee and necessary steps in this direction like Treaty/Agreement with different countries are being pursued.

(Approved by the Additional Secretary to the Government of India)  
[F. No. 715/6/92-CUS (AS)]

#### **Recommendation Sl. No. 12 (Para 2.67)**

The Committee, therefore, desire that more number of customs officers, specialising in intelligence gathering should be posted on specific centre of economic activity concerning India. They also desire that such deployment of officers should be subject to periodic rationalisation, taking into account the dynamics of India's foreign trade licit or illicit. The Committee are

particularly concerned to note that important centres of international trade like Tokyo, Singapore, Bangkok and Frankfurt etc. have not been given adequate attention so far. They desire that immediate steps should be taken to strengthen intelligence gathering arrangements at these centres and officers experienced in intelligence gathering and knowledge about international trade practices should be posted at these places.

#### **Reply of the Government**

Government is identifying such countries where dynamics of foreign trade affect India. Necessary steps for further strengthening intelligence network are being taken.

(Approved by the Additional Secretary to the Govt. of India)

[F.No. 715/6/92-CUS (AS)]

#### **Recommendation Sl. No. 16 (Para 2.71)**

The Committee are informed that with a view to curbing drug trafficking, the Narcotic Drug and Psychotropic Substances Act, 1985 had been introduced. They are further apprised that the effectiveness of the Act has been proved by improved detection of drug smuggling activities under section 4 of the Act, the Central Government, in March, 1986, created the Narcotics Control Bureau (NCB) as the principal nodal agency for coordination of drug enforcement work. The Committee, however, note the financial resources of the NCB have not registered any enhancement over the years. The Committee are constrained to find that owing to inadequate financial resources NCB, which is the principal nodal agency for coordination of drug enforcement work, has not been able to discharge its duties effectively.

#### **Reply of the Government**

In order to strengthen the Narcotics Control Bureau, Government has sanctioned 36 new posts in June, 1992 for manning telecommunication equipment and computers. In addition, 21 posts were also created (by abolishing 13 posts) for streamlining the administrative set up of the Narcotics Control Bureau.

Government has also transferred to the six Zonal Units of the Narcotics Control Bureau, 36 posts (i.e. six Assistant Collectors alongwith 30 complementary posts) from the existing set up of Competent Authority under the "Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976" and the "Narcotic Drugs and Psychotropic Substances Act, 1985". These posts have been transferred for the work relating to financial investigations i.e. tracing and identifying illegally acquired properties and taking interim measures for its freezing and seizure etc. before initiation of formal forfeiture proceedings.

Under an agreement signed between the United Nations Fund for Drug Abuse Control (now known as United Nations Drug Control Programme—UNDCP) and the Government of India, financial assistance to the tune of US \$ 20 Millions spread over a period of five years was provided to the



Government of India for strengthening the measures against illicit drug trafficking and drug abuse. Out of this assistance, the Narcotics Control Bureau has been provided for its headquarters and Zonal Units the following equipment:—

- Training equipment
- Computers
- Telecommunication equipment
- Surveillance equipment
- Operational Vehicles.

**Recommendation Sl. Nos. 17 & 18 (Paras 2.72 & 2.73)**

The Committee desire that the Ministry of Finance should provide sufficient resources both in terms of manpower and infrastructure to the Narcotics Control Board. The Committee also desire that sufficient number of laboratories with proper equipment and qualified chemists be set up to facilitate quick prosecution of those indulging in trafficking of drugs.

The Committee are dismayed to point out that no special courts have set up so far to try cases under the NDPS (Amendment) Act, 1989. They would like the Ministry to take up matter with the State Governments at appropriately high level for setting up such courts at the earliest.

**Reply of the Government**

So far as provision of manpower and infrastructure to the Narcotics Control Bureau is concerned, comments have been given in the action taken notes against para 2.71 of these recommendations. As regards the point about setting up of sufficient number of laboratories with equipment and qualified chemists, it was decided by the Government to strengthen the Central Revenue Control Laboratories (CRCLs) in New Delhi, Bombay, Calcutta and Madras, Govt. Opium and Alkaloid Factories at Neemuch and Ghazipur, and Central Forensic Science Laboratories (CFSLS), New Delhi and Chandigarh besides some States Forensic Science Laboratories to upgrade the existing equipment and infrastructure available in these laboratories through training and fellowship programme. A National Consultant was appointed for the purpose of assessing the requirement of equipment, training and fellowship needs. On the basis of the recommendations given by the Consultant, sophisticated laboratory equipment valued approximately US \$ 2 Million were provided to these laboratories for carrying out analysis of seized narcotic drugs. Under the United Nations Drug Control Programme (UNDCP) Project, 10 Fellowships abroad have been provided to the Chemists of CRCLs, CFSLS and State FSLs in the advanced testing techniques, 28 Chemists/Scientists of State and CFSLS including CRCL have been imparted 'in-country training' by the 'Core group of trainers' trained abroad during 1990-93 by conducting intensive courses of a duration of 4 to 6 weeks at CRCL, New Delhi. Nomination of five more chemists have been sent to UNDCP for placement.

Section 36 of the NDPS Act enjoins upon Constitution of special courts by Governments for trail of offences under NDPS Act. Such special courts are to be headed by Session Judge or Additional Judge. With the intensification of anti-drug measures about 26,789 cases have been booked under NDPS Act and are pending trail. Communications have been sent to all the State Governments, Union Territories, for constitution of special courts. So far, the following states have created special courts:—

Sl. No.	Name of States/UTs	Number of Courts
1.	Goa	1
2.	Maharashtra	8 (7 under formation)
3.	Manipur	4
4.	Meghalaya	5
5.	Tripura	1
6.	West Bengal	4
7.	Tamilnadu	6
8.	Rajasthan	1

At present, 30 special courts have so far been created. The State Governments/Union Territories have again been reminded for constitution of special courts in the affected areas. Secretary (Revenue) has written to the Chief Secretaries in this regard on 13.7.1993.

#### **Recommendation Sl. No. 22 & 23 (Paras 2.77 & 2.78)**

The Committee note that during the last three years 24 Customs Officers were assaulted while carrying out searches. Under the existing arrangements, during the course of search operations the official involved are required to keep in constant touch with the Central control room set up at the headquarters of the Collectorate concerned and to take police help when necessary. However, such help is to be sought only as a last resort. The Committee note that though the Ministry is satisfied with the existing arrangements. However, the same do not agree with the view of the Minister. In their opinion the number of assaults registered during the last three years is not insignificant and provides enough cause for concern.

The Committee desire the Ministry to pay serious attention to obstructions and assaults on Revenue Officials and to deal firmly with those who attempt to prevent the law enforcement agencies from discharging their legitimate duties.

#### **Reply of the Government**

Government shares the concern of the Committee on incidence of obstructions and assaults on revenue officials while carrying out their duties and more specifically during search operation. Government feels

existing legal and administrative arrangements are sufficient to deal with the situation.

2. As a precautionary measure the customs officials are being suitably equipped with arms and ammunitions and requisite training to ward off any such attempt is being imparted. Close coordination is being maintained with State Government authorities for maintenance of law and order in search operations.

(Approved by the Additional Secretary to the Government of India)  
[F. No. 715/6/92CUS(AS)]

**Recommendations/Observations Sl. No. 31 (Para 3.81)**

The Committee are informed that the Directorate of Preventive Operations carries out periodical and selective inspections of records of seizures, confiscation, rewards, pricing of seized goods, storage and disposal of goods in addition to stock taking and stock verifications. There is however, no fixed periodicity for these inspections.

**Reply of the Government**

Committee has been rightly informed. Instructions exist for field formations to undertake regular periodical stock taking of godowns. However, considering the large number of formations which are engaged in anti-smuggling activities in the Preventive Collectorate/Customs Houses/Central Excise Collectorates and the existing small set-up in the Directorate of Preventive Operations for this purpose, it has not been possible for the Directorate to maintain fixed periodicity of inspections of every formation or to conduct the stock taking or stock verification of seized/confiscated goods lying at every godown.

(approved by the Additional Secretary to the Government of India)  
[F. No. 715/6/92CUS(AS)]

**Recommendations/Observations Sl. No. 32 (Para 3.82)**

The Committee desire that these inspections should be carried out regularly and definite periodicity prescribed to enable the Directorate to know and review the various lapses and defaults found in maintaining records of seizure, confiscations and pricing of seized goods etc. in all the Collectorates.

**Reply of the Government**

With a view to give effect to the recommendations of the Estimates Committee, an estimate of the workload is being worked out so that the periodicity of such inspections, stock taking and stock verification could be fixed in the light of the existing manpower resources. Proposal for further augmentation of staff is under consideration.

(Approved by the Additional Secretary to the Government of India)  
[F. No. 715/6/92CUS(AS)]

**Recommendation/SI. No. 33 (Para 3.83)**

The Committee are informed that the Directorate General of Inspection is entrusted with the task of carrying out periodical inspections of sub-ordinate offices of CBEC. They however find that the existing arrangement is inadequate because with the present staff strength the Directorate is able to maintain the inspection schedule with considerable difficulty as, over the years, the number of Central Excise Collectorates has gone up from 16 to 32 and that of Customs Houses from 4 to 9, besides which 5 new preventive Collectorates have also been created. The Committee were also informed that even against the existing sanctioned strength as many as 53 posts in various grades were vacant and that the increase in staff in the past has not been commensurate with increase in the work load. They also note that the norms for carrying out inspection were formulated years back.

**Reply of the Government**

It is correct that the existing arrangement for inspection by the Directorate General of Inspection is inadequate and the staff strength of this office has been unable to cope with the increase in the number of Collectorates/Customs Houses. The norms regarding periodicity of inspections to be carried out by this Directorate were also prescribed long back. As such, this organization has been unable to stick to prescribed norms of inspection. The organizational resources, structure and functioning of the Directorate General of Inspection are being re-examined.

**(Recommendation SI. Nos. 34 & 35 (Paras 3.84 & 3.85))**

The Committee consider the above state of affairs totally unsatisfactory. However, they feel that control over sub ordinate organisations need not be overly dependent on inspections which invariably, must merely supplement an effective management information system, a painstaking monitoring and a reliable internal audit system. Therefore, they feel that time is ripe for reviewing the norms of inspection and to so fix the periodicity of inspections and to so refocus the process of inspections that increasing work load does not lead to a sharp decline in quality and effectiveness of inspections. Nevertheless, the Committee are dismayed by the non-fulfilment of the existing vacancies in the Directorate of Inspection.

The Committee desire that (a) norms of inspection may be critically reviewed in the light of existing ground realities, (b) a quality approach should be brought into play while carrying out inspections and for this purpose critical areas should be identified and given greater attention, (c) expeditious steps should be taken to fill up the existing vacancies at the earliest and steps taken to ensure that such situation avoided in future also by drawing up panels of eligible persons in advance.

situation avoided in future also by drawing up panels of eligible persons in advance.

#### Reply of the Government

The process of reviewing the norms of inspections has already been set into motion, and efforts are being made to give a qualitative edge to inspections by concentrating more on core areas related to revenue, to efficient of tax administrations and preventive administration and to effectiveness of public grievance redressal systems. It is also proposed to introduce elements of surprise and intelligent selection in the programme of inspections so as to overcome the handicap in quantitative coverage.

It may be added that *vide* Board's letter F.N. 223/2/89—CX—6 dated 10.8.1989 senior field officer, including Principal Collectors, Collectors and Addl. Collectors were asked to undertake certain minimum number of inspections of filed units. In addition, it was desired that the emphasis during inspection should be shifted to problems, systems and procedures instead of the routine and the format of inspection reports was modified to reflect the new approach. These have added a qualitative edge to field inspections. As regards the Directorate of Inspection, they have undertaken, in addition to inspection oriented functions, special studies applying to them a task oriented approach. These have been found to be highly useful.

The Committee's observations regarding filling up of the existing vacancies and drawing up of panel of eligible persons in advance, for filling up the vacancies that may arise during the year, have been duly noted by the Board and action in this regard has been initiated.

#### Recommendation Sl. Nos. 36 & 37 (Paras 3.86 & 3.87)

The Committee are constrained to note that serious attention has not been paid hithertofore, to the Directorate of Audit which is handicapped by not only the absence of field audit staff but also because of absence of a fixed periodicity in regard to internal audit of Collectorates of Central Excise and the Custom Houses.

The Committee desire that urgent steps may be taken to remove inadequacies in the internal audit set up. The Committee would like to be apprised for the steps taken in this regard.

#### Reply of the Government

With reference to Para 3.86 it is mentioned that the Directorate of Audit was created in 1976 for function as a nodal agency between the Board and the Customs and Central Excise field formations. The new scheme of Internal Audit came into effect on 1.2.78. The then Directorate of Inspection and Audit mooted proposals for a specific staff sanction for this Directorate as early as on 4.11.78. This has been followed up regularly over the period between then and 1992, even reducing upto the staff projected as being required in 1978. This was done in keeping with the

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constraints of the economy as also because of Deputy Financial Advisor had mentioned in 1982 that it was not an opportune moment for the Directorate to seek any additional sanction given the constraints of expenditure. As a result, this Directorate after 16 years of its creation, has continued to have a sanction of merely one Director and one Deputy Director with a stenographer each. Staff proposals duly re-examined by the Directorate of O & M have been submitted on 13.10.93 for obtaining the Departments sanction for additional staff. They are under consideration.

As soon as the resource position of the Directorate improves, it should be possible to prescribe and implement the periodicity of audit inspection of the Collectorates of Central Excise and Custom Houses.

During a review of the scheme of internal audit of factories by the collectorate staff, it was observed that deficiencies in the audit performance were to be ascribed to inadequacy of staff and their training. The need for additional staff has since been partly met, after the implementation of cadre review proposals. It is now proposed to undertake a specially designed training programme for audit parties.

On the Customs side, the system of concurrent audit was introduced in 1986 and working of the same was reviewed in 1992. Proposals for the re-organization of the existing scheme and some changes in the Customs procedures are under consideration.

#### **Recommendation Sl. No. 38 (Para 3.88)**

The Committee note that the system for collection of intelligency and information and prevention of duty evasion could be further improved by creating wide data base in respect of industrial undertaking and their turnover, marketing pattern, market share, etc. This would enable the Directorate of Anti-Evasion to know the amount of duty evaded. The Committee desire the Ministry to examine the merits of the scheme, and if found workable, to provide adequate manpower to the Directorate. They would also like the Ministry to prepare a comprehensive computerised data base which can be used for identifying evasion of other taxes also.

#### **Reply of the Government**

Directorate General of Anti-Evasion is primarily responsible for collection, collation and dissemination of intelligence relating to evasion of Central excise duty. The Directorate also carries out studies in respect of new *modus operandi*, commodities prone to evasion, deficiencies in procedures and legal provisions, which are exploited by the unscrupulous. The Directorate have set up a separate cell for collection and development of intelligence and maintains detailed dossiers in respect of major revenue paying units *i.e.* units paying revenue of Rs. 5 crores or more. These dossiers of individual assesses contain information about the

organisational structure of the company, products manufactured, major raw materials used, trends in production, clearances and revenue realised, the marketing pattern Modvat credit availed and misc. information about the past cases registered against the company and the pending disputes if any. There are more than 500 such dossiers maintained by the Directorate. In view of the shortage of staff and resources, it has not been possible to cover larger number of assesseees and create a wider data base at the Hqrs. of the Directorate. However, the Zonal units of the Directorate have been instructed to create a similar data base in respect of assesseees paying revenue between Rs. 1 crore and Rs. 5 crores. The Directorate have also recently set up a cell at the Headquarters, to take up specific studies of the marketing pattern of important assesseees and those manufacturing commodities prone to evasion, for identifying new *modus operandi* and the thrust areas for anti-evasion measures. The work relating to computerisation in the Central Excise Department is already in an advanced stage of planning, and this including computerisation of the data maintained by the Directorate, would enable it to monitor the same from the data base of assessments.

#### **Recommendation Sl. No. 39 (Para 3.89)**

The Committee are constrained to find that as many as 6879 posts including those of Group 'A' and 'B' officers were lying vacant in the CBEC and its subordinate offices as on 1st July 1990. They also note that inadequacy of staff has resulted in delays in clearance of goods. The Committee are further informed that norms for determining staff are either non-existent or have been diluated over the years. Moreover, no study has been carried out so far by the Staff Inspection Unit of the Ministry of Finance to assess the workload of the Board and its subordinate offices. In 1986 an ambitious plan for restructuring the Department of Central Excise and Customs was mooted. However, it could not materialise due to various administrative constraints. Subsequently, a cadre review of officers/staff was taken up in 1988. This exercise was completed in 1987-88 and 392 posts in Group 'A' category and 7000 posts in Groups 'B', 'C' & 'D' categories were proposed to be created in addition to the existing sanctioned strength. However no concrete progress has been made in this regard. While cadre review in respect of Group 'B', 'C' and 'D' is yet to be finally approved, the posts in respect of Group 'A' though sanctioned have not been filled up. This include a large number of posts of Deputy Collectors which have not been filled up owing to a dispute pending before the Supreme Court.

#### **Reply of the Government**

First ever cadre review of group A,B,C and D posts in the field formations of the Central Board of Excise and Customs was undertaken in 1988-89. As a result of the Cadre Review of group A, 392 additional posts were created which were released and distributed among the different field

formations in 1989. The Cadre review proposal in respect of group B, C and D were also finalised and approved by the Government in 1991 and consequently 6981 number of additional posts of group B, C and D were created and all these posts have since been released and distributed to the various field formations.

Further a periodic cadre review is proposed to be undertaken as per the guidelines of DOPT. For this purpose as suggested by the Committee, the SIU of the Ministry of Finance has already been entrusted to work out the staff norms after studying workload in the field formations. Study on fixation of staff norms is likely to be completed shortly which will be taken into account at the time of the next Cadre review.

As regard the filling up of the posts of Deputy Collector is concerned, the Hon'ble Supreme Court, *vide* its *interim* order dated 13.3.92 permitted the Department to fill up the vacancies in the grade of Assistant Collector and Deputy Collector, Customs and Central Excise on *ad hoc* basis. Accordingly, 41 vacancies in the grade of Deputy Collector and 92 vacancies in the grade of Assistant Collector were filled up on the basis of the recommendation of the DPCs.

#### **Recommendation Sl. No. 40 (Para 3.90)**

The Committee are highly dissatisfied at the manner in which the fundamental task of determining the staff requirements has been dealt hithertofore by the Ministry/Board. In their opinion sanctioning of about seven thousand posts on the basis of cadre review makes little sense when almost 7000 posts already sanctioned have been lying vacant. As the Government have liberalised the trade policy and taken other steps towards deregulation of the economy, the total requirement of staff in the Department should be reassessed. Keeping in view the requirement sufficient staff wherever necessary should be provided without any further delay.

#### **Reply of the Government**

The Cadre Review Committee recommended 9672 posts on work load basis and 6981 posts have been created as approved by the Government. 6769 posts have already been released.

Vacancies in Gr. 'C' grade are mainly due to the fact that direct recruitment to these posts is conducted by an independent body namely SSC which usually takes time to finish the whole recruitment exercise as it is on All India basis. The recruitment exercise for 1991-92 is on the verge of completion and it is expected that substantial number of vacancies will get filled up shortly. As regards requirements of additional staff, SIU is already engaged in evolving staff norms for working out requirements of additional staff.

The recommendation that sufficient staff should be provided would also be brought to the notice of the Cadre Review Committee.



**Recommendation Sl. No. 41 (Para 3.91)**

The Committee are unhappy that no study by Staff Inspection Unit has been carried out so far to assess the workload of the Board and its subordinate offices. They, desired that necessary step should be taken to get the Staff Inspection Unit study conducted and norms for staff requirement established without any further delay.

**Reply of the Government**

The Staff Inspection Unit of the Ministry of Finance, Department of Expenditure has been requested to study the workload in the field formations under the Central Board of Excise and Customs to fix the norms for working out staff requirement. This study is likely to be completed shortly and necessary follow up action will be taken.

[F.No. A-11019/122/90-Ad. IV]

**Recommendation Sl. No. 42 (Para 3.92)**

The Committee cannot accept the suggestion of the Ministry/Board that revenue earning Department should not be brought within the ambit of economy measures of the Government. However, at the same time, they desire that it should be left to the discretion of the Board to determine in which areas it should effect economy so that the operational effectiveness of the Board is not compromised in any manner.

**Reply of the Government**

The recommendation has been noted and efforts will be made to effect economy keeping expenditure to the barest minimum without foregoing the operational effectiveness of the Board.

**Recommendation Sl. No. 48 (Para 3.98)**

The Committee are apprised that due to infrastructural constraints and lack of expert faculty in the field of Economics Law Management, Cost Accountancy and Computers, the National Academy of Customs, Excise and Narcotics has to depend entirely on external faculty for its training needs in these subjects. The Committee are further informed that if permanent faculty in these subjects and infrastructural facilities for imparting training in swimming, handling of firearms and motor driving etc. is provided in the Academy it will enhance the usefulness of these courses.

**Reply of the Government**

The recommendation has been noted and the National Academy of Customs, Excise and Narcotics (NACEN) has been asked to formulate proposal to strengthen the faculty for further examination.

[F. No. A-11019/49/93-Ad. IV]

**Recommendation Sl. No. 49 (Para 3.99)**

The Committee desired the Ministry to expeditiously examine the proposal to strengthen the permanent faculty in the National Academy of Customs, Excise and Narcotics and to provide all the infrastructural facilities in the Academy complex. The Committee will like to be apprised of the progress in this regard.

**Reply of the Government**

The Director General of Training is being requested to furnish the proposal for strengthening the permanent faculty in the National Academy and the requirement of infrastructural facility in the Academy. The proposal will be examined, on receipt from the Director General Training, in consultation with the Financial Adviser (Finance).

**Recommendation Sl. No. 50 (Para 3.100)**

The Committee are apprised that a residential complex is proposed to be constructed at Faridabad so that interaction between trainers and trainees can be increased further. This would also make the entire training efforts cost effective and result oriented. The Committee desire the Ministry to consider this proposal positively and take early action in the matter.

**Reply of the Government**

National Academy of Customs, Excise and Narcotics is the apex institute for meeting the training development needs of the managerial cadres of the Customs, Central Excise and Narcotics Department. Besides, it undertakes research in the spheres of professional management of administration and techniques of taxation. It also organises various courses and training programmes for other organizations including the Customs Officers from other countries. As such, it was decided to build a comprehensive training complex which would serve these purposes. With this end in view, the Government purchased, from Haryana Urban Development Authority, a plot of land at Faridabad measuring 24.5 acres in March, 1981. The building plans were prepared by the Central Public Works Department for construction of the aforesaid training-cum-residential complex comprising of administrative/hostel and residential blocks.

2. On receipt of detailed estimates and plans from C.P.W.D. the Government sanctioned an amount of Rs. 7,77,18,500/- on 28.11.88 for the construction of training complex. An additional amount of Rs. 92,56,486/- has also been sanctioned on 30.4.92 towards air-conditioning. The C.P.W.D. have already commenced the construction and parts of the buildings have come up. Steps are being taken for early completion of the building.

**Recommendation Sl. No. 55 (Para 4.80)**

The Committee are dismayed to note the declining number of disposals in regard to appeals lying before Excise, Customs & Gold (Control) Appellate Tribunal during the years 1987 to 1990. They find that during this period the pendency of cases has grown from 27,216 to 39,451. They note with deep concern that some of the cases have been pending since 1975. In this connection, the Committee deprecate the fact that the Ministry allowed many posts of members particularly, judicial members in the Tribunal to remain vacant for nearly 22 months.

**Reply of the Government**

The Members of the Tribunal are drawn from two streams—Technical Members drawn from the Indian Customs and Central Excise Service and Judicial Members drawn from the bar/Central or State Judicial or legal services. There have been a number of vacancies of both judicial as well as Technical Members. While the vacancies of Judicial Members have continued for over a year because of non-availability of suitable candidates, selections for the three vacancies of Technical members were completed last year. The selected Technical Members have since joined. Meanwhile, one Technical Member has retired on 7-3-93. Action to fill up this vacancy has been initiated. The vacancies of Judicial Members were duly advertised and Chief Justices of various High Courts also addressed by the Chairman of the Selection Committee, who is a Judge of the Supreme Court. Applications in response thereto are being processed for holding interviews by the Selection Committee.

2. The increase in the pendency figure is on account of the fact that the number of appeals and stay applications filed before the Tribunal has been consistently higher than the disposals.

**Recommendation Sl. No. 56 (Para 4.81)**

The Committee desire that urgent steps, which include setting up of more benches of the Tribunal may be taken to bring down the pendency of cases. The Committee also desire that suitable directions may be issued to Collectorates to identify appeals involving similar issues so that these can be taken up by the Tribunal simultaneously. They further desire that similar treatment may be given to cases covered by the decisions of the Tribunal or judgements of Supreme Court.

**Reply of the Government**

A proposal for setting up more Benches to liquidate pendency of appeals is under consideration of the Government. With the setting up of more Benches of the Tribunal, the pendency figure with the Tribunal would come down to a considerable extent.

**Recommendation Sl. Nos. 57 & 58 (Paras 4.82 & 4.83)**

The Committee are surprised to find that hearings of the Tribunal are frequently adjourned on the request of Departmental representatives. This has been attributed to inadequate number of Departmental representatives to cope up with the workload and lack of alternative arrangements in the event of Departmental representative being absent, on leave or otherwise. The Committee cannot but express their unhappiness at the lackadaisical manner of handling the appeals before the Tribunal.

They desire the Ministry to urgently review the position in regard to adequacy of Departmental representatives and to take appropriate steps in the matter. As large number of pending cases adversely affect the revenue collections, the Committee desire that the Board should treat absence of departmental officers from hearing without adequate reasons seriously and take corrective measures in regard to avoid recurrence of such cases. The Committee would like to be apprised of the action taken in this regard within a period of three months.

**Reply of the Government**

The Committee's observations regarding the inadequate number of Departmental Representatives to cope with the workload has been duly noted. In the light thereof proposals, not only to augment their numbers but also to improve their working conditions, are under consideration of the Department.

**Recommendation Sl. No. 60 (Para 4.85)**

The Committee deprecate the fact that a Tribunal set up exclusively to hear appeals in respect of order passed by Collectors does not even have sufficient staff to enable it to discharge its functions effectively. The Committee desire that the existing vacancies in the Tribunal as well as in its registry should be filled up expeditiously.

**Reply of the Government**

Out of the six vacancies at the level of Member of the Tribunal, two have since been filled and one more will be filled very shortly. As regards the remaining three vacant posts, a selection Committee under the Chairmanship of a Judge of the Supreme Court has been constituted and advertisements have been issued inviting applications.

There are a few vacancies in Group—'B', 'C' and 'D' posts in the registry. Necessary action is being taken so that the posts do not remain vacant for long.

**Recommendation Sl. No. 67 (Para 5.21)**

The Committee note that the Ministry are more or less satisfied with the existing arrangements for redressal of Public grievances except that they would like the public grievance committees to have adequate supporting staff in order to make system of public grievance redressal more usefui. From the date furnished the Committee, however, find that during 1989, 1784 grievances were received out of which 574 grievances on account of procedural delays, staff misbehaviour, quality of service, etc. were pending at the end of the year. The Committee feel that the pendency of grievances, particularly, when these do not involve any substantive decision and do not have any financial implications, is high enough to cause concern. In their opinion redressal of public grievances in the CBEC appears to be a low key activity. Moreover no monitoring of this aspect appears to be done in the Board as is evident from the fact that the Ministry were unable to readily provide to the Committee reasons for not disposing of 22 complaints in regard to cases of harassments at airports. The Committee wish to emphasize the fact that both custom and central excise officials have to interact with the public on a day-to-day basis. The Board should therefore accord high priority to redressal of public grievances. The Committee wish to particularly underline the need for prompt action in regard to staff misbehaviour and procedural delays at airports and customs, clearing houses which are the point at which the foreigners have their first experience of this country.

**Reply of the Government**

In order to streamline the Grievance Machinery in the CBEC Joint Secretary (Customs) has been assigned the work of Director of Public Grievances, assisted by a Deputy Secretary. In the field formations, Deputy Collector/Additional Collectors are nominated as Grievance officers for taking quick action in regard to redressal of public grievances.

2. As a consequence, number of pending cases relating to public grievances have come down. The disposal of grievance cases were 1367 in 1990, 2052 in 1991 (including arrears) and 766 in 1992, taking into account receipts of 1738 cases, 1456 cases and 827 cases during the period under review. Pendency has been brought down from 574 cases pending at the end of 1989 to 410 cases pending at the end of December, 1992.

3. The observations of the Committee are noted and suitable instructions have been issued.

**Recommendation Sl. No. 68 (Para 5.22)**

The Committee desire that entire system of redressal of public grievances in the CBEC may be reviewed and refurbished and wherever necessary adequate and aptitudinally suitable staff may be deployed for the purpose.

**Reply of the Government**

The observations of the Committee are noted and suitable instructions have been issued.

**Recommendation Sl. No. 69 (Para 5.23)**

"The Committee are unable to accept a situation where investigation into cases of complaints against the official of the Board get prolonged for one reason or the other. They desire that not only should there be a constant monitoring of such cases, the heads of Collectors should be made personally responsible for speedy progress in such cases.

**Reply of the Government**

Investigation into cases of complaints against the officials are being monitored by the C.V.O. The field formations are required to forward a monthly report which is scrutinised by the C.V.O. The statements indicating pendency of investigations is submitted to the Board by the C.V.O. every quarter. The pendency position is reviewed at the Board's level. The pendency position is also monitoring by the C.V.C.

Estimate Committee's observations have been noted.

As directed by the Estimate Committee, collectors have been informed that they would be held personally responsible for speedy progress of investigation into cases of complaints against the officials of C.B.E.C. They have also been requested to take up appropriate measures to ensure expeditious investigations. A copy of a letter issued to collector is enclosed.

This issues with the approval of the Member (Per.).

No. B-11015/21/92-Ad.V

A.K. PANDE,  
COMMISSIONER  
(VIGILANCE)

D.O.F. NO. V. 500/45/92  
DIRECTORATE OF VIGILANCE  
CUSTOMS & CENTRAL EXCISE  
5TH FLOOR, 'D' BLOCK  
I.P. BHAWAN, I.P. ESTATE.

New Delhi, the 1st Feb., 1993

Dear Shri

I am enclosing the extract of para 5.23 of the 17th report of the Estimates Committee on the investigation-into cases of complaints against the officials of Central Board of Excise and Customs. You may kindly observe from the extract of the report that the Committee desires that the Collectors should be made personally responsible for speedy progress in such cases. You may, therefore, like to take appropriate measures to ensure that investigations into cases of complaints do not get unduly delayed.

You may kindly acknowledge the receipt of the letter.

Yours sincerely,  
Sd/-  
(A. K. PANDE)

**Recommendation Sl. Nos. 70 & 71 (Paras 5.24 & 5.25)**

The Committee note that with a view to providing an effective forum at the Central level for discussing general problems relating to Central Excise and Customs the Government has constituted a council *viz.* Customs and Central Excise Advisory Council. This Council as its name suggest is Advisory in character and is intended to discuss general problems relating to the Customs and Central Excise faced by the Trade Associations and suggestions received from them. The Committee regret to find that there have been no meeting of this Council during 1985 and 1989. Since such meetings have not been held regularly the representatives of Industry might soon lose interest in such bodies.

The Committee desire that Central Board of Customs and Excise/Ministry should spare no efforts in arranging the meeting of Customs and Central Excise Advisory Councils at regular intervals, as the Committee feel that such bodies not only serve as a useful forum for the representative of Industries to ventilate their grievances but also become a barometer for public opinions on excise laws and the working of the Central Excise Collectorate.

**Reply of the Government**

Recommendation accepted—the Meeting of the Advisory Council has been held in November, 1992.

**Recommendation Sl. No. 7.5 (Para 6.35)**

The Committee desire that after having liberalised the economy and brought down the customs and central excise tariffs to a reasonable level the Government should pursue tax dodgers vigorously and take strict measures, including searches and seizures based on hard intelligence in order to enforce greater tax compliance.

**Reply of the Government**

Intelligence agencies have been geared up and Govt. is taking strict measures including searches and seizures based on intelligence in order to enforce greater tax compliance and deter tax dodgers.

(Approved by the Additional Secretary to the Government of India)

[F. No. 715/6/92-CUS (AS)]

**CHAPTER III**  
**RECOMMENDATIONS/OBSERVATIONS WHICH THE**  
**COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF**  
**GOVERNMENTS REPLIES**

**Recommendation Sl. No. 1 (Para 1.29)**

Representations have been made to the Committee for conversion of the Central Board of Excise and Customs (CBEC) into an independent Department with full administrative and financial powers of the Ministry. This view has also been supported by the Group of Officers, appointed by the Ministry of Finance on suggestion of the Committee for reviewing the recommendations of the Yardi Committee which had averred the need for truly autonomous Revenue Boards in respect of direct and indirect taxes, free from their secretarial moorings. In this regard, the Committee note that not only does the Central Board of Excise and Customs substantially assist the Government in the formulation of policies for levying and collection of customs and Central excise duties, but the entire policy is, ultimately, implemented and monitored by the Board. They also note that the Chairman and the six Members of the Board hold ex-officio status respectively as Special Secretary and Additional Secretaries in the Department of Revenue. In fact except for the Secretary, Department of Revenue and a couple of other officials it is the two Boards viz. CBDT and CBEC which substantively constitute the Department of Revenue. It is thus apparent that the Department of Revenue merely acts as a container in which the two Boards and some other smaller organisations like Economic Intelligence Bureau, Narcotics Control Bureau and various appellate bodies rest. In the opinion of the Committee, therefore the viewpoint putforth by the IRS (C&CE) and the Group of Officers that there should be two separate Departments for direct and indirect taxes respectively, stands the test of reason. In this context, the Committee are unable to appreciate the arguments advanced by the Ministry against this proposal, since these do not address the issue directly and are vague. As the nub of various issues, like inadequate delegation of powers, conferment of appropriate rank and status to the Chairman and Members of the two Boards and their relationship with the political executive which have been brought before the Committee lies in the question of giving the correct organisational status and shape to the entire revenue generating apparatus, the Committee are inclined to think that the need for formulating the fiscal policy in a wider perspective need not be used as an argument against this proposal. They firmly believe that such a need can be adequately met through inter-departmental



consultations within the Ministry of Finance as, after all, fiscal policies are framed on the basis of inputs from various other Ministries/Departments as well.

### **Reply of the Government**

Since para No. 1.29 (Sl No. 1) is only conclusion. Action taken notes in respect of this para has not been furnished.

[Vide F. No. 291/Gen CX-9 dt 12-11-93 291/2/92 CXA dt. 12.11.93]

### **Recommendation Sl. No. 2 (Para 1.30)**

The Committee recommend that two independent departments viz. Department of Direct Taxes and Department of Indirect Taxes may be established in place of the existing Revenue Boards with two fullfledged Secretaries in lieu of Revenue Secretaries reporting directly to the political executives. However for the purpose of policy formulation the Finance Secretary would be the coordinating authority as at present.

### **Reply of the Government**

The recommendations made by the Committee have been carefully considered. The two Revenue Boards deal with separate areas of taxation, the policies in respect of which need to be properly coordinated. The Central tax system has to be viewed, fashioned and organised as a harmonious whole. This work of coordination has to be performed by the Secretary (Revenue) who is in a position to give independent and objective advice from a broader administrative and economic perspective. The suggestion made by the Committee that Finance Secretary could perform the functions of coordination in the two Revenue Boards is not practical because there is no separate position of Finance Secretary as such. One of the Secretaries in the Ministry of Finance, either the Secretary (Economic Affairs) or Secretary (Revenue) is designated as Finance Secretary. It would not be possible for the Finance Secretary, who is also in charge of the full-fledged Department of Economic Affairs (at present) to look after the coordination work relating to the operations of the two Boards. There is a need for commonality of approach and harmony in service conditions etc. of the two revenue services, which can also be maintained only if their proposals pass through a single secretary, namely, the Secretary (Revenue).

### **Recommendation Sl. No. 6 (Para 1.34)**

The Committee recommend that there should be a common Financial Advisor in the rank of Additional Secretary for both these Departments on the pattern of practice followed in respect of smaller Ministries/Departments. It is also desirable that the incumbent of such a post invariably be an officer who has knowledge of both direct and indirect tax laws.

### Reply of the Government

The quantum of work relating to financial proposal from the two Revenue Boards is not sufficient to require the post of a Financial Advisor in the rank of Additional Secretary, as recommended by the Committee. A number of posts of Financial Advisors in smaller Ministries/Departments have been recently abolished in the wake of the Government decision to economise on senior posts in the Government of India. It may be stated that since there are no plan projects/programmes handled by the two Revenue Boards, the financial proposals emanating from these Boards primarily relate to creation of posts, hiring/construction of buildings, purchase of equipments and material etc. Examination of these proposals does not justify a full-fledged Financial Advisor's post in the rank of Additional Secretary.

[F. No. 50/91/90-Ad. I (Pt. I)]

### Recommendation Sl. Nos. 19 & 20 (Paras 2.74 & 2.75)

The Committee further note that under the amended law narcotics/drugs can be disposed of/or destroyed after taking an order from the magistrate in whose presence it is done. The narcotics/drugs are disposed of within 90 days. As a result of this new provision a large quantity of drugs have been destroyed. The Committee are also informed that the Ministry does not have any adequate place for storing drugs as a result of which these are kept in strong rooms with lockers as well as in Police Stations in remote areas.

The Committee are pained to note that the Narcotics Control Board does not have adequate storage space to keep the confiscated drugs as a result of which pilferage of such drugs cannot be ruled out. They would like to caution the Ministry that in order to avoid the chance of such pilferage the Board should have proper storage space. They also desire that all possible care should be taken to ensure that such drugs are disposed of or destroyed in the presence of the magistrate concerned. In this context the Committee feel that the existing time-lag of 90 days in disposing the confiscated drugs is too long and steps should be taken to reduce the same to the minimum of 30 days.

### Reply of the Government

... present the Narcotics Control Bureau stores the seized properties, including drugs, in their own godowns and in some cases in the godowns of Customs and Central Excise Department, if the seizing place is far away or as a matter of routine practice seized property other than drugs are also kept likewise. So far no problem is faced. The setting up of Central Malkhana will create administrative problems.

About the Committee's recommendation that the existing time lag of 90 days in disposing the confiscated drugs should be reduced to 30 days, it may be stated that neither the NDPS Act nor the Standing Instructions

issued under the Act stipulate 90 days time limit. Probably the reference of 90 days made in the recommendation is about para 4.4 of the Standing Order issued under Section 52A of the NDPS Act. The said paragraph says that since the filing of charge-sheet/complaint is a condition precedent for expeditious issue of orders for pre-trial disposal, complaints by the respective enforcement agencies must be filed after completion of investigation within the stipulated period of 90 days of seizure/arrest, on a priority basis. In fact, as per Section 52A of the Act, the pre-trial disposal could be resorted even before filing of Charge-sheet/complaint. As the law stands now, pre-trial disposal could be resorted to at any time after seizure provided the procedure prescribed is complied.

**Recommendation/Observation Sl. No. 21 (Para 2.76)**

The Committee wish to emphasise the importance of strictly adjuring vexatious searches as such practices can only damage the credibility of the law enforcing agencies and ultimately invite active resistance from the affected parties by creating suspicion in public mind.

The Committee desire that statutory provision for receipt and disposal of complaints of vexatious searches and harassments from the aggrieved party against the officers of the Departments within a time frame, should be made by amendment in the relevant Acts.

**Reply of the Government**

Government fully agrees with the views of the Committee that vexatious searches do damage the credibility and image of the law enforcing agencies. Government is already taking due care and precaution before authorising searches. Government considers existing legal and administrative arrangements to be adequate in this regard.

(Approved by the Additional Secretary to the Government of India.)

[F.No. 715/6/92-CUS(AS)]

**Recommendation Sl. No. 24 (Para 2.79)**

The Committee are apprised that during the past three years no instances of vexatious searches have been reported by the field organisations of CBEC. They also note that considering the circumstances in which officers of Central Excise and Customs Department work, the Board is satisfied with the existing system for conducting raids. The Board has stated that, nevertheless, scope for improvement exists. The Committee cannot but express their concern at the qualified manner in which satisfaction about the existing system of conducting raids has been expressed. It only confirms the public perception that at least some raids and searches are vexatious in nature.

### Reply of the Government

Government is already taking due care and precautions before authorising searches. Senior officers personally supervise major search and seizure operations.

(Approved by the Additional Secretary to the Government of India.)

[F.No. 715/6/92-CUS(AS)]

#### Recommendation Sl. No. 25 (Para 2.80)

The Committee are concerned to note that since 1989-90 both the collection of Customs and the Central Excise have fallen short of the estimates made in the budget. Even though they appreciate that revenue realisation have registered a compound growth at the rate of 17% in respect of Customs and 14.3% in respect of Central Excise they cannot overlook the fact that significant portion of these increases can be attributed to additional levies. They feel that there is still considerable scope for stepping up efforts aimed at better tax realisation, checking tax evasion and widening of tax net. In this context they also note that during the first four years of the period reviewed by the Committee viz. 1985-86 to 1988-89 revenue realisation as well as the cost of collection has been looking up. They however notice that even though revenue collection during 1989-90 has also registered an increase over the previous year's collection, the cost of collection has come down significantly particularly in respect of customs duties. In fact the collection charges during 1989-90 even in absolute terms have come down. This only confirms the impression of the Committee that perhaps increase in revenue collection are more due to additional levies of Customs duty and Central Excise Duty rather than greater effort by the Department.

#### Reply of the Government

The actual receipts from customs and central excise duties during the year 1989-90 had marginally exceeded the revised budget estimates. In the case of customs and central excise the surplus was Rs. 159 crores and Rs. 303 crores respectively.

2. The revenue realisation from customs and central excise duties has been increasing since the year 1989-90. The details are given as under:

YEAR	Customs Revenue	Increase over previous yr.	Excise Revenue	Increase over previous yr.	A R M	
					CUS.	EXC.
(Rs. in crores)						
1989-90	18036	-	22406	-	-120.06	792.18
1990-91	20644	+2608	24514	+2108	835.03	390.19
1991-92	22257	+1613	28110	+3596	-510.59	988.18
1992-93	23818	+1561	30794	+2684	-2023.35	2210.90
(Prov.)						

It may be seen from col. 3 and col. 5 that the increase in revenue collections has been higher than additional resource mobilisation shown in col. 6 and col. 7 which was in fact negative in most of the years for customs duties. However, all possible steps are being taken to maximise the revenue collections.

Approved by Additional Secretary to the Government of India.)  
[F. No. 333/25/93-TRU]

#### **Recommendation Sl. No. 26 (Para 2.81)**

The Committee desire that revenue collection efforts should be stepped up and for this purpose systematic exercise in the direction of checking tax evasion and widening tax net initiated.

#### **Reply of the Government**

Appropriate action was taken to step up revenue collection efforts and to check tax evasion and widen the tax net. As a result, total duty evasion of Rs. 562.64 crores in 5639 cases was detected in 1991-92. Evasion of Rs. 317.85 crores in 1992-93 (upto Sep., '92) has been detected in 2326 cases.

#### **Recommendation Sl. Nos. 27 & 28 (Paras 2.82 & 2.83)**

The Committee are informed that in respect of disposal of cases relating to approval of classification and price-lists, sanction of refunds, rebates and drawback of excise and customs and central excise, no statutory time limit has been fixed. However, in general, field formations have been directed to ensure that action may be completed within 3 months except in provisional assessment and short assessment demand where it is required to be finalised within 6 months.

The Committee are dismayed to find that in respect of such important decisions on which the functioning of the Board primarily rests, the Ministry have not fixed any definite time limit. They deprecate that on a provisional basis an adhoc period of 3 to 6 months has been prescribed for the purpose. The Committee feel that this indicates the lackadaisical attitude on the part of the Ministry. They desire that the Ministry should fix a specific time frame of 3 months within which all these cases must be analysed and disposed of and under no circumstances the prescribed time frame should be exceeded. They would like to be apprised of the action taken in this regard.

#### **Reply of the Government**

In respect of quasi-judicial functions, such as sanction of draw-back/refund claims, classification lists, price lists, which *inter-alia* require observance of principles of natural justice, time limits have been prescribed only administratively. Prescribing such time limits statutorily may not be appropriate. Further, the Board monitors and examines the disposal and pendencies of such items of work through monthly technical reports

received from each customs house and central excise collectorate. Wherever required, the field formations are also suitably advised regarding their pace of disposal, protracted pendencies etc. Besides, the Directorate General of Inspection has also been asked to review the progress and pendencies of these items of work and report to the Board.

**Recommendation Sl. Nos. 43 & 44 (Paras 3.93 & 3.94)**

The Committee are dismayed by the fact that the recruitment of ex-servicemen in the Department is not taking place as per prescribed quota. In this context, the Committee are apprised that Staff Selection Commission has not been able to sponsor sufficient number of candidates to the Department for this purpose. However, they are surprised that the suggestion to entrust the recruitment of ex-serviceman to Director General of Resettlement has not found favour with the Department. The Committee are nevertheless of the opinion that such a step would go a long way in eliminating existing bottlenecks in the recruitment of ex-servicemen.

They, therefore, desire that the above suggestion may be examined in-depth in consultation with the Ministries of Defence and Personnel, Public Grievances and Pensions in order to ensure that the prescribed quota for ex-servicemen is filled.

**Reply of the Government**

The matter was referred to Department of Personnel and Training, as desired by the 'Estimate Committee'.

The Department of Personnel & Training has felt that considering the need for making recruitment for all group 'C' Non-technical posts (including reserved vacancies) in the Central Govt. through an exclusive agency i.e. Staff Selection Commission to maintain uniformity of standards the recommendation of the Estimate Committee for entrusting the recruitment for vacancies reserved for ex-servicemen to the Dte. General of Resettlement could not be accepted. However, the Department has suggested that the Director General, Resettlement can be an important catalyst in improving recruitment of Ex-Servicemen against posts reserved for them by not only giving wide publicity among eligible prospective Ex-Servicemen about the available opportunities, the schemes of various examinations conducted by the Staff Selection Commission, particularly where shortfall against the ex-servicemen quota is high, but also by exploring possibility by undertaking necessary coaching/training to prospective candidates.

The suggestions of the Department of Personnel & Training has since been conveyed to the Director General of Resettlement.

[F.No. A-60/1/91-AD.III.B]

**Recommendation Sl. No. 45 (Para 3.95)**

The Committee are apprised that manpower deficiencies in regard to the intelligence machinery within the Department of Revenue which includes the Director-General of Revenue Intelligence and the Director-General of Anti-Evasion charged with the responsibility of collecting and disseminating intelligence regarding violation of customs and central excise laws, respectively. While the Committee recognise that the vast borders of the country offer ample opportunities of smuggling of contraband goods on a very large scale and that violations of the laws relating to customs and central excise have been increasing year after year, they also recognise the fact that such activities cannot be brought under control merely by proliferation of staff in the Departments dealing with such matters. In their opinion such activities on a very large scale also point towards the degree of unrealism in the related laws and regulations as also a perverted value system in the society. The Committee, therefore, feel that in order to curtail economic offences of various types there has to be a balance between administrative measures and economic measures. In this context, they welcome the recent steps taken by the Government and hope that these will bring down the scale of economic offences to an appreciable degree.

**Reply of the Government**

Government agrees with observations of the Committee that smuggling and tax evasion cannot be fought with administrative measures alone. They will have to be coupled with suitable economic measures and Government has already gone a long way in liberalising economic policies and these are giving desired results.

(Approved by the Additional Secretary to the Government of India.)

[F.No. 715/6/92-CUS(AS)]

**Recommendation Sl. No. 46 (Para 3.96)**

The Committee, therefore, desire that the requirement of economic intelligence should be reviewed in the light of policy of economic liberalisation in the country recently announced and appropriate staff provided for the task so determined ungrudgingly.

**Reply of the Government**

The recommendation of the Committee have been noted for compliance.

**Recommendation Sl. No. 47 (Para 3.97)**

The Committee also desire the Ministry/Board to evolve an institutional arrangement to review, at a high level the functioning of Intelligence Wing on regular basis with a view to augmenting and redeploying staff as also replacement and modernisation of infrastructures.

### Reply of the Government

The institutional arrangement suggested by the Committee are already existing. Directorate of Preventive Operations has been entrusted with the task. Periodical reviews are being made for augmentation and redeploying of staff as well as modernization of infrastructure at Board/Ministry level. In the field also similar arrangements exist and Principal Collectors review the requirements.

(Approved by the Additional Secretary to the Government of India.)

[F.No. 715/6/92-CUS(AS)]

#### Recommendation Sl. Nos. 53 & 54 (Paras 4.78 & 4.79)

The Committee are informed that as on 31st August, 1990, 9,931 adjudication cases were pending on the customs side. Of these 16 cases were more than 3 years old. Similarly, on the Central Excise side, 863 adjudication cases were pending of which 127 cases were more than 3 years old. The Committee are informed that the pace of disposal of these cases has been slow due to shortage of officers as also due to, *inter-alia* the parties seeking adjournment and inspection of documents, stay orders from courts, etc.

The Committee while taking note of the steps which have been taken to keep the number of pending cases under check are, nonetheless, dismayed to find that the number of pending cases of adjudication runs into thousands and many of these cases have been pending for a period as long as 3 years and even beyond. They are not convinced by the reasons advanced for such an unusual large pendency, which is particularly high on the central excise side. In the opinion of the Committee pendency beyond a year can be justified only in cases where there are some extra-ordinary reasons. The Committee desire that Ministry/Board to take appropriate steps to ensure that routine procedural matters are not allowed to be exploited by recalcitrant assesseees. The Committee would like the Ministry to chalk out the programme with specific targets to dispose of all the pending cases within a specified time frame particularly cases which are more than one year old.

### Reply of the Government

Adjudication of cases is a quasi-judicial function and the adjudicating authorities have to observe the principles of natural justice. A number of personal hearings may have to be given in a case. Frequently, cross examination of witnesses and officers including laboratory officers, is also demanded.

If an attempt is made by the adjudicating authority to restrict the number of hearings, the assesseees approach the courts. The experience has been that the courts have been liberal in entertaining petitions in such matters and this had resulted in further delays. Therefore, it would not be



possible to lay down a rigid time-limit within which all cases must be adjudicated. However, the Ministry have noted the recommendations of the Committee and have directed the Directorate General of Inspection to conduct a study on the lines suggested by the Committee. Besides, the Central Board of Excise & Customs carries out a monthly review of the pendency position of adjudications in the respective Collectorates/Custom Houses. In addition, with a view to liquidate the pendency in a time-bound manner, a special drive has been launched in respect of the old cases and cases involving high revenue stakes.

#### **Recommendation Sl. No. 59 (Para 4.84)**

The Committee are extremely unhappy to find that at present about 20,000 cases relating to disputes in regard to levy of Central Excise and Customs and involving, approximately an amount of Rs. 4200 crores are pending in Supreme Courts, High Courts and the Lower Courts. The Committee are disturbed to note that large number of such cases are more than one year old and some of these are even more than ten years old. The Committee are apprised that to deal with this situation the proposal for setting up separate Tribunals is under active consideration of the Government since 1986. The Committee cannot but deprecate the Ministry as well as the Board who have allowed the situation to come to this sorry pass. They desire that all steps necessary for mitigating this situation including those of setting up of the Appellate Tribunal for Customs and Central Excise, may be taken with utmost expedition. They also desire that concrete steps may be taken to persuade the Supreme Court and the High Courts to set up special benches to deal with cases relating to Central Excise and Custom matters .

#### **Reply of the Government**

A Tribunal could not be set up under the Customs and Excise Revenue Appellate Tribunal Act, 1986(No. 62 of 1986) as vires were challenged in Bombay and Delhi High Courts. A draft Cabinet note incorporating amendments of the Act as required in the light of direction of the Bombay High Court in their interim order has been sent to the Ministry of Law, Department of Personnel and Training and Department of Expenditure for concurrence. Efforts are being made to introduce a Bill for the purpose, during the ensuing Budget Session of Parliament.

Besides, a proposal for setting up a Settlement Commission for prompt settlement of Customs and Central Excise cases is also under active consideration. A Bill for the purpose is also being proposed to be introduced in the ensuing Budget Session.

The position of court cases is reviewed every month by Member in charge of litigation in CBEC. It is now proposed to monitor the position every month in a full Board meeting. Collectors and Principal Collectors have been directed again on 20th August, 1992 to accord utmost priority to litigation work. Other steps taken include periodical review, moving of

courts for early hearing and vacation of stay, close liaison with Law Ministry, requesting of High Courts and Supreme Court for "bunching" of cases issuewise, senior officers of the rank of Collectors/ Principal collectors calling on Chief Justices of High Courts and meetings with Registrars etc. Recently, even MOS(R) also called on Hon'ble Chief Justice of India and Hon'ble Chief Justices of Delhi and Bombay High Courts requesting them to earmark exclusive benches to deal with Customs and Excise cases.

**Recommendation Sl. No. 61 (Para 4.86)**

The Committee are informed that an Act for setting up a new Tribunal (Customs and Excise Revenue Appellate Tribunal) having the status of a High Court under Article 323B, was passed in 1986. The Committee are unhappy to find that even after a lapse of 5 years the Tribunal has not been set up. The Committee desire that necessary amendments in the Act should be carried out expeditiously to remove impediments in setting up of the Tribunal without further delay. They further hope that the said Tribunal with its benches at several places, would be set up at the earliest.

**Reply of the Government**

Efforts are being made to introduce the Bill for amendments to set up the National Tribunal for Customs and Excise under Article 323B of the Constitution of India during the ensuing Budget Session of Parliament.

**Recommendation Sl. No. 66 (Para 4.91)**

The Committee note with concern that the Government counsels and the officers of Ministry of Law, defending revenue related cases in the Courts of Law, are not receiving adequate briefing from the senior officers of the Department of Revenue. The Committee desire that this situation may be rectified immediately. They also desire that for this work, more officers may be exclusively assigned in the field offices as well as at the Board level.

**Reply of the Government**

Normally Under Secretaries brief the Central Government Advocates and the Law Officers. However, in important cases where high stakes of revenue and complex and intricate questions of law are involved D.S.(Legal), Joint C.D.R./Commissioner(Review) and even Member in-charge of litigation have been briefing the advocates and the Law Officers.

Similarly, 'Legal Cells', under the charge of Additional Collector/ Deputy Collector, with one Assistant Collector, one or two Superintendents and three to five Inspectors, depending on the workload, are also functioning in the Collectorates.

The officers of 'Legal Cells' remain in touch with the Officers of the Ministry of Law and Central Government Standing Counsels and the Law Officers.

**Recommendation Sl. No. 72 (Para 6.32)**

The Committee note that as scope for raising revenues through direct taxation has remained limited the burden of raising sufficient resources to meet the developmental and non-developmental requirements of the country has fallen, though disproportionately, on indirect taxation. During 1990-91 actual revenue mopped up through direct and indirect taxes was Rs. 6904 crores and Rs. 45434 crores (approximately) respectively. This, situation has consequentially led to a high cost economy, excessive tax burden on poorer sections of society, subsidies on exports and undue protection to domestic manufacturing sector. However, looking at the reverse side of the coin it would be seen that indirect tax structure has been used not only for generating revenues but also for various socio-economic objectives which are far too many and which have made entire tax structure complex and difficult to administer.

**Reply of the Government**

The Government have already initiated the process of tariff reforms directed at a tax structure which is simple, has a wide base with moderate rates of tax, is well administered and, most important, promotes economic efficiency, growth and equity. This is a long term objective and in the budget for 1993-94, the Government have already announced certain tax measures in that direction.

(Approved by Secretary to the Govt. of India)

[F.No. 339/1/92-TRU]

**Recommendation Sl. No. 73 (Para 6.33)**

The Committee feel that where basic philosophy and objectives, determining the structure and incidence of indirect taxation, are concerned there is an obvious need for greater clarity. While appreciating that taxation may be a convenient and cost effective tool for promoting certain desirable objectives, other than those of mopping up revenue, the Committee are unhappy to find that the present tax structure has achieved neither of the objectives adequately. In fact, it can be stated in retrospect that even whatever has been achieved at a considerable cost to the country.

**Reply of the Government**

The Government have already initiated the process of tariff reforms. The Government hope that over the years the anomalies in the tax structure are likely to be minimised.

(Approved by Secretary to the Govt. of India.)

[F.No. 339/1/92-TRU]

**Recommendation Sl. No. 74 (Para 6.34)**

The Committee are of the definite view that after liberalising the industrial and trade policy, rationalisation of the tax structure is overdue.

They desire customs as well as central excise duties to be brought down from the presently unsustainable levels to widen the tax base through expansion of production capacity and enhancement of productivity.

#### **Reply of the Government**

The Government have announced customs and excise duty reductions in the budget for 1993-94 covering a wide spectrum of the industry. It has also been indicated in the Budget that these measures will go to enhance productivity.

(Approved by Special Secretary to the Govt. of India)

[F.No. 339/1/92-TRU]

#### **Recommendation Sl. No. 76 (Para 6.36)**

The Committee further desire that in industries, like plywood where demand is sensitive to price escalation and which are labour intensive, government should impose specific duty instead of imposing duty on *ad-valorem* basis. This, the Committee believe, will boost production in such industries and ultimately result in greater revenue earnings besides other economic benefits like employment.

#### **Reply of the Government**

The Government have carefully considered the matter regarding imposition of specific rates of excise duty on plywood and taking into consideration the fact that there is a large variation in the prices of plywood of various grades, it has not been found possible to prescribe specific rates of excise duty. However, the duty on plywood has been reduced from 34.5% to 20% w.e.f. 28.2.93.

(Approved by Special Secretary to the Govt. of India)

[F. No. 339/1/92-TRU]

#### **Recommendation Sl. No. 77 (Para 6.37)**

The Committee further desire that while reducing customs and central excise duties a correlation should be maintained between the two to ensure that domestic industry does not become victim of 'dumping' of goods from foreign countries. The Committee would like to caution the Ministry against any lopsided approach in the matter.

#### **Reply of the Government**

In the budget for 1993-94, the Government have already announced measures to protect the interests of domestic industry consequent to general reduction in import duties. Import duty on several items critical to the domestic industry has been reduced which include metals, chemicals, components and raw materials. In addition, steps have been initiated to withdraw exemption from countervailing duty on certain items to ensure better protection to domestic industry. Similarly, excise duty on various items has been reduced which include capital goods, power transmission equipments and several consumer goods.

So far as apprehension for dumping of goods in the domestic market consequent to lowering of import duties is concerned, it may be mentioned that existing laws provide for imposition of anti-dumping duties in those cases in which the foreign supplier is dumping goods and thereby causing material injury to domestic industry. In the past the maintenance of a high level of customs duties together with comprehensive quantitative restrictions did not necessitate recourse to the imposition of anti-dumping duties. However as QRs are phased out and the general customs duty get reduced anti-dumping provisions may be invoked when the need arises. The reduction of customs duty particularly on capital goods, raw materials and components is considered imperative in order to make our industry internationally competitive. Reduction of central excise duties is also expected to stimulate the economy. In view of the fact that separate provisions exist to counteract the danger of dumping, the fear of dumping need not be a factor inhibiting reduction of customs and central excise duties.

(Approved by Special Secretary to the Govt. of India)

[F. No. 339/1/92—TRU]

Recommendation Sl. No. 78 (Para 6.38)

The Committee are informed that the Ministry had tried to merge excise and sales tax in respect of three commodity groups namely, sugar, tobacco and textiles where additional excise duty at the point of manufacture was levied alongwith basic central excise duty. The experiment has however, remained confined to these three original commodities. They note that a Commission set up to explore the possibility of covering more commodities under this scheme recommended that five more commodities could be brought within the scheme. However, this recommendation could not be implemented because the States felt that it would shrink their revenue base.

#### Reply of the Government

As the Committee have themselves observed that the recommendation of merger of excise and sales tax could not be implemented for want of support from the States, no action is due on this recommendation.

(Approved by Special Secretary to the Govt. of India)

[F. No. 339/1/92—TRU]

Recommendation Sl. No. 79 (Para 6.39)

The Committee recommended that it is high time when the Government should undertake a comprehensive study of the Indirect Tax structure in the country with a view to simplify the same and also for widening the tax base. The Committee feel that this has become more urgent in the context of measures undertaken for economic liberalisation. The object should be

to ensure stability in the tax rates for a reasonably long period as well as to reduce the Slabs of duties to the minimum.

#### **Reply of the Government**

The Government had already appointed a Tax Reforms Committee under the Chairmanship of Prof. Raja. J. Chelliah to review the indirect tax structure. The Committee had submitted its report in three phases. Some of the recommendations of this Committee formed the core of various tax measures undertaken by the Government in the Budgets for 1992-93 and 1993-94. The review of tax structure is an ongoing process and the Government is committed to move towards a tax system which is simpler, has a wide base with moderate rates of tax and promotes economic efficiency, growth and equity.

(Approved by the Special Secretary to the Govt. of India)

[F.No. 339/192-TRU]

#### **Recommendation Sl. No. 80 (Para No 6.40)**

The Committee are informed that the policy of nurturing the small scale industrial sector through exemptions and concessions in excise duty accounts for 45 to 50 per cent of industrial production in the country. It is noted that to begin with these concessions were actually meant for the tiny sector where investment would not ordinarily be more than Rs. 2.5 lakhs. The Committee, however, find that the Government have deviated from this position by enhancing the ceiling on investment in such units to a level which is disproportionate to the erosion in the value of rupee over the years. In this manner concessions have been extended even to units where investment would range from Rs. 30 to 75 lakhs. The Committee feel that, if the share of small scale sector in the total industrial productions is so high logic demands that the policy of subsidising these units, even indirectly, would require to be reviewed. The fact that the so called small scale entrepreneurs have been vociferously demanding enhancement in the ceiling limit on investment puts a question mark against the genuineness in their smallness. The Committee are of the view that even though the basic policy objective was to encourage the small scale units to grow ultimately into medium and big industrial units, over the years, the smallness itself has acquired a premium. It is, therefore, doubtful whether all the small scale units are really small. In such a situation it is quite possible that genuinely small scale units may have been driven out of existence. Moreover, the Committee firmly believe that all units big, medium and small ought to contribute, according to their capacity, to the Exchequer for the overall development of the country.

#### **Reply of the Government**

The Government have recast the scheme of excise duty concessions to small scale units and the thrust has been on giving more benefits to small

scale units in the lower segments. The measures include, enhancement of full excise duty exemption limit from Rs. 20 lakhs to Rs. 30 lakhs; extending excise duty concession limit from Rs. 10 lakhs to Rs. 30 lakhs to unregistered units, while at the upper end of the small scale scheme, for units clearing goods between Rs. 50 lakhs to Rs. 75 lakhs the duty benefit has been reduced from 10 percentage points to 5 percentage points.

(Approved by Special Secretary to the Govt. of India)

[F. No. 339/L/92-TRU]

**Recommendation Sl. No. 81 (i) & (ii) (Para 6.41)**

**The Committee recommend as follows:**

(i) The policy of granting exemptions and concessions in excise duty to small scale units should be reviewed immediately to focus it on genuinely small and labour intensive units.

(ii)\*\*                   \*\*                   \*\*

(iii) A Graduated central excise duty structure may be introduced so that every unit contributes to the Exchequer according to its capacity and without according to its capacity and without compromising its economic viability.

**Reply of the Government**

Points (i) and (iii):—The excise duty exemption scheme for small scale units has been recast in 1993-94, thrust being to give more benefits to the small scale units in the lower segments, as mentioned in Action Taken Note in para 6.40.

## CHAPTER IV

### RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH THE GOVERNMENT'S REPLIES HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

#### **Recommendation/Observation Sl. No. 13 (para 1.26)**

The Committee are informed that combat smuggling Government is taking various measures like confiscation of smuggled goods besides imposition of penalty and prosecution of persons involved in smuggling activities. Moreover, the persons found engaging in smuggling activities are also subject to preventive detention laws. The Directorate of Revenue Intelligence organises raids and searches and provides directions to Collectors of Customs in combating smuggling. The Committee have also been informed that anti-smuggling machinery has been upgraded by providing sophisticated anti-smuggling equipment such as metal detectors, night-vision binoculars, baggage X-ray machines etc. Customs patrol launches and crafts alongwith inflatable rubber boats have also been acquired for anti-smuggling activity. Efforts are also being made to create awareness among people against purchases of smuggled goods.

#### **Reply of the Government**

Committee has been rightly informed of the various steps taken by the Government to combat smuggling activities. Field formations remain vigilant against smuggling activities.

(Approved by the Additional Secretary to the Government of India)

[F.No. 715/6/92-CUS(AS)]

#### **Recommendation/Observation Sl. No. 14 (Para 2.69)**

From the data forwarded to the Committee regarding the amount of contraband seized during the last 6 years the Committee infer that while growing value of contraband items may be indicative of the scale of anti-smuggling measures, it also underscores the fact that the smuggling activities remain unabated. They are particularly disconcerted to find that volume of traffic in drugs of various kinds has also been growing consistently. This is evidently a matter of grave concern. In this context the Committee welcome the measures like partial convertibility of rupee, the facility provided to NRI to bring to India limited quantities of gold and the scheme for gold bonds announced by the Finance Minister as part of his budget for the financial year 1992-93. The Committee hope that these steps alongwith the liberalisation of economy and the expected



improvement in the quantity and quality of industrial products in India, smuggling activities will abate.

**Reply of the Government**

Government agrees with the concern expressed by the Committee on smuggling. Smuggling is a clandestine activity and anti-smuggling agencies do check smuggling to the extent possible.

However, the liberalisation of economic policies coupled with the measures like full convertibility of rupee, gold/silver imports etc. will go a long way in reducing smuggling. This is reflected by lower level of seizures in respect of items where imports have been liberalized.

(Approved by the Additional Secretary to the Government of India)

[F. No. 715/6/392-CUS(AS)]

**Recommendation Sl. No. 15 (Para 2.70)**

The Committee wish to underline the need for the Government to exercise greater vigilance in a liberalised economic environment. As the new anti-smuggling schemes like the gold bond scheme and NRI gold import scheme both have the potential of degenerating into a money laundering device, the Committee desire that the situation should be monitored tightly and timely correctives applied. They also desire that anti-smuggling measures should be made more effective so that smuggling no longer remains an attractive economic proposition.

**Reply of the Government**

Government appreciates the apprehensions expressed by the Committee. The declared objectives of the Gold Bond Scheme is to strengthen the official reserves of gold. Government is also aware of the possible misuse of Gold Import Scheme. Field formations and economic intelligence agencies have been geared up and suitably alerted.

(Approved by the Additional Secretary to the Government of India)

[F. No. 715/6/92-CUS(AS)]

**Recommendation Sl. No. 29 & 30 (Para 2.84 & 2.85)**

The Committee are further informed that even though a provisional time limit of 3 to 6 months has been fixed for finalisation of various categories of cases, in a large number of cases the Ministry has not adhered to the stipulated time limit. The delay in finalising these cases has, in fact, ranged between 6 months to over 3 years.

The Committee are unhappy to note the above state of affairs. They hope that the Ministry will take earnest steps to bring down the arrears of these cases as early as possible and desire that either the number of special courts which are to try these cases should be increased or classification should be suitably simplified. The Committee would like to be informed of the action taken in this regard.

### **Reply of the Government**

Since these matters are decided by the executive officers in their quasi-judicial capacity, the Ministry keeps a close watch on these pendencies, especially those over 6 months, through monthly reports from Collectors as well as the analysis done by Directorate General of Inspections. The pendency position is also reviewed and discussed in the periodical conferences of Collectors, which are chaired by the Members of the Board.

### **Recommendation Sl. No. 62 (Para 4.87)**

The Committee have been informed that the Central Board of Excise and Customs obtains legal assistance from the Ministry of Law in those cases where Department has to file statutory appeals to the Supreme Court, and to defend appeals and Special Leave Petition (SLP) filed by the assessees. Moreover, where legal interpretation is involved with regard to formulatin of policy, rules and regulations and the issue of notifications the Ministry of Law assists the Board. In the ordinary courts the cases of the Board are defended by lawyers drawn from the panel prepared by the Ministry of Law.

### **Reply of the Government**

The para spells out the factual position.

### **Recommendation/Observation Sl. No. 63 (Para No. 4.88)**

The issues which have emerged and have been considered by the Committee in regard to the adequacy of existing arrangements for providing legal advice and other related assistance to the CBEC as well as CBDT in defending cases in the Courts varios levels are whether the Ministry of Finance can draw their own separate panels of lawyers for CBEC and CBDT, without any prior clearance from the Ministry of Law whether the legal advice and assistance at present being provided by the Ministry of Law and its Branch Secretariats at Bombay and Calcutta shold be an in-house set up within the Ministry of Finance and whether eminent lawyers outside the approved panel can be engaged by the Ministry of Finance to defend cases having high revenue implications, by paying higher fee without prior clearance from the Ministry of Law. The Committee have taken not of various points made by the CBEC, the Ministry of Finance as also the Ministry of Law. While they appreciate that under the Allocation of Business Rules of the Government of India it falls within the charter of Ministry of Law to provide legal advice and other related services to various Ministries including Ministry of Finance, they are, nevertheless, in favour of greater de-centralisation in the existing arrangements. They feel that while the Ministry of Law should continue to act as nodal agency, there is scope for delegation of more powers in this regard to the Ministry of Finance.

### Reply of the Government

Delegation of more powers to the Ministry of Finance, as suggested, would be desirable.

#### Recommendation Sl. No. 64 (Para 4.89)

The Committee are of the view that engaging a particular lawyer or drawing up a panel of lawyers is essentially an administrative decision and pre-suppose the confidence of the client party in the lawyer. They feel that the role of Ministry of Law in such matters should be advisory in nature and the onus of such decisions should, ultimately, rest on the Ministry of Finance and the two Revenue Boards. In case the advice of the Ministry of Law is overlooked in a particular case the Ministry of Finance and the respective Boards should be accountable for any inadequacy in the legal defence of such a case. The Committee therefore recommended that the panel of lawyers including which fee lawyers should, *ab-initio*, be drawn by the respective Revenue Board Collectrates and finally approved by Ministry of Finance after time-bound consultation with Ministry of Law.

### Reply of the Government

The Ministry of Finance will welcome the delegations.

#### Recommendation Sl. No. 65 (Para 4.90)

The Committee are also in favour of the Collectorate and equivalent offices, which accounts for a very large number of Government related litigation, to have 'Integrated Legal Advice' on the pattern of Internal Finance. The officers who would be posted as Internal Legal Advisers should be placed under the administrative control of the Ministry of Finance while their technical control may rest with the Ministry of Law. The cadre control of such officers should also rest with the Ministry of Law. Thus the Committee aver would also facilitate expeditious vetting of counter-affidavits.

### Reply of the Government

The Ministry of Finance welcomes the proposition.

## CHAPTER V

### RECOMMENDATIONS/OBSERVATION IN RESPECT OF WHICH FINAL REPLIES ARE STILL AWAITED

#### Recommendation Sl. No. 51 (Para 3.101)

The Committee are apprised that schemes exist in the Central Board of Excise & Customs to give reward to the informers as well as to Government servant who take exceptional risk and initiative in bringing to light cases of evasion of duty of seized contraband goods and apprehend the guilty persons. They also note that even though the reward is given as a percentage of the value of the goods actually sized it is subject to a limit of Rs. 1 lakh on each occasion and Rs. 10 lakhs during the entire career of an official. The Committee while appreciating the necessity of rewarding informers for the intelligence provided, consider granting rewards to public servants for better performance of their duties to be bad in principle. In their view the expectation of a reward may not only tempt the members of the search parties to over reach their powers and cause harassment to the citizens but possibility of reward for performance of duties can also weaken the defence of the public servant against allegations of malafide use of power. In such a situation he or she may no longer be deemed to be acting purely in public interest.

#### Reply of the Government

Quite encouraging results have been achieved after the introduction of liberalised reward scheme in 1985. This scheme has helped in curbing the menace of smuggling in the country, as is evident from the seizure effected during 1984 to 1991. The total value of the contraband goods seized in 1984 before the introduction of the liberalised scheme stood at Rs. 101.09 crores which was since then, shown an upward trend as per details given below:

#### Recommendation Sl. No.- 52 (Para 3.102)

The Committee therefore desire that the existing reward scheme should be substituted by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Govt. They also desire that quantum of such awards should be high enough to be sufficiently rewarding. The amount of such awards should also be reviewed from time to time so that their value and importance is not diminished.

**Reply of the Government**

Reward scheme is under challenge in the Supreme Court. Since the matter is *sub-judice* before the highest Court, reward scheme will be reviewed only after Supreme Court gives its final decision.

(Approved by the Additional Secretary to the Government of India)

[F.No. 715/6/92-CUS(AS)]

**Recommendation Sl. No. 81(iii) (Para 6.41)****The Committee recommend as follow**

(i) & (iii) \* \* \* \* \*

(ii) Small units should be encouraged only in such products where these units enjoy a distinct advantage and such commodities should be reserved for small scale sector.

**Reply of the Government**

Point (i) & (iii) \* \* \* \* \*

Point (ii) The Department of Small Scale Industries and Agro & Rural Industries have been requested to furnish their comments on this part of the recommendation directly to the Committee.

(Approved by the Additional Secretary to the Government of India)

[F.No.339/1/92-TRU]

NEW DELHI;  
April 18, 1994

Chaitra 28, 1916 (S)

DR. KRUPASINDHU BHOI,  
Chairman,

Estimates Committee.

## APPENDIX I

(Vide Introduction of the Report)

### *Analysis of Action Taken by Government on the 17th Report of Estimates Committee (Tenth Lok Sabha)*

I	Total number of Conclusions/Observations/ Recommendations		82
II	Recommendations/Observations which have been accepted by Government (Nos. 3, 4, 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 22, 23, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 48, 49, 50, 55, 56, 57, 58, 60, 67, 68, 69, 70, 71, and 75)	Total	40
	Percentage	48.80%	
III	Recommendations/Observations which the Committee do not desire to pursue in view of Government's reply [Nos. 1, 2, 6, 19, 20, 21, 24, 25, 26, 27, 28, 43, 44, 45, 46, 47, 53, 54, 59, 61, 66, 72, 73, 74, 76, 77, 78, 79, 80, and 81 (i) & (ii)]	Total	30
	Percentage	36.60%	
IV	Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee (Nos. 13, 14, 15, 29, 30, 62, 63, 64, and 65)	Total	9
	Percentage	10.96%	
V	Recommendations/Observations in respect of which final replies of Government are still awaited [Nos. 51,52, and 81(iii)]	Total	3
	Percentage	3.64%	

## APPENDIX II

*Minutes of the Twentieth Sitting of the Estimates Committee*  
The Committee sat on Friday, the 8th April, 1994 from 1500 hrs. to 1610 hrs.

### PRESENT

Dr. Krupasindhu Bhoi—*Chairman*

### MEMBERS

2. Shri S.K. Gangwar
3. Shri B.S. Hooda
4. Shri R. Jeevarathinam
5. Smt. Sumitra Mahajan
6. Shri Rupchand Pal
7. Shri Kabindra Purkayastha
8. Shri Satya Deo Singh
9. Shri P.C. Thomas
10. Shri Braja Kishore Tripathy
11. Shri Lacta Umbrey

### SECRETARIAT

1. Shri Murari Lal—*Joint Secretary*
2. Smt. P.K. Sandhu—*Deputy Secretary*
3. Shri K.L. Narang—*Under Secretary*
4. Shri R.C. Gupta—*Under Secretary*

2. \*\* \*\* \*\* \*\* \*\* \*\*  
\*\* \*\* \*\* \*\*

3. The Committee then considered and adopted the following Draft Reports without any modification/amendments:—

(i) \*\* \*\* \*\* \*\*  
\*\* \*\* \*\*

(ii) Report on Action Taken by the Government on the recommendations contained in the Seventeenth Report of the Estimates Committee (10th Lok Sabha) on the Ministry of Finance (Department of Revenue)—Central Board of Excise and Customs.

4. The Committee authorised the Chairman to make verbal and other consequential changes arising out of factual verification by the respective Ministries in these Draft Reports and present the same to the House.

5. \*\* \*\* \*\*  
\*\* \*\* \*\*

*The committee then adjourned.*

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