

Presented to
the Legislature
on 6-03-2012



**REPORT OF
THE COMPTROLLER AND AUDITOR GENERAL
OF INDIA**

**PERFORMANCE AUDIT OF STATE EXCISE DEPARTMENT
FOR THE YEAR ENDED 31 MARCH 2011**

(REVENUE RECEIPTS)
Report No.6

GOVERNMENT OF KERALA

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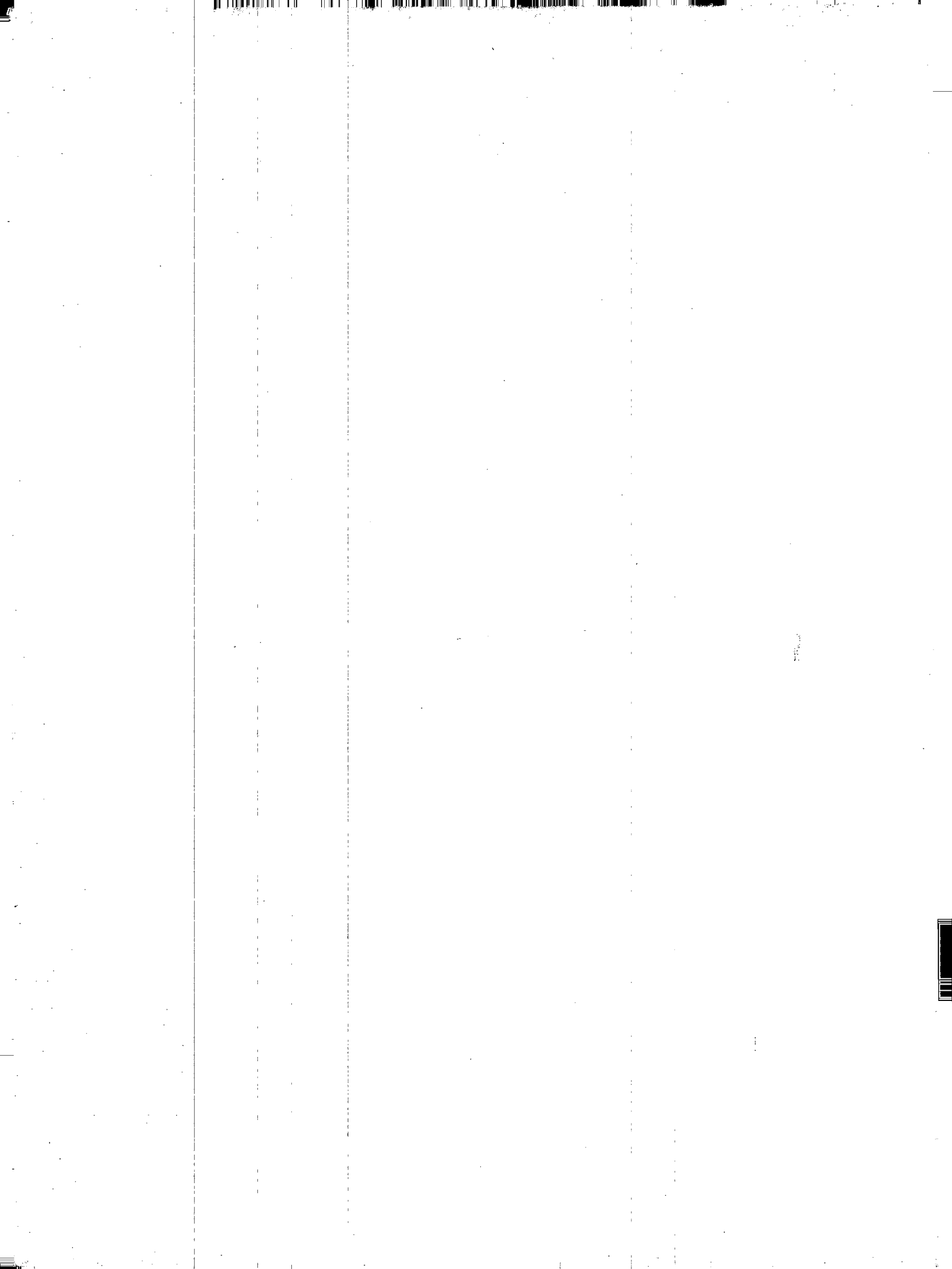
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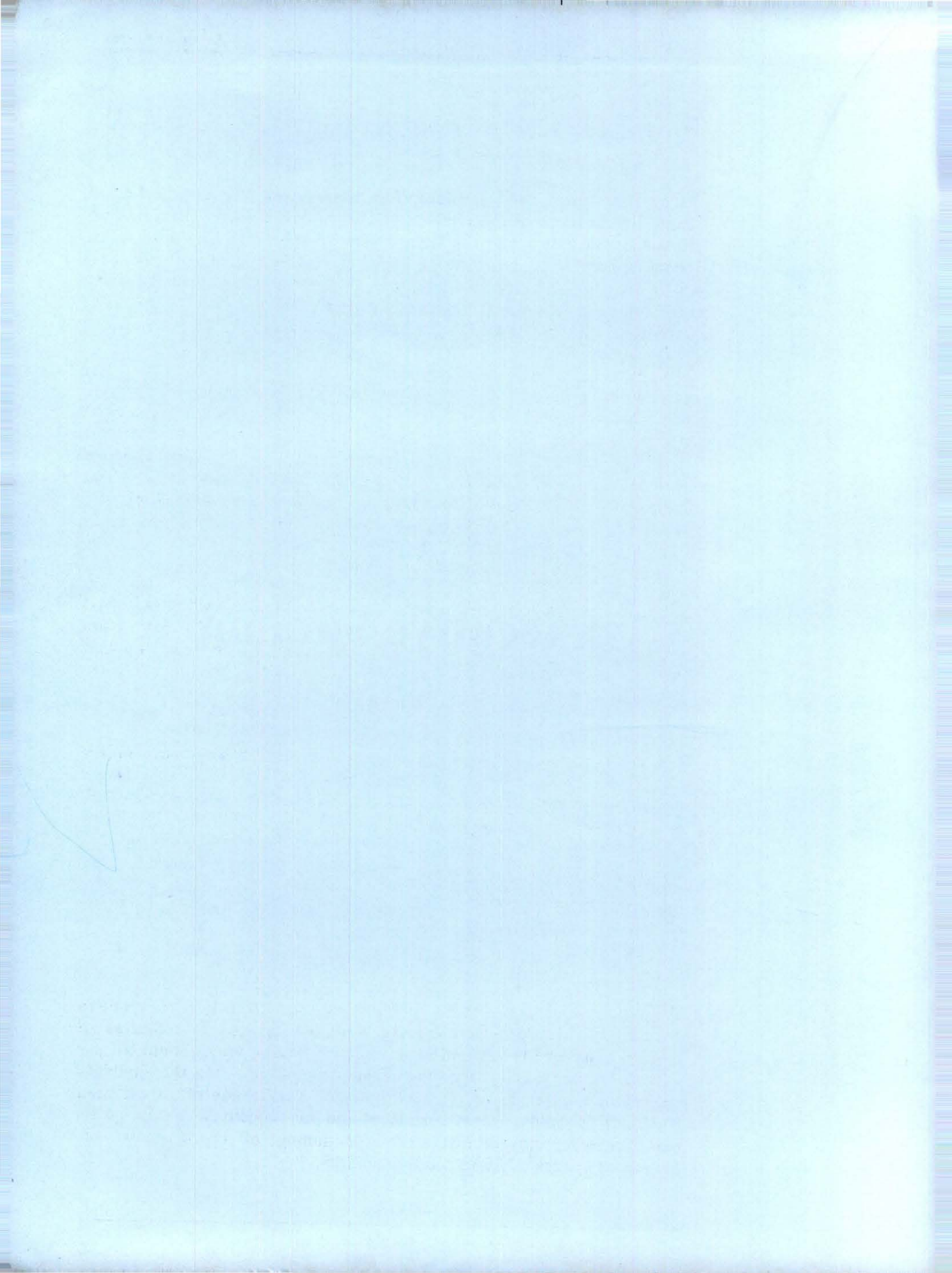
Preface

This Report for the year ended 31 March 2011 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. In this report we are presenting the results of our audit on the working of the State Excise Department for the period 2006-07 to 2010-11.



Executive Summary



Executive Summary

Context

In our assessment, the operations of the State Excise Department did not rank high in terms of financial materiality of the revenue generated and financial risk. However, the Department emerged with high priority in terms of significance and visibility of its operations, operational risks and estimated audit impact. In our view as only limited effort is needed from the Excise Department to generate and collect revenue, the Department activities are more geared towards regulation and enforcement.

This Report

Our audit was conducted between January and May 2011 with focus on identification of key risks by the Department, efficacy in enforcement of provision of Acts and Rules relating to production, transportation and consumption of illicit/harmful spirituous preparations, and effective implementation of annual Abkari policies of the Government. The Report has been prepared by using the COSO frame work of internal controls.

Audit Findings

In this report we present several lapses such as non-imposition of import fee, non-levy of permit fee, etc. with financial impact of ₹ 253.75 crore. We noticed that the Government adopted inconsistent policies and that the Department had not effectively implemented the Government policies.

Waiver of import fee on rectified spirit.

We consider that the Government and the top management of the Department did not follow transparent procedures to get an amendment to the Abkari Act enacted to waive import fee on rectified spirit which involves an annual revenue loss of about ₹ 77 core.

Permit fee on movement of IMFL

The Department had not collected permit fee of ₹ 16.45 crore on movement of IMFL from FL 9 Licences to other licences

System deficiencies

We noticed that the printing of permits and security labels were prone to misuse. Effective control measures were not applied in collection of arrears, issue of licenses and supervision of foreign liquor shops. 61 per cent of the bar hotels were functioning without satisfying the eligibility conditions. There was no effective system of supervision of interdivision transport of toddy. The Department did not effectively discharge its enforcement responsibilities. The functioning of check posts was hampered by lack of infrastructure facilities.

Internal Audit wing

The Department did not prepare a risk based annual / biennial audit plan to cover the field units. The Department audited only 31 *per cent* of the total units during 2010-11

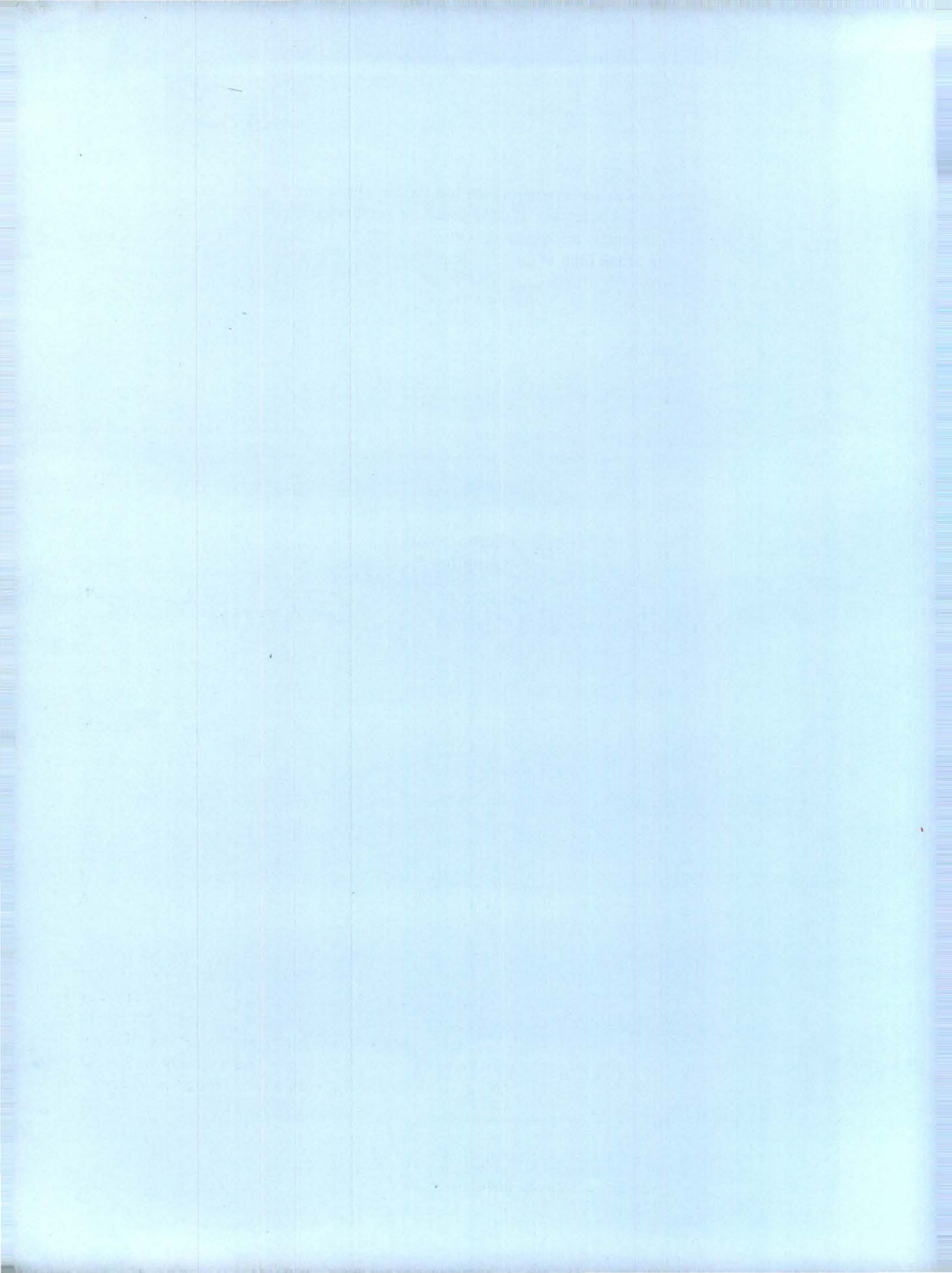
Our conclusion

The Government must amend the Rules so that bar hotels are not situated near educational institutions and places of worship. It may take effective steps to facilitate easy identification of artificial toddy and to ensure that toddy is distributed to other divisions under excise escort.

The Department may be provided with necessary manpower and infrastructure to enable effective discharge of its enforcement functions.

Chapter I

Backdrop for Audit



CHAPTER-I: BACKDROP FOR AUDIT

1.1 Why did we select working of the Excise Department for review ?

We ranked the operations of the Excise Department against commonly used criteria for selection of audit areas for performance review. The details of our assessment is at Appendix. Our assessment revealed that Excise Department did not rank high in terms of financial materiality of the revenue generated and financial risk. However, the Department emerged as 'high priority' in terms of significance and visibility of its operations, operational risks and estimated audit impact. Our overall assessment revealed that working of the Excise Department was a 'high priority' area for audit.

1.2 What were the main objectives of our audit?

We undertook the review to ascertain what internal controls exist and whether these are functioning effectively, particularly with regard to:

- Identification of key risks to the achievement of the Department's objectives and management of such risks;
- Demand and collection of excise revenue leviable under the various Acts and Rules administered by the Excise Department;
- Enforcing provisions of the Acts and Rules effectively to prevent production, transportation and consumption of illicit/harmful spirituous preparations;
- Allotment and utilisation of resources efficiently to carry out the responsibilities entrusted to the Department; and
- Effective implementation of objectives envisaged in the annual abkari policies of the Government.

1.3 What was the audit framework used to conduct our review?

As our audit focus was on the functioning of internal controls in the Department, we conducted our audit against the COSO¹ framework of internal controls, which is an internationally established and accepted control framework. According to the COSO framework, the following are the five elements of an effective internal control system:

- Control environment – This provides a foundation for all other control elements. It is the responsibility of the top management of the Department to establish the control environment through measures such as adopting consistent policies, ensuring timely action to implement the policies, ensuring availability of employees, making available updated manuals to guide work, tacking timely and strict action against violations and initiating measures to strengthen systems.

¹ Committee of Sponsoring Organisations.

- Risk assessment – The management must clearly identify strategic objectives of the Department, risks to achieving such objectives and measures to manage such risks.
- Control activities – These are the policies, procedures and practices that enable the Department to achieve objectives.
- Information and communication – This entails establishing systems for assimilating financial, operational and compliance information and passing on such information to those who need it.
- Monitoring – This covers day-to-day monitoring of activities as well as periodic assessment of activities through internal audit and/or external evaluation.

1.4 What was the criteria against which audit was conducted?

The functioning of the Excise Department was compared against the audit criteria listed below and incorporated within the COSO control framework explained in para 1.3:

- Rates of taxes/duties and the provisions contained in various Abkari Acts/Rules.
- Abkari policy of the Government.
- Standards and specifications fixed by the Government for various spirituous preparations.
- Instructions issued by the Department.

1.5 How did we select our audit sample?

We selected samples from all the three geographical zones. Six out of the 14 divisions and a minimum of 25 *per cent* of the circles, from the six identified divisions, were selected by simple random sampling using the audit software IDEA². Twenty five *per cent* Ranges from the selected circles and a minimum of 25 *per cent* of the distilleries in the selected divisions were also selected. In addition, three major border check posts³, the Commissionerate of Excise and the bonded ware houses of the Kerala State Beverages Corporation (KSBC) (FL-9 Licence⁴) in the selected districts were also selected. The units selected are detailed below:

Zone	Division(Two from each Zone)	Circle	Range
South Zone	Thiruvananthapuram	Neyyattinkara	Neyyattinkara
	Alappuzha	Alappuzha	Alappuzha
		Mavelikkara	Mavelikkara
Central Zone	Thrissur	Vadanappally	Chavakkad
		Wadakkencherry	Kunnamkulam
	Palakkad	Chittor	Chittor
		Alathur	Alathur

² Interactive Data Extraction and Analysis

³ Amaravila, Manjeswaram and Walayar

⁴ Foreign Liquor 9 - Licence for possession and supply of foreign liquor in wholesale

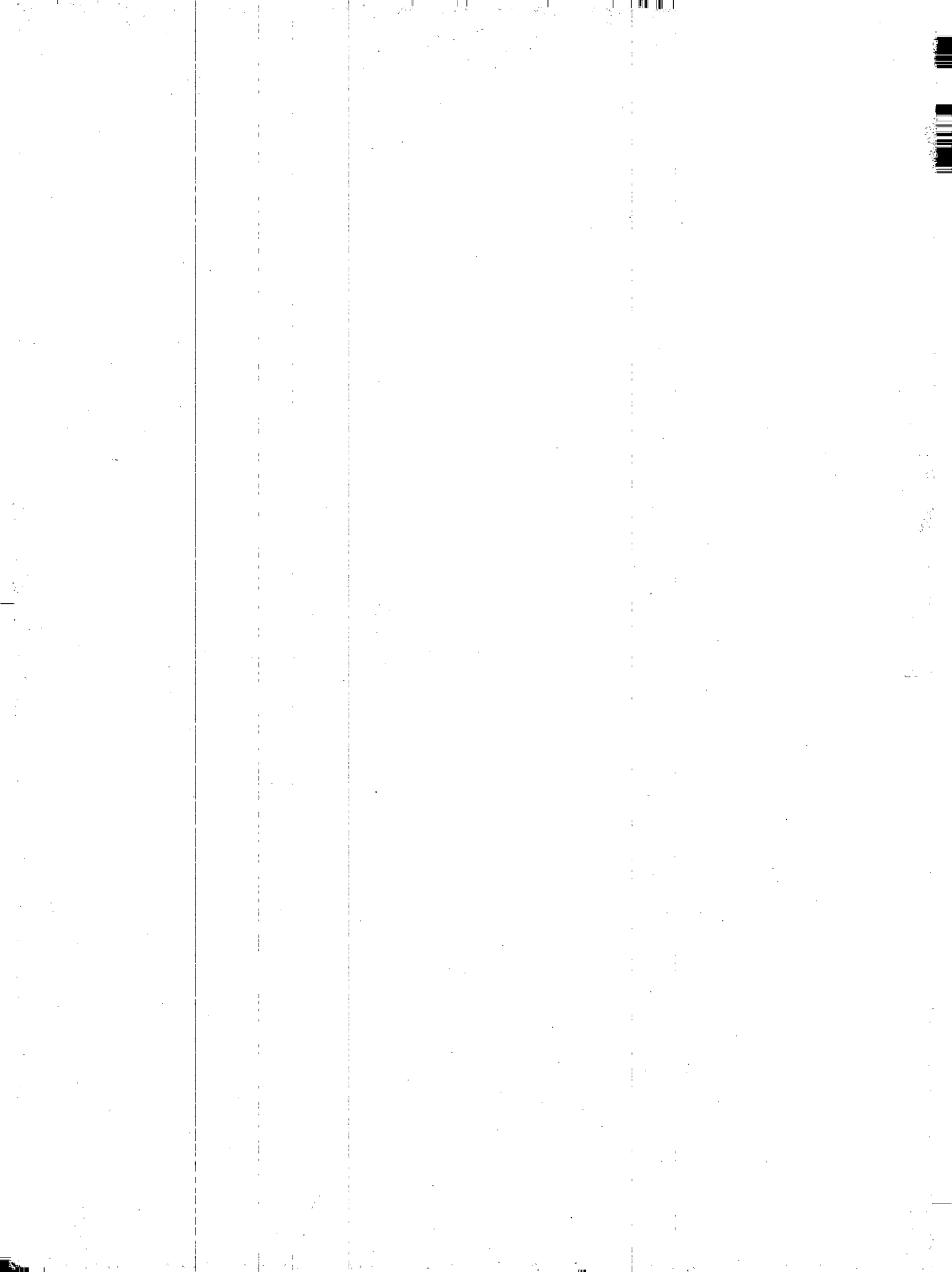
Zone	Division(Two from each Zone)	Circle	Range
North Zone	Kozhikode	Kozhikode	Feroke
	Kasargod	Kasargod	Kasargod

1.6 What was the scope of audit and audit methodology?

We conducted the review during January to May 2011 mainly through scrutiny of files and records at the selected units and by collecting information from other Government agencies like the Kerala State Mental Health Authority, the Directorate of Health Services, the Chemical Examiners Laboratory, Thiruvananthapuram, and the State Crime Records Bureau. Our audit team also physically observed the functioning of the border checkposts. The review covered a five year period from 2006-07 to 2010-11.

1.7 What was the nature of consultation with the Government in the conduct of the review?

Before taking up the review, we organised an entry conference in January 2011 with the Secretary (Taxes), wherein the scope and methodology of audit was discussed. The Secretary assured us full co-operation in the conduct of audit. On behalf of the Indian Audit and Accounts Department, we acknowledge the co-operation of the Kerala State Excise Department, the Chief Chemical Examiner and the State Crime Records Bureau in providing necessary information and records for audit. The Report was sent (August 2011) to the Department/Government and an exit conference was held on 31 October 2011 with the Additional Secretary, Taxes Department wherein the key audit findings and recommendations were discussed. The response of the Government during the exit conference and on other occasions has been suitably incorporated in the Report.



Chapter II
Background Information

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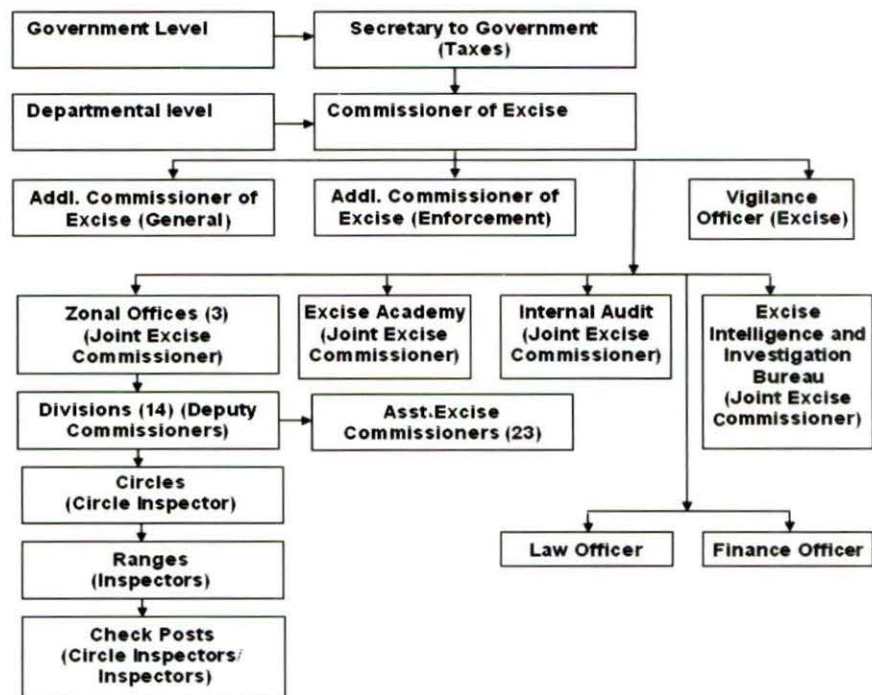
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CHAPTER-II: BACKGROUND INFORMATION

2.1 What is the organisational setup of the Department?

The Secretary to the Government (Taxes) is in charge of the Department at the Government level and Excise Commissioner is in charge of the Department at the Department level. The Excise Commissioner is assisted by two Additional Excise Commissioners for General Administration and Enforcement respectively. The State is divided into three zones for administrative purpose, each under the control of a Joint Excise Commissioner. The divisions at the district level are under the Deputy Commissioners. The circles at *taluk* level are under the control of the Circle Inspector of Excise. The circles are further divided into various ranges administered by Inspectors of Excise. The Excise Inspectors are assisted by preventive officers and guards. In addition, a Drugs and Narcotic Cell and an Excise Intelligence and Investigation Bureau function under the Department. There are also various border check posts for preventing illegal transportation of goods.

The organogram of the Department is given below:



2.2 What are the main functions of the Department?

As per the Annual Administrative report of the Excise Department, the main functions are as listed below:

- Administer the Abkari Act, the Prohibition Act 1950, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the Spirituous Preparations (Inter State Trade and Commerce) Central Act, 1955;
- Submit proposals for the annual Abkari policy of the Government;
- Issue licenses for setting up outlets for sale of liquor;

- Demand and collect excise revenue leviable under the various Acts and Rules administered by the Department;
- Supervise breweries, distilleries and godowns; and
- Prevent production, transportation and consumption of illicit/harmful spirituous preparations.

2.3 Is the Department a regulator or a revenue generator?

The total revenue realised from State excise and the tax revenue of the State for the last five years was as follows:

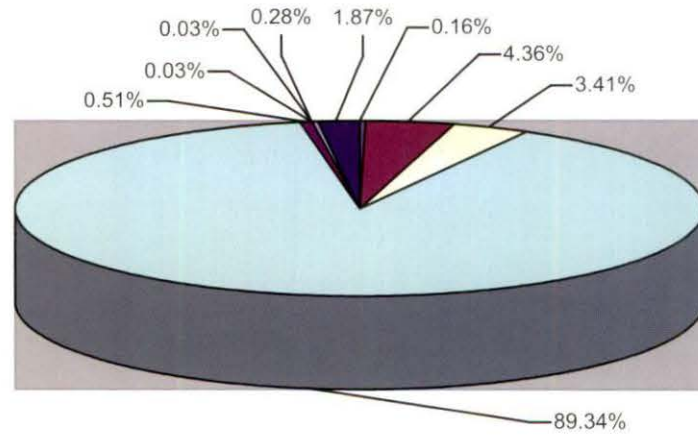
Year	Total tax receipts	Excise revenue	Percentage of excise revenue
	(₹ in crore)		
2006-07	11941.82	953.07	7.98
2007-08	13668.95	1169.25	8.55
2008-09	15990.18	1397.64	8.74
2009-10	17625.02	1514.81	8.60
2010-11	21721.69	1699.55	7.82

The table indicates that excise revenues accounted for 7-9 per cent of the total tax revenue of the state. The actual receipts under different minor heads were as follows:

(₹ in crore)

Minor heads	2006-07	2007-08	2008-09	2009-10	2010-11
0039-00-101 Country Spirits	1.03	2.77	3.47	0.69	0.31
102 Country fermented liquor	41.67	42.25	94.71*	41.02	30.45
103 Malt Liquor	23.59	41.08	49.40	57.68	69.83
105 Foreign Liquor & Spirits	851.21	1,056.59	1,210.36	1,380.03	1,568.83
106 Commercial and Denatured Spirits and Medicated Wines	19.84*	4.86	0.17	0.73	0.29
107 Medicinal & Toilet Preparations containing alcohol and Opium etc	0.28	0.50	0.42	0.55	0.49
108 Opium, hemp and other drugs	0.11	0.70	0.10	0.37	0.15
150 Fines and confiscations	1.87	2.80	4.48	5.07	6.58
800 Other Receipts	13.47	17.70	34.53	28.67	22.59
Total	953.07	1,169.25	1,397.64	1,514.81	1,699.52

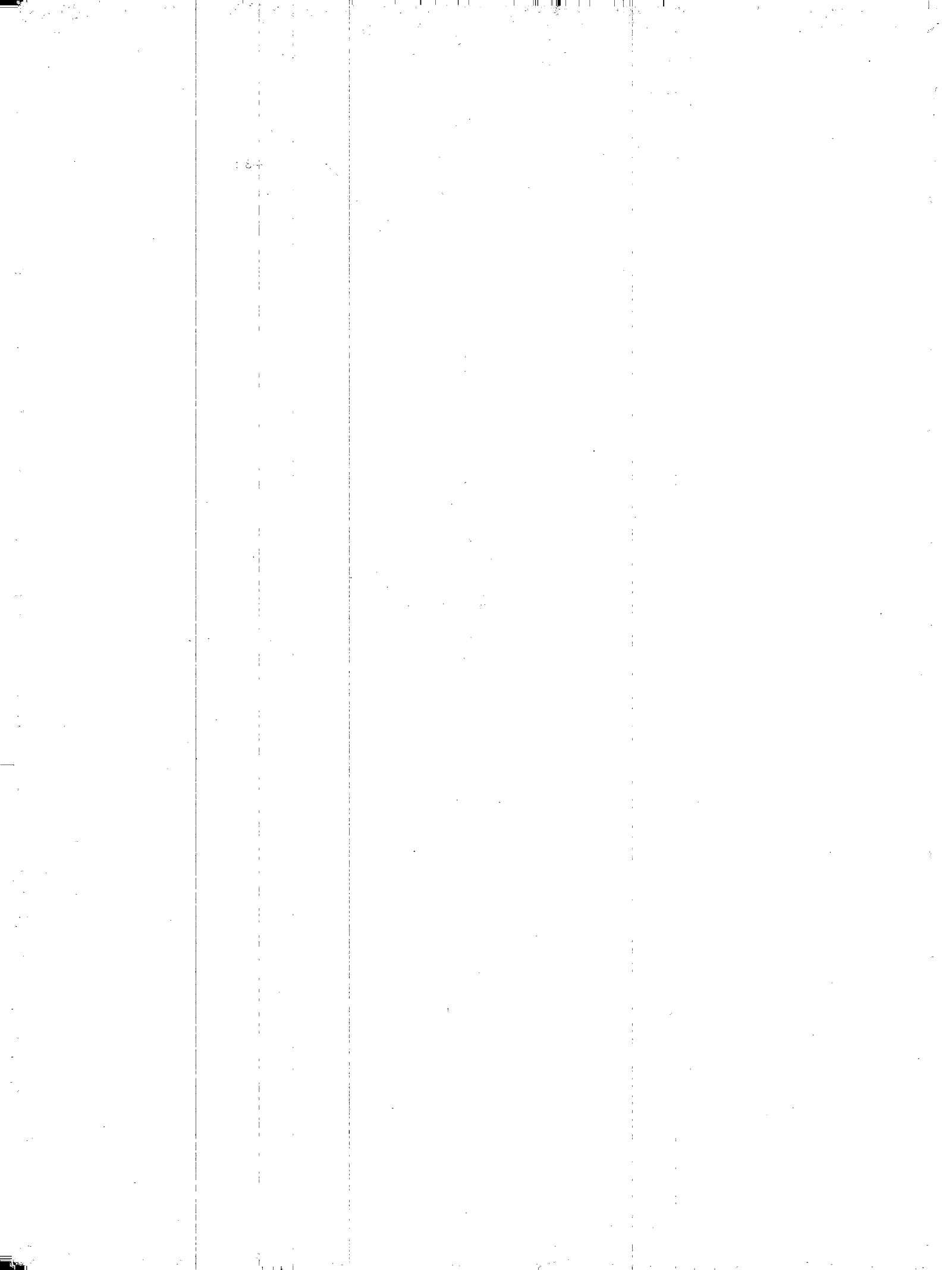
* The reason for the large variation under these heads could not be identified as there was no reconciliation of receipts



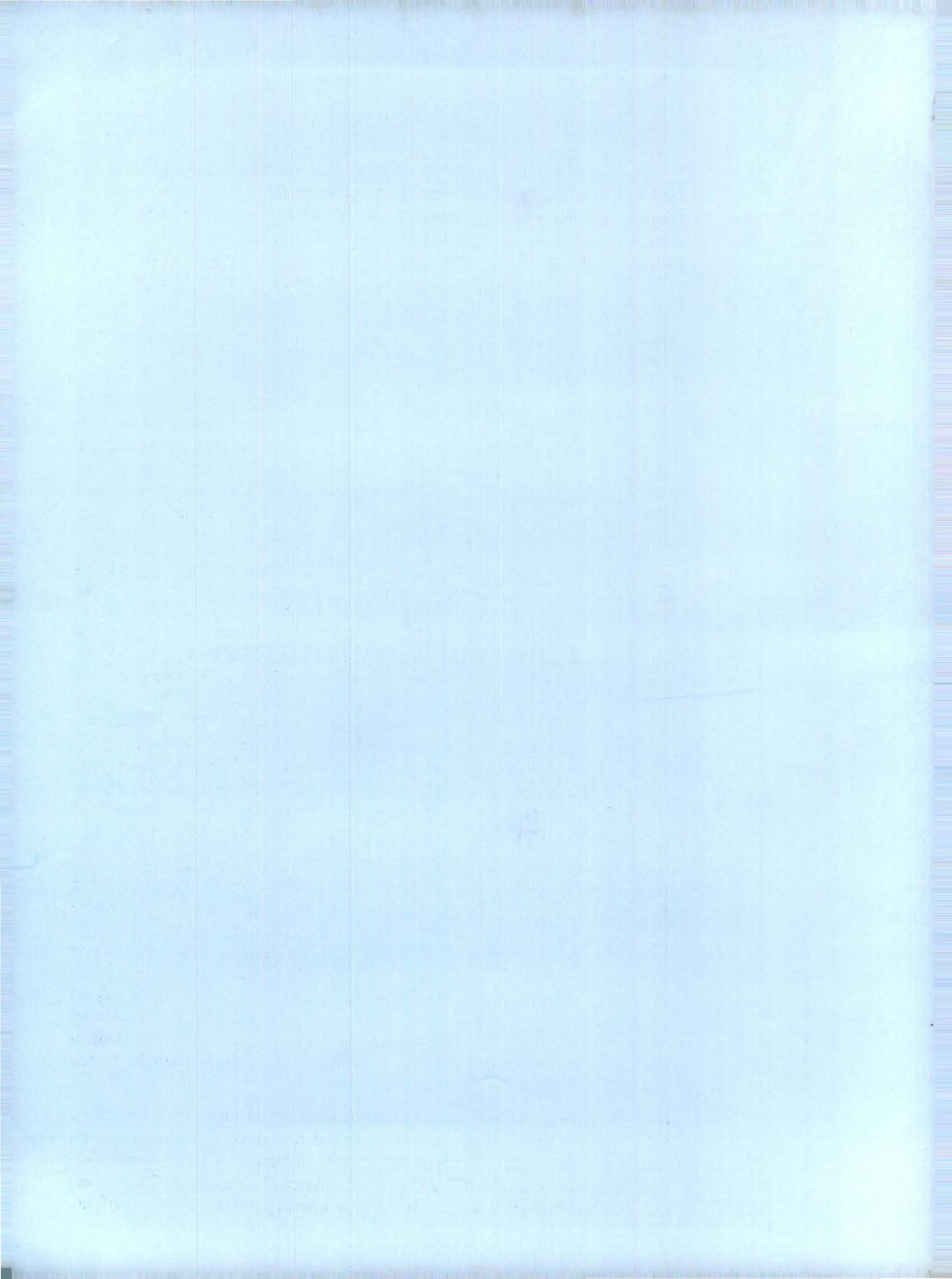
■	0039-00-101 Country spirits
■	102 Country fermented liquor
□	103 Malt liquor
□	105 Foreign liquor & spirits
■	106 Commercial and Denatured Spirits and Medicated wines
■	107 Medicinal & Toilet preparations containing alcohol and opium etc
■	108 Opium, hemp and other drugs
■	150 Fines and confiscations
■	800 Other Receipts

We noticed that 90 to 95 *per cent* of the excise revenue relates to foreign liquor and spirits. The revenue from spirit and foreign liquor is remitted from the distilleries or the KSBC, which is the sole licensee in the State for storage, distribution and sale of foreign liquor, where the Excise department performs only supervisory functions. In the toddy sector also, the rentals and tree tax are being remitted in advance from the year 2002 vide the Kerala Abkari Shops Disposal Rules, 2002.

We are of the view that as only limited effort is needed from the Excise Department to generate and collect revenue, the departmental activities are more geared towards regulation and enforcement.



Chapter III
Control Environment



CHAPTER-III: CONTROL ENVIRONMENT

It is the responsibility of the Government and the top management of the Department to establish the control environment through measures such as adopting consistent policies, ensuring timely action to implement the policies, ensuring availability of qualified employees, making available updated manuals to guide work, taking timely and strict action against violations and initiating measures to strengthen systems. We noticed several weaknesses in the control environment, which are described below:

3.1 Did the top management act as a role model by adopting transparent procedures?

As per the Abkari Act and the Foreign Liquor Rules, 1953, Foreign Liquor includes plain rectified spirit including absolute alcohol intended to be used for manufacture of liquor meant for human consumption. Import fee of ₹ 5 per litre was leviable on import of IMFL other than beer, vide notification issued in March 1996. As such Extra Neutral Alcohol (ENA) imported into the State from other States for manufacture of potable liquor comes under the classification of IMFL and attracts levy of import fee.

Test check of the records of the distilleries revealed that the import fee was not levied in the State and this was pointed out in the Report of the C&AG for the periods ended 31 March 2007 and 31 March 2008. In reply to this, the Government cited the decision of the Supreme Court in the case of Synthetic and Chemicals vs State of UP and others (October 1989) for not levying the import fee. The Supreme Court, in this case, held that rectified spirit was not alcohol fit for human consumption but an industrial alcohol which was outside the purview of State legislation. However, later in January 1997, the Supreme Court in the case of Bihar Distillery and ANR vs Union of India and others held that so far as the rectified spirit supplied or utilised for potable purpose was concerned, levy of excise duty and all other controls shall be with the States. Thus as per the notification issued in 1996 and the latter decision of the Supreme Court in 1997, the import fee was leviable on rectified spirit.

The Public Accounts Committee, after discussion of the paragraphs observed (July 2008) that in reality IMFL was a finished product and rectified spirit, a raw material and since the definition creates confusion and much practical difficulties, recommended necessary amendment to be made in the Act as well as the Rules in such a way so as to fix separate rates for finished goods and raw material. However, the Government, instead of fixing separate import fee for finished goods and raw materials, abolished (December 2009) the import fee for rectified spirit or Extra Neutral Alcohol including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption by amending the Act with retrospective effect from 30 March 1996.

We examined the procedures followed to bring about an amendment in the Abkari Act to waive import fee. We noticed that three amendments to the Abkari Act were under consideration of the Government, one for giving effect to the recommendations of the Expert Committee (Lalithambika Committee) and two other bills (Bill Nos. 37 and 47) for inserting a new section/modifying

a section (these bills were earlier presented in 2006). As per the orders of the Minister for Labour and Excise the amendment of Section 6, for abolition of import fee, was also incorporated and a common Bill (Bill No 313) was presented and issued as an Ordinance (January 2010). Our observations are detailed below:-

- The note for the Council of Ministers indicated that the proposed amendment would not involve any financial commitments/implications. While the amendments to give effect to the recommendations of the Lalithambika Committee and to Bill Nos 37 and 47 did not involve any financial implications, amendment to Section 6 had major financial impact. In fact, in the Subject Committee on Economic Affairs to which the bill was referred, five members gave a dissent note against the bill on the grounds that the State Exchequer would lose a considerable amount of revenue if import fee was not levied.
- We noticed that the Statement of Objects and Reasons appended to the bill indicated that amendments were proposed to the Abkari Act in consideration of the recommendations of the Expert Committee (Lalithambika Committee) along with amendments proposed in the Bill Nos. 37 and 47. Amendment to Sn. 6 to waive import fee was neither based on the Expert Committee's recommendations nor based on Bill Nos. 37 and 47. Thus, there was no information about the reasons for amending Section 6 to waive import fees.

We are of the opinion that the bill was proposed to the Council of Ministers by including an incorrect statement on financial impact and to the Legislature without complete information about the Section 6. In the Audit Reports considered by the PAC, a revenue loss of ₹ 142.18 crore was pointed out. Further, based on the number of permits/No Objection Certificates issued to the distilleries for import of ENA during 2010-11, we are of the view that there would be a recurring annual loss of approximately ₹ 77 crore to the Exchequer due to abolition of import fee.

We consider that the Government and top management of the Department did not adopt transparent procedures to get an amendment to the Abkari Act enacted.

After we pointed out the matter the Government stated (November 2011) that the top management acted as a role model by adopting transparent procedure as reflected in the Abkari policy announced from time to time. The Department prevented illicit liquor in the market substantially which might be one of the major reasons for increased consumption of IMFL sold through authorised outlets. Further with the objective of reducing alcoholism and intensifying campaign against alcoholism, Excise Department has taken earnest efforts by revising existing Budget provision of ₹ 20 lakh to ₹ 2 crore.

The reply is not acceptable as it is not specific to the point raised in audit.

3.2 Did the Government adopt consistent policies?

The consumption of IMFL in the State increased by 63 per cent from 133 lakh cases to 217 lakh cases in five years

Every year the Government announces an Abkari policy stating briefly the strategies/activities to be undertaken during the year and announcing the changes in the rate of fees/rentals etc for various kinds of licenses issued under the Abkari laws. We noticed contradictions between different policies of the Government. For instance, though the Government's annual Abkari policy emphasised on discouraging consumption of alcohol, yet the Government's action to grant more licences for liquor outlets and to regularise ineligible bar hotels contradicted this broad policy objective. The number of liquor outlets and liquor consumption in the state increased steadily during the five year period 2006-07 to 2010-11 as shown in the following table. Further, Kerala has the highest per capita consumption of liquor in the country as per the publication of the Public Relations Department titled "Substance Abuse Prevention and Control – A master plan for Kerala".

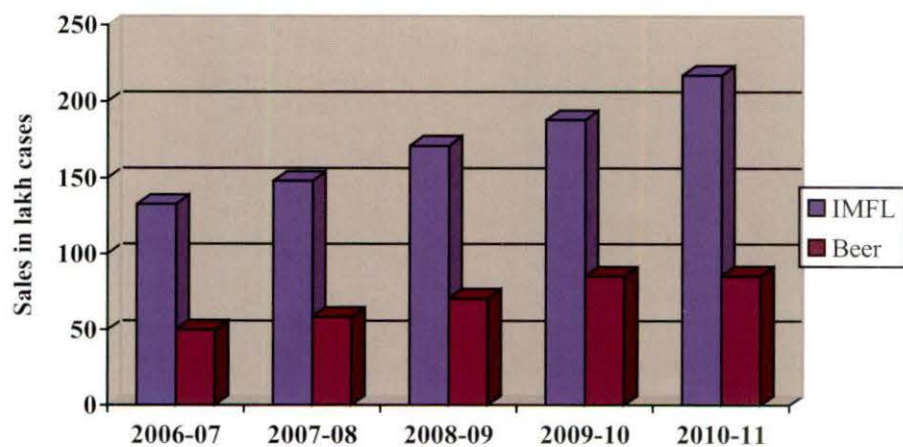
Major Foreign Liquor Outlets

Type of Licence	No of licences sanctioned during 2006-07 to 2010-11	Total number as on 31.03.2011
FL3 Bar Hotels	153	683
FL1 Liquor shops	33	384
Total	186	1067

Details of Liquor Consumption

Year	Sales in lakh cases		Increase over the previous year (in lakh cases)	Gross sale (₹ in crore)
	IMFL	Beer		
2006-07	132.65	50.05	33.04	3143.29
2007-08	148.01	58.62	23.93	3669.49
2008-09	171.17	70.60	35.14	4631.00
2009-10	188.05	85.24	31.52	5539.85
2010-11	217.02	85.61	29.73	6730.30

Source: KSBC



We noticed that the population of the State increased by about 1.5 lakh persons per year (based on the population of 318.41 lakh in 2001 and 333.8 lakh in 2011) whereas the increase in annual liquor consumption ranged from 24 lakh to 35 lakh cases during the review period, indicating an increase in the rate of consumption.



3.3 Were the policies implemented effectively?

It is the responsibility of the top management of the Department to ensure that action is taken to implement the policies of the Government. We noticed that many of the policy statements were not followed up by action plans or their implementation was tardy. As a result, implementation of Government policies was ineffective.

Major policy statements	Status of implementation
Government is fully committed to discourage alcohol consumption as it leads to serious social problems. (Abkari Policy 2007-08)	Consumption is increasing each year.
Stringent action will be initiated against illicit liquor trade in the State. (Abkari Policy 2007-08)	Intelligence inputs and minutes of field level conference reveal illicit liquor trade is still rampant in the State
Enforcement will be strengthened with popular committees. (Abkari Policy 2007-08)	Popular committees were formed. But only 27 to 53 per cent of the targeted meetings were convened during the period 2006-07 to 2010-11.
Production and distribution of sweet toddy is under active consideration. (Abkari Policy 2007-08 and 2008-09)	Not implemented
Awareness programme to create awareness among students/ public about the ill effects of alcohol consumption. (Abkari Policy 2007-08)	₹ 20 lakh was provided in each budget for the programmes and the campaigns, street shows, etc. were being conducted regularly. We consider that the allocation is meagre to have a perceptible impact.
Creation of an apex body for cooperative societies and to give permission to them for production of sweet toddy. (Abkari Policy 2007-08 and 2008-09)	Not implemented
Production of cheap IMFL at CHICOPS distillery at Palakkad (Abkari Policy 2008-09)	Not implemented
Starting of de-addiction centres in selected	Government ordered (2009-10) deaddiction

Major policy statements	Status of implementation
Government hospitals with the co-operation of Health department (Abkari Policy 2009-10)	centres to be started in government hospitals in eight districts. However, the centres have not yet been started so far.
As part of improving the toddy sector, Government proposed to start toddy parlours in all districts (Abkari Policy 2011-12)	Not yet started

3.4 Was the Excise manual useful in guiding the work of employees?

The Kerala Excise Manual currently used by the Department was prepared in 1972. We noticed that it has not been revised so far despite several major changes relating to prohibition of alcohol, creation of intelligence wing and amendments to Abkari laws. As the manual is outdated it could only be of limited use in guiding the work of departmental employees. The employees of the Department confirmed that the manual, though useful, needs to be updated.

3.5 Was prompt follow up action taken on study reports?

We noticed that during the period under review, various study reports were submitted to the Department for improvement of its functioning. However, no action was taken on a majority of the recommendations as shown below.

Even though various study reports on Excise department were given, no follow up action was taken

Sl. No	Study Report	Year of report	Status/Remarks
1	Report on Simplification of procedures and methods in the Excise Department	2008	The report contained many recommendations relating to confiscation, personnel, modernisation of check posts, starting a website, revision of excise manual, providing facility for consumption of IMFL in FLI shops, etc. No follow up action was taken on these recommendations.
2	Expert Committee formed to study and to report changes required in Abkari Act	December 2009	The Abkari Act was amended vide Act 3 of 2010 in April 2010 by introducing new sections/provisions, etc. based on one of the recommendations of the committee.
3	Report by the Committee on Chemical Composition of Toddy	January 2009	Pending with Government.

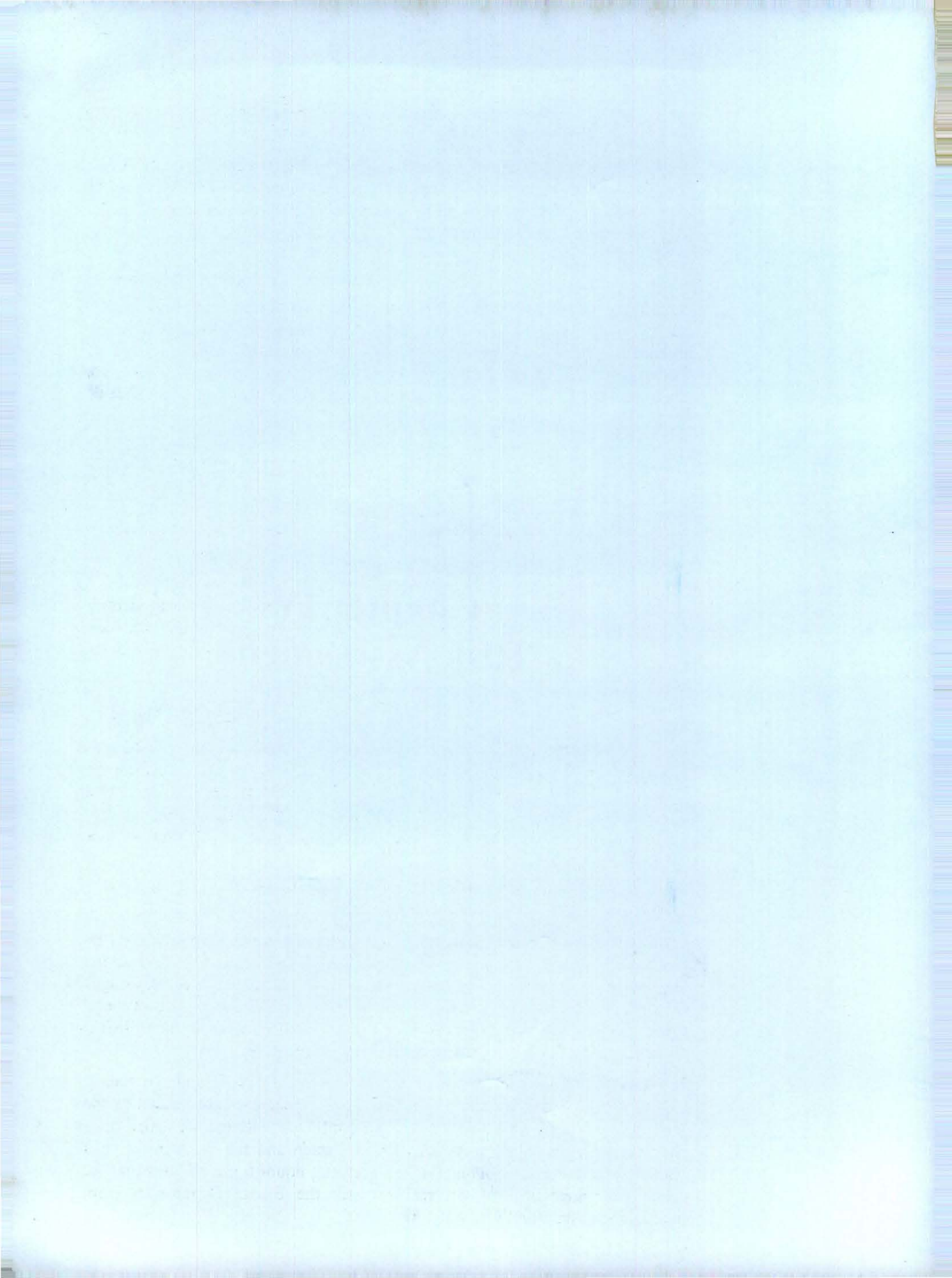
3.6 Was effective action initiated against violations at the Commissionerate?

We noticed from the correspondence files between the Commissionerate and field offices, kept in the Commissionerate, that even though violation of licence conditions/permit system was reported from the field offices, effective corrective measures were not taken at the Commissionerate. In response to our

audit query, the Commissionerate replied that data regarding FL-3¹ licences cancelled for violation of license conditions was not available with them and that such data was available at the Division offices. As the Excise Commissioner was the competent authority to cancel licences under the Abkari Act and the Foreign Liquor Rules, non-availability of such basic details at the Commissionerate raises doubts about the seriousness with which reports of violations are treated.

¹ Foreign Liquor-3 Hotel (Restaurant) Licence.

Chapter IV
Risk Assessment



CHAPTER-IV: RISK ASSESSMENT

It is the responsibility of the management of the Department to clearly define strategic objectives and identify the major risks in achieving such objectives of the Department. Our findings on the risk assessment practices adopted in the Department are detailed below:

4.1 Did the department define its strategic objectives and targets?

We noticed that the Department has not so far set forth mission and vision statements and the main objectives of the Department. We consider that in the absence of such strategic guidelines, the Department faces a risk of functioning without a clear and consistent purpose. For instance, the employees may not be sure as to whether to focus on collection of revenue or on prevention of consumption of illicit liquor.

Recommendation 1: The Department may consider preparing a strategic plan covering mission, vision and objectives. Further, such a plan may be published widely amongst employees and the public.

4.2 Did the Department assess risks to achieving its objectives?

We noticed that the Department has not carried out risk assessment to identify the significant risks to achieving its objectives. We consider that identification of key risks will enable the Department to focus its efforts towards mitigating risks.

4.3 What were the significant strategic risks identified by audit?

It is the responsibility of the Department to identify risks and initiate measures to counter the risks. As the Department has not identified risks, we made an attempt to identify a few significant strategic risks that we consider could affect the functioning of the Department adversely. In addition to the strategic risks that are described below, various operational risks are covered in later chapters.

4.3.1 Is there a conflict of interest between a major licensee for liquor trade and the Excise Department?

The Excise Department is entrusted with the supervision and control over the production, distribution and sale of spirit/IMFL within the State and the Department acts as a regulatory authority. Kerala State Beverages (Manufacturing and Marketing) Corporation (KSBC), a Government Company, has sole rights over the procurement, distribution and sale of IMFL within the state. KSBC is a major licensee for liquor trade.

The Excise Department is one of the promoters of KSBC and the Excise Commissioner is the Chairman of KSBC. As both agencies are headed by the same person, we consider that there is a conflict of interest, as KSBC as a licensee is engaged in promotion of liquor trade and the Department as a regulatory authority, is responsible for regulating liquor trade. We feel that the present arrangement may adversely impact the Excise Department from functioning as an effective regulator.

After we pointed out the matter the Government stated (November 2011) that the Excise Commissioner only acts as Chairman of KSBC in order to exercise control on the decision taken by the Board of Directors and that for more than 25 years the Excise Commissioner is the Chairman and that there was no conflict of interest.

The remarks furnished by the Government are not acceptable since there is conflict of interest as one entity is the licensing authority and the other is the licensee.

4.3.2 Is the present system of printing and custody of permit books prone to misuse?

Transportation of spirituous preparations/IMFL is controlled by issuing permits. Permits are issued for transportation of IMFL from distilleries to FL9 godowns¹, and from FL9 to various retail outlets, etc. These permits were being printed at the Government press in book form, each containing 25 permits and stocked at the Commissionerate and issued from there as per requirement of the field units.

We noticed that the serial numbers to the permits are assigned by the press and the numbers are not continuous. Our verification of the stock register at the Commissionerate revealed several sets of numbers to be missing. Further, the register was not closed regularly. As the numbers were assigned by the press and the numbering was not continuous, we are unable to conclude whether the permit books with the missing numbers were actually printed or not.

We consider that the various weaknesses described above relating to the printing of permits and its custody poses a serious strategic risk. We are of the opinion that the weaknesses could be misused to facilitate transportation of illicit liquor by printing permits with the missing numbers. Responding to an audit enquiry on irregular maintenance of stock register of permits, the Commissionerate stated that it was a usual practice and the weaknesses pointed out by audit would be noted for future guidance. However, the fact remains that it was an important control which was not implemented effectively.

4.3.3 How effective was the role of the Department over printing, supply and affixing of security labels?

In order to avoid the risk of production and sale of duplicate/ spurious liquor in the State, the Department introduced (June 2003) a system of affixing a security hologram label in all IMFL bottles sold in the State. As directed by Government (September 2001) KSBC entered into an agreement with the Centre for Development of Imaging Technology (C-DIT), a State Government autonomous body, in November 2001 for printing and supply of holographic security labels at the rate of 13.86 paise per label. The agreement was for 10 years and C-DIT has been supplying the necessary security labels to KSBC. When the liquor reaches the KSBC godown from the distilleries it is unloaded at the FL-9 warehouses and the casual labourers employed by the KSBC affix

Misuse of permit books for liquor transport in the State cannot be ruled out in the present system of printing and distribution of the permits

The Licensee itself was printing the security labels through a private party and affixing it on the IMFL bottles. At no stage the Licensing Authority, the Excise Department has control over it

¹ Licensee for possession and supply of foreign liquor in wholesale for sale to other retail licence holders like FL1, FL3, FL4 club licenses, etc.

the security labels supplied from KSBC before despatch to liquor outlets like FL1, FL3 and FL4 licensees in the State.

Our examination of the records revealed the following:

- Though KSBC entrusted the printing and supply of security labels to C-DIT, C-DIT in turn entrusted the work to a private agency², vide agreement dated 17 April 2002 violating the agreement conditions relating to non-transfer of work and maintaining secrecy.
- In April 2009 a section of C-DIT employees submitted a memorandum to the Director General of Police alleging that the private party was printing the labels at two places, near the Walayar Check post and at Ernakulam. The memorandum was forwarded to the Excise Commissioner by the DGP. The Intelligence wing of the Department investigated the issue and reported (December 2009) that entrusting the printing of security labels to a private agency by C-DIT was in violation of the agreement between C-DIT and KSBC relating to secrecy, non-transfer of work, printing labels only at C-DIT, Thiruvananthapuram. However, no further action was taken on the issue.
- The Assistant Excise Commissioner, KSBC (HQ), Thiruvananthapuram wrote (June 2010) to the Excise Commissioner that at present the security labels which are affixed on liquor bottles bearing the signature of the Excise Commissioner are fully handled by KSBC and in the current scenario even on booking a case of 'seconds'³ it cannot be effectively prosecuted as the excise officials are not the competent authority to affirm whether the stickers affixed are genuine or not. The officials of C-DIT/KSBC have to be cited as private witness for proving that the labels are counterfeited. They can act only as private witness, as they are not declared as competent authority in Abkari Act. Hence effective prosecution is a remote possibility. He also submitted (June 2010) a proposal to the Excise Commissioner for bringing the printing and custody of security label under the direct supervision of the Excise Department citing that the Excise Department of Tamil Nadu owns a press to print the security labels. No action was taken on this proposal.
- We observed that thousands of bottles of IMFL are affixed with security labels at the FL9 godowns everyday. We are of the opinion that the Department is unable to exercise effective supervision as only four to eight employees of the Department were working in these godowns and the employees were only entering the serial numbers of the labels supplied by KSBC in the registers.

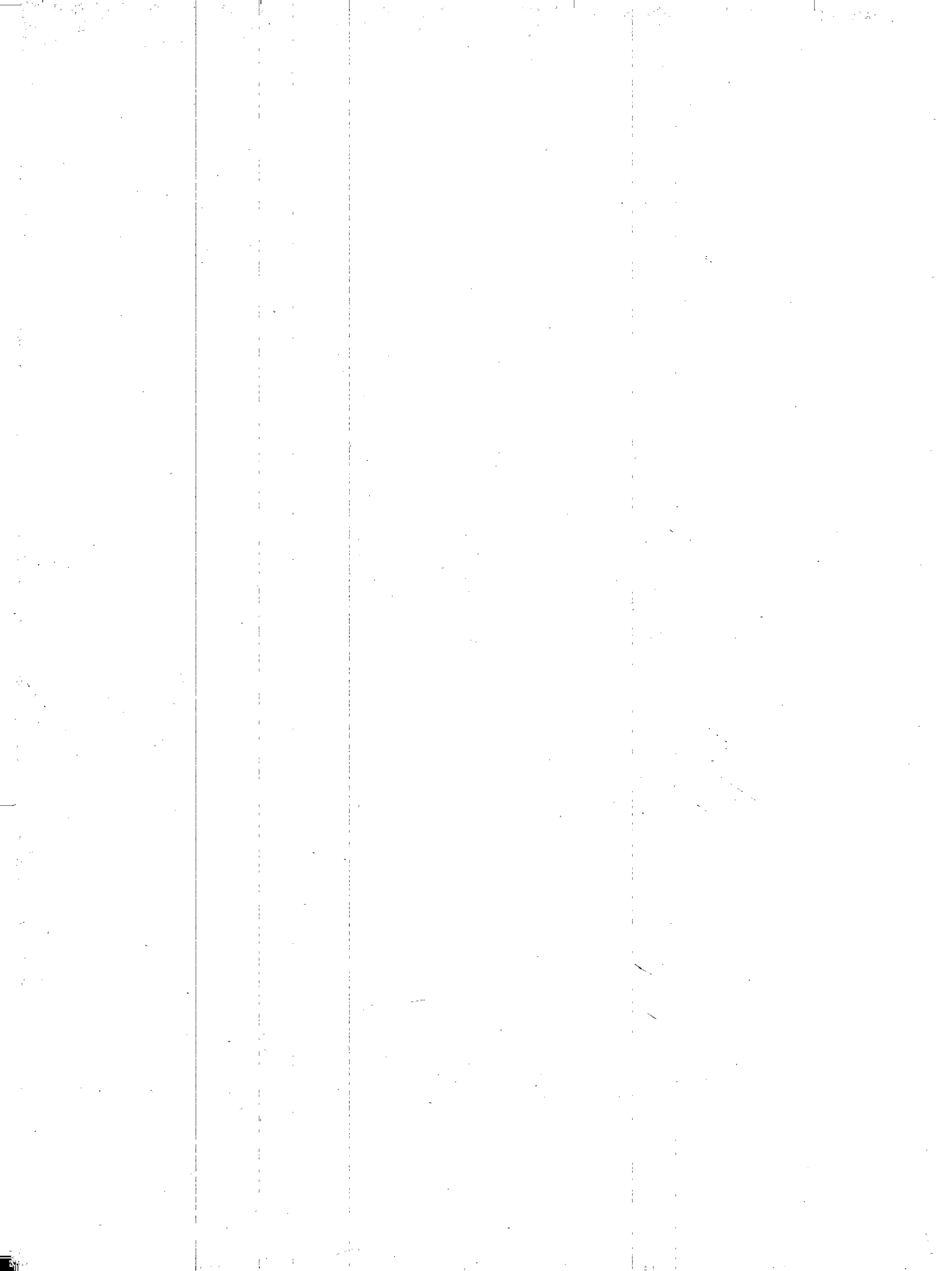
The Excise officials, the designated authority for supervision of production and distribution of IMFL, cannot authenticate the genuineness of a hologram as they were not aware of the hologram details

We are of the opinion that as the security labels are being printed by a private agency and as the Department is exercising minimal supervision over the production, supply and affixing of the labels, there is a risk of supply of security labels to illicit liquor producers/sellers.

Recommendation 2: The Department must ensure that security labels are printed under the direct supervision of the Department.

² the 'Process colour', Ernakulam

³ Low Quality/unaccounted liquor sold in the market



Chapter V
Control Activities

1. The first part of the report discusses the general situation of the country and the progress of the work done during the year. It also mentions the results of the various committees and the work of the different departments.

2. The second part of the report deals with the financial situation of the country and the progress of the work done during the year. It also mentions the results of the various committees and the work of the different departments.

3. The third part of the report deals with the social situation of the country and the progress of the work done during the year. It also mentions the results of the various committees and the work of the different departments.

4. The fourth part of the report deals with the economic situation of the country and the progress of the work done during the year. It also mentions the results of the various committees and the work of the different departments.

5. The fifth part of the report deals with the political situation of the country and the progress of the work done during the year. It also mentions the results of the various committees and the work of the different departments.

CHAPTER-V: CONTROL ACTIVITIES

This chapter contains our assessment on the efficacy of controls in discharging key functions of the Department like financial and budget management, generation and collection of revenue, issue of licenses and enforcement. The major source of revenue is from IMFL, the collection of which is by the KSBC, a State public sector undertaking and we did not notice any significant observation to comment in this report.

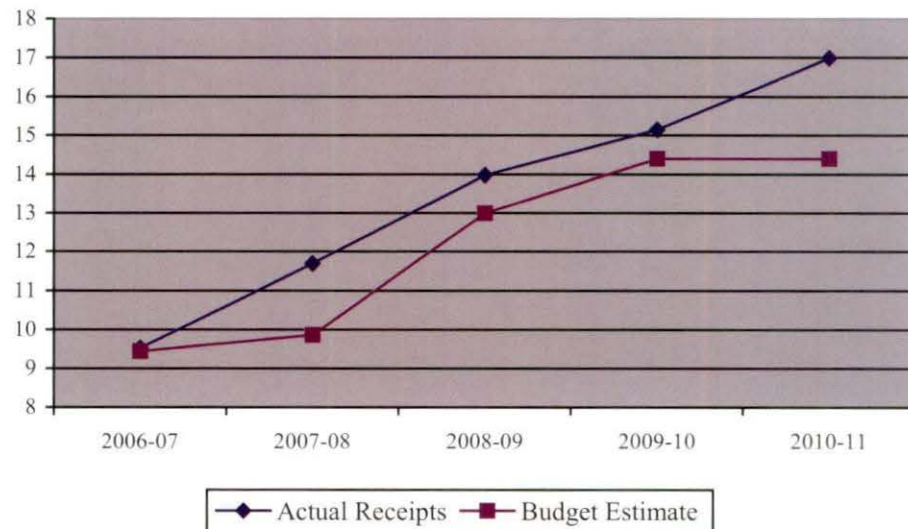
5.1 Was budget managed effectively?

The budget provision and expenditure and the excise revenue for the period 2006-07 to 2010-11 were as follows.

(₹ in crore)

Year	Expenditure			Receipts		
	Budget provision	Expenditure	Savings	Budget Estimate	Receipts	Excess
2006-07	63.88	58.07	5.81	944.73	953.07	8.34
2007-08	66.91	69.40	(-)2.49	986.86	1169.25	182.39
2008-09	79.44	72.84	6.60	1,299.85	1397.64	97.79
2009-10	85.81	83.31	2.50	1,440.52	1514.81	74.29
2010-11	96.13	92.51	3.62	1,440.52	1699.55	259.03

₹ in 000 of crore



We noticed that actual expenditure was lower than the budget provision in all the years except 2007-08. The variation between the budget estimates and the actual expenditure was less than 10 *per cent* during all the years and less than five *per cent* in three out of the five years under review.

We also noticed that actual receipts were in excess of the estimates in all the years and the variation was high during 2007-08 (18.5 *per cent*) and 2010-11 (18 *per cent*). The Department replied that the large difference in receipts during 2007-08 was due to increase in licence fee, rentals, etc.

We are of the view that the Department managed its budget effectively as generally the variation between the budget and actual revenue and expense was within reasonable limits.

5.1.1 Did the Department officials use the powers vested in them to collect arrears of revenue?

The Government vide notification dated 21 July 1970 appointed Deputy Commissioners and Assistant Commissioners of the Excise Department to exercise the powers and perform the functions of a Collector under clause(e) of Section 2 of the Revenue Recovery Act, 1968, for the collection of both the current and old abkari arrears. However, this power given to the Excise Department has not been exercised by them. Instead the departmental officers were reporting arrears to the Revenue Department for collection. The Revenue Department returned cases amounting to ₹ 17.05 crore, stating that the persons were insolvent. Further, an amount of ₹ 17.15 crore was also waived under Amnesty Scheme.

We are of the opinion that if the departmental officials had exercised the powers vested in them and taken timely action against defaulters, the loss of ₹ 34.20 crore (₹ 17.15 crore + ₹ 17.05 crore) to the Government could have been avoided to a great extent.

5.1.2 Did the Department have effective systems to collect arrears of revenue?

From April 2002, the Department introduced a new system for collection of monthly rentals and fees from the concerned licensees such as distilleries, FL 3 bar hotels, toddy shops etc. Under the new system the licensees have to pay the rentals in advance. As a result there has been no major accretion to abkari arrears since 2002. The abkari arrears as on 31 March 2002, before the introduction of the new system, was ₹ 179.30 crore and the arrears as of 31 March 2011 were ₹ 230.29 crore.

Even in respect of cases referred to the Revenue Department for revenue recovery, it is the responsibility of the departmental officers to regularly follow up such cases to see that prompt action is being taken by the Revenue authorities to recover the dues. We, however, noticed that even after nine years, the Department could not recover the arrears outstanding for very long periods as there has been an increase in arrears as stated in the previous para.

We also noticed differences between the total demand under Abkari arrears as per the records of the Excise Department and that of the Land Revenue Commissioner, as noted below:

(₹in crore)

	Amount as per records of Excise Department	Amount as per records of Land Revenue Commissioner
Total Demand	230.29	109.18
Demand under Stay	26.59	64.38
RRC returned	17.05	21.26

We are of the opinion that the Department did not have controls in place to periodically reconcile the differences in the amounts with the Land Revenue Department. Further, the Department was not communicating details of vacation of stay to the revenue authorities for taking further action.

Revenue recovery cases relating to ₹17.05 crore were returned by revenue department stating it as non recoverable as there were no property in the name of the defaulter

5.1.3 Did the Amnesty Scheme achieve its objectives?

By introduction of Amnesty scheme Government could collect a sum of ₹ 21.87 crore

Considering the abkari arrears outstanding for long periods, the State Government introduced an Amnesty Scheme in May 2008 for payment of abkari arrears allowing certain conditional concessions. Through this scheme the Government could collect an amount of ₹ 21.87 crore as on 31 March 2011 and clear 949 cases out of 1919 cases outstanding before the introduction of the scheme. As withdrawal of court cases was a precondition, the long standing court cases related to 37 arrear cases were also closed.

We are of the view that the Department partially achieved some of the objectives of the amnesty scheme by clearing about 50 per cent of the outstanding cases.

5.2 Was the Department able to generate and collect revenue efficiently and effectively?

5.2.1 Did the Department levy all the fees payable under the Abkari Act?

As per Section 10 and 11 of the Abkari Act, the Government fixes the minimum quantity of liquor or intoxicating drug that can be transported without permit and permit is needed for transporting quantities in excess of such prescribed limit. Under Section 6 and 7 of the Act, spirit can be imported or exported by the various licensees for which No Objection Certificates (NOC) are issued under the specific Rules under which licences were issued.

Permit fee of ₹ 16.45 crore was not levied

As per SRO 388/95 (March 1995), Government directed that a fee of ₹ 500 must be levied with effect from April 1995 on each permit to be issued under sections 6, 7 and 11 of the Abkari Act 1 of 1077. Further, ₹ 50 was to be levied on each 'No Objection Certificate' to be issued under section 6 and 7 of the said Act to all licensees under the Kerala Distillery and Warehouse Rules 1968, the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules 1975, the Brewery Rules 1967, the Kerala Winery Rules 1970 and the Kerala Rectified Spirit Rules 1972, for the purpose of importing, exporting or transporting any kind of liquor and rectified spirit including absolute alcohol.

After we pointed out the matter the Government stated (November 2011) that in the light of the observation the Excise Commissioner was directed to forward a draft amendment proposal to amend FL Rules enabling Government to levy permit fee.

Further developments have not been received (December 2011).

In 2004, vide SRO 317/04 issued in partial modification of SRO 388/95, the rates of fee for the issue of NOC under Section 6 and 7 of the Abkari Act were increased to ₹ 1,000 and the permit fee was left unchanged at ₹ 500.

In 2009 vide SRO 1023/2009 the Government increased the fee of 'No Objection Certificate' issued under sections 6 and 7 of the Abkari Act also to ₹ 1,000. By the above stated notifications, the rate for permits and 'No Objection Certificates' issued under Section 6 and 7 of the Act only was increased. No change was effected in the fee of ₹ 500 for the transport permit issued under Section 11 of the Act and such a fee was neither withdrawn nor modified.

We test checked records in FL9 warehouses and noticed that the permit fee for the permits issued under section 11 of the Abkari Act from FL9 godowns for the transport of IMFL to other licensees was not levied. This resulted in short levy of permit fees of ₹ 16.45 crore during 2006-07 to 2010-11 as detailed in the following table:

Year	Total Permits issued	Non levy at the rate of ₹ 500 per permit (₹ in lakh)
2006-07	52,288	261.44
2007-08	57,301	286.50
2008-09	63,847	319.24
2009-10	75,420	377.10
2010-11	80,128	400.64
Total	3,28,984	1644.92

When we pointed out the loss of revenue, the Department replied that SRO No 1023/09 related to all licensees under the Kerala Distillery and Warehouse Rules 1968, the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules 1975, the Brewery Rules 1967, the Kerala Winery Rules 1970 and the Kerala Rectified Spirit Rules 1972, for the purpose of importing and exporting any kind of rectified spirit including absolute alcohol, wherein the required fee was being collected and was not related to the Foreign Liquor Rules. The Department also stated that as per Section 11 of the Abkari Act, transport permit was being issued from KSBC FL9 warehouse, for which no fee was stipulated.

We do not agree with this reply of the Department as the Government had not changed the rate of permit fee for the permits issued under section 11 of the Act, which remained unchanged since its introduction in 1995. Moreover, the explanatory note attached to the SRO 1023/09 *inter alia* states that 'Government finds it necessary to continue the existing fee to be levied on each permit to be issued under Sections 6, 7, and 11 of the said Act'.

Recommendation 3: The Department may take immediate steps to levy and recover the permit fees under Section 11 of the Abkari Act for the period from 2006-07 onwards.

5.3 Did the Department discharge its duties as a licensing authority effectively?

5.3.1 Were Foreign Liquor 3 Hotel (restaurant) licences granted according to Rules?

The FL3 Hotel (Restaurant) licences were issued under Rule 13(3) of the Foreign Liquor Rules by the Excise Commissioner under orders of the Government, in the interest of promotion of tourism in the State to hotels which have obtained 3-star and above classification from the Ministry of Tourism. The main criteria for granting an FL3 licence were as follows:

- Hotels should have a rating of 2-star (till March 2002)/3-star and above
- It should be in the interest of promoting tourism

The basic eligible criteria for granting an FL3 licence was overlooked in majority of the cases while granting the licences

- The hotel should be located beyond a minimum distance from educational institutions/ temple/church/mosque, burial ground etc;
- Local need must justify a bar hotel.

The licences were issued for one year on payment of the prescribed rental and the licensees were required to renew it every year. As per rules, the cost of liquor shall be billed along with the cost of meals, *ie.* liquor can be sold only to those who dine in the restaurant.

We noticed that in a majority of the cases these criteria were overlooked as detailed in the ensuing paragraphs.

5.3.1.1 Were FL3 licenses issued and renewed to non-standard hotels/restaurants?

The minimum standard eligible for obtaining an FL3 licence was 2-star standards from April 1982 and 3-star and above from April 2002. We noticed that licenses were issued and renewed to 418 bar hotels, *ie.* 61 *per cent* of the total bar hotels in the state even though they were not eligible for the FL3 licenses as per the Rules.

We noticed that the Government first allowed time up to 30 June 1992 for those licensees who had not attained the prescribed two star standards to attain the prescribed standard and subsequently extended the period. During the review period, we noticed that the Excise Commissioner submitted his proposals for the Abkari policy for the year 2007-08 vide letter dated 11 January 2007 which did not include the proposal for regularisation of 418 non standard bar hotels, the list of which was sent to the Government in January 2006. However, based on a discussion with the Hon'ble Minister for Labour and Excise on 22 January 2007, the Excise Commissioner sent a revised proposal on 23 January 2007 including the proposal that "Bar Licences (FL3 licences) which have not attained 2-star classification and functioning at present may be regularised".

After we pointed out the matter the Government stated (November 2011) that there are certain bar hotels functioning with standard below two star specifications. As these hotels were functioning for long periods, they were regularised based on Abkari Policy 2007-08.

The point is not acceptable for the reason that as per Rules the licences are issued each year and the standard for granting licence are still three star standard.

We noticed that the Government, 15 years after extending time limit for the first time, again extended (12 March 2007) the time limit up to 31 March 2007 and stated that failure to comply with the standards would lead to cancellation of licences. However, on the very next day, *ie.* 13 March 2007 the Government added a proviso to Rule 13 that all existing licensees not having the above classification and which were functional as on 31 March 2007 shall be regularised. The Abkari policy for 2008-09 (February 2008) stated that the Government would insist on minimum facility and hygienic conditions in all the 418 bar hotels which did not have 2-star status, but which were regularised during 2007-08.

We noticed that the field officers of the Department had reported violation of licence conditions like unhygienic conditions, lack of facilities, non adherence of the time schedule, selling on dry days, opening more than one counter, etc. in these bar hotels. However, no action was taken by the Department on these reports.

Restaurants in bar hotels function for name sake only. Seven persons died of overdrinking in the bars

The Excise Commissioner sent a letter (January 2011) to the Government highlighting the poor standards maintained by the 418 unclassified bars and requested not to grant fresh FL3 licenses for areas other than tourism notified areas. In the letter the Excise Commissioner, *inter alia*, stated that the restaurant segment of the unclassified hotels were functioning for name sake only and during the last one year seven people had died due to excessive drinking in the unclassified hotels. He also pointed out that he had personally seen that almost all the customers went there to drink liquor and not for taking food.

We noticed that even though the Excise Commissioner had requested not to issue fresh FL3 licenses, seven more FL3 licenses were issued between 12 January and 31 March 2011. Moreover in the Abkari Policy for 2010-11, the Government declared that the FL3 licensees not having the requisite star qualification and who were functional during 2009-10 should be regularised. Thus, the Government has made it a regular feature to regularise ineligible licensees.

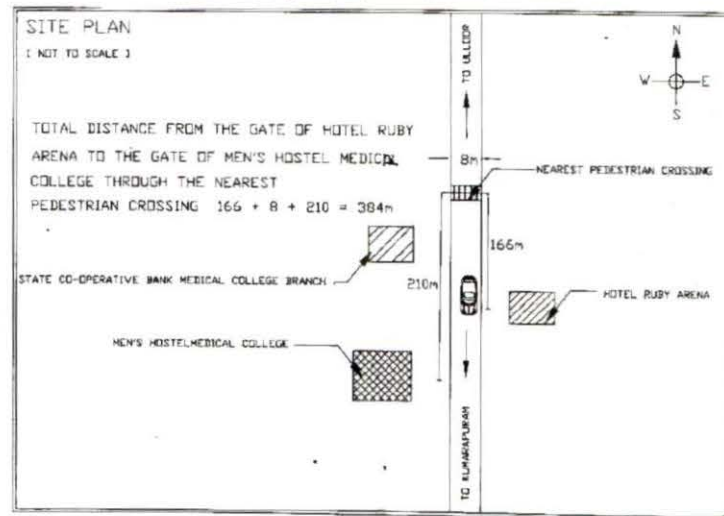
We are of the opinion that the Government has not taken a firm stand to ensure that only hotels of a minimum standard are issued FL3 licenses. Further, we opine that the Government has seriously compromised public safety by (a) regularising 418 unclassified bars, though they were not able to attain the minimum standards despite repeated extension of time and (b) by turning a blind eye towards the various complaints against these unclassified bars. On this being pointed out in audit the Department stated (June 2011) that the Government is the competent authority to issue orders allowing relaxation, if any, for the functioning of FL3 licensees/bar hotels.

5.3.1.2 Is “interest of promotion of tourism” clearly defined?

Even though the FL3 licenses were to be issued in the interest of promotion of tourism in the State, the Government has so far not issued guidelines for determining “interest of promotion of tourism” for this purpose.

5.3.1.3 Did the Department effectively enforce minimum distance of bar hotels from educational institutions/religious places etc.?

An example of distance calculation



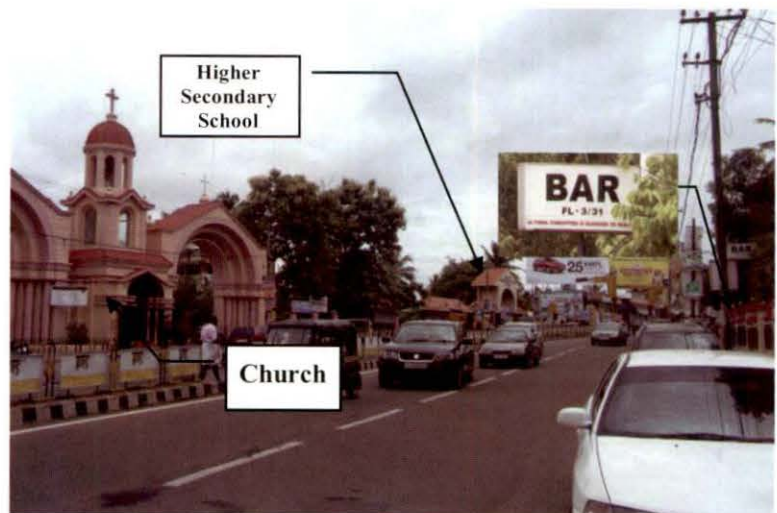
The Foreign Liquor Rules, 1953 and Kerala Abkari Shops Disposal Rules, 2002 prohibits sanctioning of bar hotels in the vicinity of an educational institution, temple, church, mosque, burial ground or SC/ST colony. Condition No. 22 for the FL3 licence stipulates that no

licence should be issued for a shop which is situated or which is intended to be opened in a place where on grounds of public interest of expediency it is objectionable to permit any traffic in liquor. The purpose of keeping the student community away from the vicinity of the concerned premises had been explained by a Division Bench of the Hon'ble High Court of Kerala in the decision reported in 1988(2) K.L.T. 261.

The distance as per rules has to be determined as the shortest path way/lane/ street/ road generally used by the public and the same shall be measured from gate to gate. The Hon'ble High Court of Kerala in a judgment (1993) held that the distance had to be

measured by taking the distance that a law abiding pedestrian would walk through, using zebra crossing. Hence, after this judgment, bar licenses were being issued by the Department even in cases where the prohibited structures are just across the road.

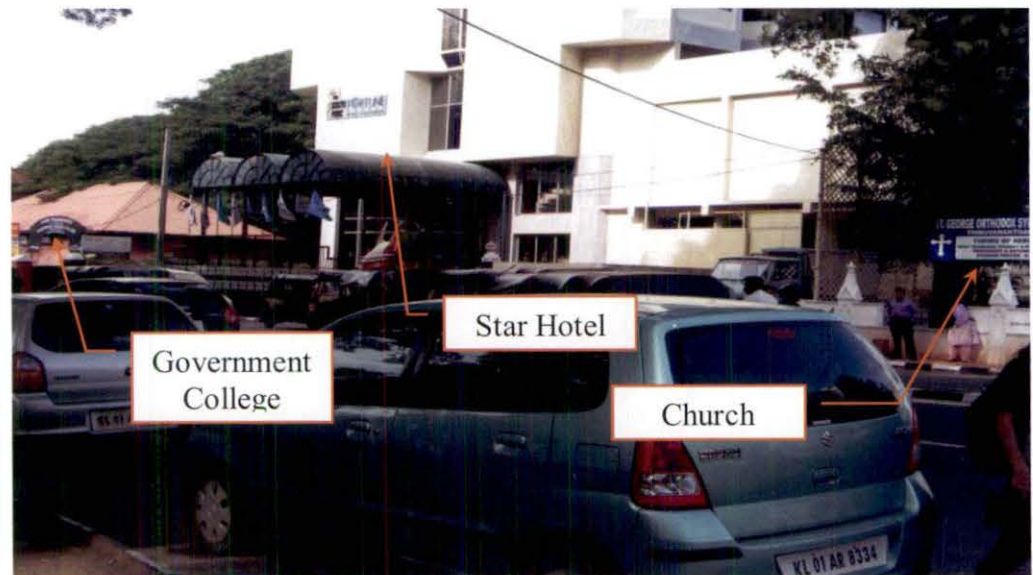
The Government has not so far amended the Rules to make the distance restriction more specific so as to keep away the student community from the vicinity of bar hotels. Hence, the intention of the Government of not allowing bar hotels in the vicinity of educational institutions/temple, church, mosque, etc. is compromised for want of amendment of the Rules.





Our test check of records have shown that even in the capital city, along the road where the Government Secretariat is situated, licences were granted to bar hotels located opposite reputed educational institutions. Bar licence to a 4-star hotel sharing the compound walls of a Government College and

a church was granted when distance restriction for private 4-star hotels was withdrawn during 1994-96. All these licenses were being renewed every year.



We are of the opinion that the condition that bars should not be in the vicinity of educational institutions, places of worship etc remained only on paper in the Rules and was not being enforced.

Recommendation 4: The Government may consider amending the Rules (like prescribing aerial distance) to ensure that the distance restriction principle of prohibiting functioning of bars near educational institutions, places of worship etc is applied in practice.

5.3.2 Did the Department effectively supervise Foreign Liquor 1¹ (FL1) licensee shops?

The privilege for the retail sale of IMFL was granted exclusively to KSBC and Kerala State Cooperative Consumer's Federation Ltd. at annual rentals fixed by the Government. The rental at present is ₹ 63 lakh. The licence is granted subject to the condition of distance restriction prescribed in the Rules. The FL-

There was no effective supervision by Excise department in FL1 retail shops

¹ Foreign liquor 1 shops are the retail outlets for foreign liquor in the State.

1 licensees have to procure the supplies only from the FL-9 licensees. FL-9 licenses are given exclusively to KSBC. As on 31 March 2011 there were 384 FL-1 shops of which 338 (88 *per cent*) are owned by KSBC and 46 by the Consumer Federation.

Our examination revealed that though the Excise Department was required to inspect and take samples of IMFL from the FL-1 shops for chemical examination, the inspection and taking of samples from the FL 1 shops was less/ negligible compared to other licensed liquor or toddy outlets as shown in the following table:

Category	2006-07		2007-08		2008-09		2009-10		2010-11	
	No. of licensees/ No. of times licence premises checked	No. of times sample taken	No. of licensees/ No. of times licence premises checked	No. of times sample taken	No. of licensees/ No. of times licence premises checked	No. of times sample taken	No. of licensees/ No. of times licence premises checked	No. of times sample taken	No. of licensees/ No. of times licence premises checked	No. of times sample taken
FL-1 (liquor shops)	354 1,820	29	368 1,803	29	371 2,243	20	383 2,478	32	384 2,048	74
FL-3 (Bar hotels)	572 4,982	2389	584 5,064	2,860	611 5,893	2,697	660 6,472	3,441	680 7,793	5,463
Toddy Shops	4,405 27,793	13525	5,286 34,280	15,700	5,589 37,065	1,5590	4,964 49,136	22,850	5,226 5,7828	2,1950
Total	5,331 34,595	15943	6,238 41,147	18,589	6,571 45,201	18,307	6,007 58,086	26,323	6,290 67,669	27,487

We noticed that the Personnel and Administrative Reforms Department (PARD) in their report (2008) on "Simplification of Procedures and Methods in the Excise Department" pointed out lack of proper inspection/non-taking of samples and even the possibility of collusion with outsiders to sell seconds in FL-1 outlets.

We are of the opinion that as major part of the IMFL sales were effected through the FL1 shops, the lack of effective supervision by the Department increases the risk of sale of low quality/seconds liquor.

5.3.3 Did the Department exercise effective supervision over distilleries?

Under the Distillery and Warehouse Rules all manholes, locks and other apparatus of stills and spirit vessels must be locked with Abkari locks for effective control by the Excise Department. The Abkari locks and tickets should be under the personal custody of the Distillery officer. Rule 27 to 35 of the Distillery and Warehousing Rules- Part II describes the use and storage of Abkari locks and tickets. When an Abkari lock is affixed to any pipe, cock, receptacle, door, etc. the officer affixing it shall enter the details of the pipe, time, etc. on the counterfoil and remove the ticket from the book and place it

in the space provided for the purpose in front of the lock. The flap may then be closed on top of the ticket and the locks fastened to the pipe, cock, etc. For removal of locks, the officer should first move the keyhole cover to one side to ascertain that the tickets are not tampered with. Our test check in seven distilleries revealed shortage of Abkari locks as detailed in the following table:

Distillery	Required	In use	Shortage
United Spirits Limited	4	3	1
Kaycee Distillery, Thrissur	18	6	12
Polson Distillery, Chalakkudy	26	25	1
Sevenseas Distillery, Thrissur	5	1	4
Imperial Spirits Ltd, Palakkad	2	2	Nil
Amrut Distilleries Limited, Palakkad	2	2	Nil
United Distilleries Limited, Kozhikode	8	2	6

As the Abkari Lock is an important control tool used by the Department to check usage of spirit, manufacture and disposal of liquor, we are of the view that shortage of locks would affect the efficacy of supervision by the Excise Department over the distilleries.

5.4 Did the Department effectively and efficiently discharge its responsibilities as an enforcement authority?

5.4.1 Was there effective follow up action on Intelligence inputs?

The Excise Department has an Excise Intelligence and Investigative Bureau (EI&IB) under a Joint Excise Commissioner. The information on illegal activities gathered by them was transferred to the Enforcement wing of the Department for taking necessary corrective/legal measures to stop the illegal activities. Details of inputs provided by the Intelligence wing and the number of cases of occurrence of crime/violation of Acts and Rules detected out of these inputs during 2006-07 to 2010-11 were as follows:

Name of Zone	No of inputs	No of cases detected on the basis of inputs	Percentage of cases detected to inputs
South Zone (5 districts)	12782	2396	18.75
Central Zone (4 districts)	6498	1402	21.58
North Zone (5 districts)	6069	1749	28.82

Even though the enforcement wing acknowledged the intelligence inputs the action taken by them was not effective as detailed below :

- The JEC (EI&IB) gave (5 May 2010) detailed information to AEC Palakkad listing the ranges where artificial toddy was being sold. It was stated that the licensees were using smuggled spirit for enhancing the strength of the toddy and accidents may happen in the abkari sector. He also directed that urgent steps should be taken to stop the sale of artificial toddy through the toddy shops. We noticed that no effective action was taken on this input as the Intelligence Wing again reported (June and August 2010) that sale of artificial toddy/illegal activities was continuing and provided further detailed information.

Even the specific intelligence inputs, giving location / names of toddy shops/ vehicles etc., involved in violation of Abkari Laws, were not properly followed up by the enforcement wing

- In one case in Alappuzha division (December 2010), the intelligence official had to accompany the enforcement employees to detect and register a case of illicit transport of toddy as the enforcement staff did not respond to the earlier inputs given.
- The intelligence wing gave (20 August 2010) detailed information about the spurious liquor sold in Malappuram district. Had rigorous raids been conducted and spurious liquor seized, the liquor tragedy at Malappuram in September 2010 which resulted in the death of 25 persons, could have been avoided.

We are of the opinion that the intelligence reports on the sale of artificial toddy are not being followed up by the enforcement wing with the seriousness they deserve. We are of the view that ineffective follow up action poses serious health problems to the regular consumers and could even lead to liquor tragedies.

Our examination of records revealed that lack of sufficient manpower and infrastructure facilities as detailed below were adversely affecting effective enforcement work like raids/patrolling etc:

- Forty eight offices (field units) do not have sanctioned post of drivers and in 51 offices the vehicles were manned by drivers on daily wages. Deploying daily wage drivers for raids/intelligence gathering may affect the secrecy/quality of work
- Lack of communication systems like walkie-talkies and wireless systems.

Recommendation 5: The Department may provide the required infrastructure support to the enforcement wing, so that enforcement activities could be carried out more effectively.

5.4.2 Was effective action taken on abkari cases where violations were detected?

The enforcement activities of the Department was being carried out through the Excise Enforcement and Anti Narcotic Cell at district level, circles at *taluk* level and the Ranges, border check posts and patrol units. In addition to following up on the intelligence inputs, these units detect violation of Abkari laws through regular inspection of the premises of the licensees, verification at check posts, raids conducted at suspected areas, etc. The cases in which violations were noticed were registered and followed up through the concerned circles/ranges.

We noted that during 2006-07 to 2010-11, 39,674 abkari cases were registered in the state and as on 31 March 2011, 46,183 cases were pending either in the courts or in the excise offices as shown below:

Year	No of cases registered	Year wise details of cases pending	
		Pending with excise	Pending with Court
Up to 2005-06		1,808	14,553
2006-07	6,470	926	4,202
2007-08	7,922	1,048	4,996
2008-09	8,127	1,163	4,884

As of 31 March 2011, 46,183 cases were pending either in the Excise Offices or in courts

2009-10	8,697	1,486	4,665
2010-11	8,458	2,059	4,393
Total	39,674	8,490	37,693

The details of cases detected, charge sheeted and pending as of 31 March 2011 in the selected districts from 2006-07 to 2010-11 were as follows:

Sl. No	Name of office	Number of Abkari/NDPS ² cases detected	No of UD cases out of the detected cases	No of major ³ cases out of the detected cases	No of cases in which investigation completed and charge sheeted	No of cases pending charge sheeting
1	Alappuzha	4,712	473(10%)	10	3,651	1,042
2	Thiruvananthapuram	4,350	168(4%)	179	5,297	591
3	Kozhikode	2,393	711(30%)	3	2,554	645
4	Palakkad	2,620	615(23%)	24	2,308	260
5	Thrissur	2,230	330(15%)	31	2,380	235
6	Kasargod	1,488	186(13%)	53	1,176	334
	Total	17,793	2,483(14%)	300	17,366	3,107

Our analysis of the abkari cases revealed as follows:

- 4 to 30 *per cent* of the total cases were treated as undetected (UD) cases, *i.e.* cases where there was violation of Abkari laws but the Department could not identify/catch the offenders/culprits and hence could not proceed with the cases. The percentage of UD cases for the six districts worked to 14 *per cent*, which we consider high.
- We noticed that enforcement employees were being diverted to attend to the cases pending in the courts and for charge sheeting. We are of the view that diversion of enforcement employees would impede normal enforcement activities like inspections, raids, etc.
- We found that charge sheets were not prepared in 86 major cases relating to Thiruvananthapuram, Thrissur and Palakkad Divisions due to delay in identifying the offenders, getting details of actual owners of the vehicles involved, bogus registration certificates etc.

Out of the total cases detected during the last five years, major cases were only two percent. Others being UD cases / minor cases

As per the records of the State Crime Records Bureau, the Police department had also registered 79,571 cases during 2006-2011 involving both major and minor cases.

5.4.3 Were the confiscated vehicles disposed expeditiously?

The vehicles seized in Abkari cases were to be kept under safe custody, confiscated and finally disposed as prescribed under the Kerala Abkari Disposal of Confiscated Articles Rules, 1996. Under the Rules, on seizure of the vehicle, the Divisional officer after giving an opportunity to the accused for being heard and after obtaining chemical analysis report, issues the confiscation orders. We noticed significant delays in confiscating the seized vehicles and in the disposal of the confiscated vehicles as detailed in the following table:

² Narcotic Drugs and Psychotropic Substances

³ Cases involving spirit above 500 litres / vehicle involved

Details of vehicles pending confiscation

Divisions/ Year	Up to 2005	2006	2007	2008	2009	2010	2011	Total
Thiruvananthapuram	3	2	3	5	19	41	8	81
Alappuzha	4	0	2	2	6	31	3	48
Thrissur	1	0	0	1	0	18	0	20
Palakkad	0	0	0	0	0	12	6	18
Kozhikode	0	0	0	1	4	23	0	28
Kasargod	1	1	0	0	1	27	3	33
Total	9	3	5	9	30	152	20	228

Out of the 228 vehicles pending confiscation, 169 were pending for want of chemical analysis report or due to non completion of investigation. Fifty three vehicles were pending because of procedural delays and six cases were pending in court.

Details of confiscated vehicles pending disposal

Divisions/ Year	Up to 2000	2000 to 2005	2006	2007	2008	2009	2010	Total
Thiruvananthapuram	2	12	8	6	3	13	16	60
Alappuzha	7	2	2	11	11	17	4	54
Thrissur	1	1	1	1	5	27	9	45
Palakkad	3	2	0	2	6	33	16	62
Kozhikode	1	2	0	1	2	10	1	17
Kasargod	3	4	0	2	1	1	6	17
Total	17	23	11	23	28	101	52	255

Out of 255 vehicles pending disposal, 40 vehicles (15.7 per cent) were pending disposal for more than six years. Out of 255 vehicles, 16 vehicles were released temporarily on the basis of bank guarantee, 32 cases were pending in the court, in 72 cases appeals were pending with the departmental authorities and 135 cases were pending for completion of departmental procedures. We also noticed that five vehicles kept in the premises of Parassala, Vizhinjam and Aryanad Police Stations were missing.

5.4.4 Did the Department manage to dispose the seized spirit efficiently?

The spirit seized was sold to Government owned distilleries in Thiruvalla (Travancore Sugars and Chemicals Ltd) and Palakkad (CHICOPS) at the rate of ₹ 10 per litre up to September 2009 and thereafter at the rate of ₹15 per litre. From these distilleries it was sold to Government institutions or to licensees under the Rectified Spirits Rules, 1972 or the Cochin Denatured spirits and Methyl Alcohol Rules after collecting excise duty in addition to the sale price.

During the five year period from 2006-07 to 2010-11, 2.96 Lakh bulk litres of seized spirit was lost due to leakage having revenue impact of ₹ 1.07 crore

Details of leakage of seized spirit for the five year period under review were as follows.

Year	Opening balance	Seized	Total	Disposal	Leakage	(in litres)	
						Closing balance	Percentage of leakage
2006-07	221372	274526	495898	240936	76209.5	178752.32	15.37
2007-08	178752	233301	412053	174099.3	55651.5	182302.32	13.51
2008-09	182302	114909	297211	137352	40275	119584.22	13.55
2009-10	119584	172732	292316	149219.5	15134.9	127961.82	5.18
2010-11	127962	46540.9	174503	123061	12177	39264.72	6.98
Total		842008	1671981	824667.8	199447.9		

We noticed a reduction in the percentage of leakage of seized spirit during the last two years as compared to earlier years. However, in the absence of a norm relating to permissible percentage of leakage, we are unable to conclude whether the Department efficiently disposed of seized spirit.

We are of the opinion that absence of a norm may result in excessive leakage with a resultant adverse impact on revenue, in the form of cost of spirit and excise duty thereon. For instance, leakage of 2.96 lakh bulk litres of seized spirit during the five year period from 2006-07 to 2010-11, has a potential revenue impact of ₹ 1.07 crore. Further, absence of norms for leakage may lead to misuse of seized spirit for making illicit liquor.

Recommendation 6: The Department may prescribe norms for leakage of seized spirit and monitor adherence of such norms.

5.4.5 Was enforcement work at the checkpoints managed effectively and efficiently?

The Department established major and minor check posts along the border districts like Thiruvananthapuram, Palakkad, Kasargod etc. The details of the check posts were as follows:



Name of District	Number of Check Posts	
	Major	Minor
Thiruvananthapuram	1	14
Thrissur	1	1
Palakkad	1	7
Kannur	1	2
Kasargod	1	2
Kollam	-	1
Idukki	1	4
Wayanad	-	3
Kozhikode	-	1

Our physical observation of the check posts revealed that:

- In Thiruvananthapuram, the minor check posts were in temporary sheds without any facilities.
- The staff working in the check posts was not provided with wireless equipment or arms. Hence, they were unable to stop a suspected vehicle or to give information to other offices for taking immediate action.
- The ineffective enforcement is reflected in low detection /registration of cases through check posts. During the five year period the numbers of cases detected through the check posts in Thiruvananthapuram and Kasargod divisions were as below:



Sl.No	Check post/Year	2006-07	2007-08	2008-09	2009-10	2010-11	Total
1	Amaravila	5	5	1	8		19
2	Attupuram	2					2
3	Mandapathinkadavu					1	1
4	Kallikkadu			1	1		2
5	Pirayummodu	1		1	2		4
6	Manjeshwar	9	6	4	3	2	24
	Total	17	11	7	14	3	52

Sl.No. 1 to 5 at Thiruvananthapuram and 6 at Kasargod

The details of cases detected from Walayar check post in Palakkad district were not separately recorded.

- We were informed that there are 14 entry points from Karnataka State in Kasargod, against which only three check posts were operated. In the other 11 entry points, commercial tax check posts were functioning. The border patrol units of the Excise Department detected 73 cases in these routes during the last five years pointing to the need for setting up check posts at these entry points also.

Case study: Irregular exemption granted at Walayar check post

A priority for a class of vehicles coming through the sales tax check posts was granted under the Kerala General Sales Tax/Kerala Value Added Tax Act termed Green Channel facility. This was granted to M/s Malabar Cements Ltd., Walayar and the vehicles with cement bags coming from the factory were allowed to pass through the check post without verification of vehicles. However this facility was not applicable to Excise Department and all the vehicles were to be checked at excise check posts. Records of vehicles checked were not being maintained at the check posts. Hence, we interacted with check post officials and were informed that all vehicles of Malabar Cements with Green Channel card coming through the excise check posts were allowed to pass through without verification.

The Excise Department had registered (January 2008) a case of illicit spirit transported through Walayar excise check post by misusing the system of green channel facility. As per media reports 150 trucks containing more than 8000 litres per load of illicit spirit were allowed to pass through without verification. We consider that the irregular exemption granted at the excise check post had caused transportation of illicit spirit into the State which could be used for production of unaccounted liquor or for mixing with toddy.

- We noticed that in all the border areas, the taxes department of the Government has two check posts, one each for the Commercial taxes and the Excise Department. We consider that this arrangement leads to duplication of infrastructure facilities and further, the vehicles have to be stopped at both check posts, often, within a short distance.

5.4.6 Did the Department exercise effective supervision over toddy shops?



The privilege for vending toddy was granted through public sale as prescribed in the Kerala Abkari Shop Disposal Rules, 2002 for a fixed annual rental for each toddy shop as may be decided by the Government from time to time. The right under this licence was confined to manufacture and sale of fermented toddy tapped from Coconut, Palmyra or Choondapana palms on which tree tax under the Act was paid. During the years 2009-10 and 2010-11 there were 5,214 and 5,215 toddy shops respectively in the State.

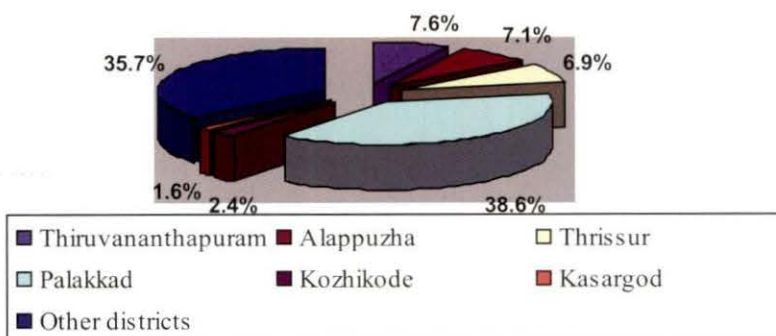
Out of the total tree tax collected during the last five years, 34 percent was collection from Chittoor range alone and out of the total tree tax from Palakkad division 87 percent was from Chittoor range

5.4.6.1 Was tree tax under assessed?

Tree tax is levied under Rule 2,4 and 6 of the Tree Tax Rules. Under the rules, the Department issued licences for each half year from April to September and from October to March for collecting toddy from coconut tree and Choondapana (sago) tree. In case of Palmyrah trees the licence is issued for one year. As per rules, all the trees shall be marked within three weeks after issue of licence, under the personal supervision of the Excise Inspector or other competent person and toddy can be drawn for sale only from the marked trees.

Details of revenue under tree tax in the selected divisions for the last five years were as follows:

Sl. No	Name of Division	Tree tax realised (₹ in lakh)					Total
		2006-07	2007-08	2008-09	2009-10	2010-11	
1.	Thiruvananthapuram	26.93	33.17	28.47	28.89	13.83	131.29
2.	Alappuzha	21.30	34.41	28.14	20.06	19.23	123.14
3.	Thrissur	4.58	29.03	29.54	30.05	27.09	120.29
4.	Palakkad	58.37	135.52	138.38	239.83	98.68	670.78
5.	Kozhikode	6.22	9.09	9.15	8.94	9.14	42.54
6.	Kasargod	3.86	5.85	6.15	6.28	6.40	28.54
	Total	121.26	247.07	239.83	334.05	174.37	1,116.58



Our analysis of collection of tree tax revealed the following:

- The total tree tax for the selected district was ₹11.17 crore and for the State for the last five years was ₹ 17.37 crore of which 39 per cent was contributed by Palakkad division and 34 per cent by Chittoor range in Palakkad division.
- Coconut trees were tapped in the Chittoor range from large plantations for inter division transport of toddy. The Intelligence report (June 2010) on toddy shops concluded that for the interdivision transfer of toddy, tree tax was paid for lakhs of trees belonging to Chittoor Range. However, in the large plantations where tapping was taking place, there were areas with no numbering and duplicate numbering. Based on the report, we are of the

opinion that the Department does not have effective controls to ensure that toddy was tapped only from the marked trees.

- As per the State Excise Manual the yield per tree is 1.5 litre of toddy. However the Expert Committee after detailed studies on yield of toddy recommended (December 2009) fixing an average of three litre per tree. However, for the issue of permits and for calculating total toddy production in the State, yield is calculated at 1.5 litre per tree. Further, it is assumed that toddy was tapped only from marked trees.

We are of the opinion that as the actual yield of toddy was higher than the estimated yield and further as toddy was tapped from unmarked trees, the tree tax towards toddy is under assessed. We are unable to quantify the probable loss of revenue in the absence of details of number of trees from which toddy was actually drawn.

5.4.6.2 Was the Kombazha check post effective in controlling misuse of permit system?

The check post established at Kombazha for checking interdivision transport of toddy was not effective

Palakkad division was the main toddy production centre in the State and large quantities of toddy were being transported from Palakkad division to other divisions in the State for which the Deputy Commissioner of Excise, Palakkad issues inter division transport permits. The permits were issued for each half year.

In order to control the misuse of permits, the Department established (April 2009) a check post at Kombazha near Kuthiran Hills at NH 47 between Thrissur and Palakkad districts which was placed under the Assistant Excise Commissioner (Enforcement), Thrissur. It was decided that all the consignments of toddy transported should pass through this check post and be subjected to verification by the Excise Officials. A register for noting the vehicle number, permit number and date, quantity of toddy transported, shop number, range of destination, etc. was also prescribed. The quantity allowed for daily transport, numbers of the vehicles used for transport, etc. were to be noted in the permits. The excise officials had to ensure at the check posts that only the permitted quantity of natural toddy was transported and the vehicle used was the permitted one.

We scrutinised the records and observed the procedures followed at the check post which revealed the following:

- There was no facility at the check post to verify the quality/quantity of toddy transported. In reply to an audit query, the Department replied that there was no mechanism to measure the actual quantity of toddy transported or to collect toddy samples at the check posts.
- Even though the permit was prescribed with daily columns for punching, to avoid repeated transportation, the permits were not punched. Instead, the quantities transported were noted in a note book kept by the licensee, which was not subjected to any inspection.
- Cans used for transporting toddy were not filled completely and the quantity was often below the permitted level. This provided scope for filling the cans with spurious toddy after passing through the check post.

- Toddy intended for different shops were transported in a single can, which again provides an opportunity for emptying the entire quantity in a single shop and filling and transporting illicit toddy to other shops in the absence of proper excise supervision.
- We cross checked records at Kombazha check post and the stock registers of twenty toddy shops relating to eight different groups in Kottayam district. Our analysis revealed significant variation between the quantities noted at the check post and at the toddy shops as detailed below:

(in litres)					
Date	Permit Quantity	Quantity brought as per check post records	Quantity as per shop stock account	Variation	Variation in per cent
04/01/2011	4470 (Total Permit Quantity per day for 20 shops)	2956	4036	1080	36.5
05/01/2011		3544	3913	369	10.4
06/01/2011		3449	3972	523	15.2
07/01/2011		3282	3978	696	21.2
08/01/2011		3687	4123	436	11.8
09/01/2011		3884	3955	71	1.8
10/01/2011		3736	4099	363	9.7
11/01/2011		2575	3745	1170	45.4

- Even though it was decided (10 May 2010) to collect all the toddy transported through interdivision permit relating to a particular range in the collection centre of the range to the concerned toddy shops under escort of excise guards, this instruction was kept in abeyance.

We are of the view that the permit system for transportation of inter division toddy and the functioning of the check post created for controlling inter division transport were largely ineffective. We are of the opinion that due to several flaws, the existing controls will not be able to ensure that spurious/artificial toddy was not transported under the garb of inter division transportation.

Recommendation 7: Fresh toddy collection centres may be started under direct supervision of Excise Department and toddy distributed to other divisions under excise escort.

5.4.6.3 Was the permit system for inter division transport of toddy misused?

During the last five years the revenue realised at the rate of ₹ 1 per litre through inter division transfer of toddy in Palakkad division was as follows:

Year	Fee Collected (₹ in crore)
2006-07	5.92
2007-08	6.02
2008-09	7.27
2009-10	7.99
2010-11	7.95

The total quantity of toddy that was permitted for inter division transport as per the number of permits issued and quantity fixed per day and the fee

actually collected at ₹ 1 per litre for the period 2008-09 to 2010-11 were as follows.

Year	No of Permits	Quantity of toddy (litre per day)	Total quantity for 180 days	Total for the year (litres in crore)	Quantity of toddy for which fee was collected at ₹ 1 per litre)	Excess quantity transported (litres in crore)
(1)	(2)	(3)	(4)	(5)	(6)	(7) = (6)-(5)
2008-09						
I Half Year	180	40918.50	7365330			
II Half Year	148	44805	8064900	1.54	7.27	5.73
2009-10						
I Half Year	354	122832	22109760	2.99	7.99	5.00
II Half Year	166 } 117					
2010-11						
I Half Year	183	71349	12842820			
II Half Year	165	37471	6744780	1.96	7.95	5.99

The field offices had suggested stoppage of interdivision transport of toddy as it was being used as a cover for centralized production and distribution of artificial toddy

We noticed that during all the three years the quantity actually transported was much higher than what was permitted. However, considering higher yield of toddy, the licensees were allowed to transport excess toddy by paying the permit fee @ ₹ 1 per litre. The average yield recorded by the Expert Committee was 3 litre per tree instead of 1.5 litre prescribed at present.

We noticed that the field officers of the Department recommended stoppage of inter division transport of toddy as the system was being used as a cover for centralised production of artificial toddy and their distribution through toddy shops creating health hazards. However, the Department has not taken any action on this matter.

We are of the opinion that even if the higher yield suggested by the Expert Committee is adopted, still the toddy actually transported was much higher than the quantity for which license was issued due to the weaknesses in the functioning of the checkpoints as explained in para 5.4.6.2, which indicated the possibility of artificial toddy being transported under the cover of permits.

5.4.7 Was enforcement compromised due to delay in providing infrastructure?

5.4.7.1 Did non-availability of speed boat hamper enforcement?

Alappuzha division has vast areas covered by backwaters and network of waterways alienated from the mainland by circumscribing lagoons and lakes. A boat available with Kuttanad range was auctioned in 1998 and since then the office had no boat for enforcement activities. The Department also found that the enforcement work of the Range office was not effective and that smugglers and hooligans were utilising this area as a safe haven and as a transit point to smuggle spirit, illicit liquor and narcotic substances into other parts of the State.

The Government accorded administrative sanction (March 2004) for the purchase of a big boat and a speed boat. Though the Excise Commissioner invited tenders (March 2004) for supply of the boats and two parties had submitted quotations, no further action was taken on the matter. The Department stated (May 2004) that funds provided for purchase of boats was mainly used for purchase of vehicles and hence the purchase of boat had to be deferred.

After five years, the Excise Commissioner proposed (August 2009) purchase of boats for Kuttanad range of Alappuzha division. The Commissioner proposed purchase of a speed boat from M/s Steel Industries Limited, Kerala (SILK) for ₹ 33.35 lakh and the Government accorded administrative sanction (May 2010) for the procurement of the speed boat. An agreement was signed with M/s SILK for delivery of the boat within 180 days from payment of the first instalment. Though the first instalment of ₹ 3.36 lakh was paid (May 2010), the boat has not been delivered so far (June 2011).

We are of the opinion that the lukewarm approach of the Department deprived the Kuttanad range of the services of a boat for twelve years from the date of auctioning the departmental boat. We consider that enforcement work was seriously compromised due to inaction on the purchase of a boat, particularly considering the fact that the region was used by nefarious elements for smuggling.

5.4.7.2 Were the enforcement employees adequately armed?

As part of the programme for modernisation of the Department, a sum of ₹ 1.06 crore was provided separately in the budget for the years 2003-04 to 2010-11 for purchase of arms and ammunition as shown below:

Year	Budget Provision (₹ in lakh)	Expenditure (₹ in lakh)
2003-04 to 05-06	15	Nil
2006-07	10	Nil
2007-08	15	Nil
2008-09	18	Nil
2009-10	18	18
2010-11	30	10.12
Total	106	28.12

The Department took eight years to purchase 110 pistols for its enforcement officials. As no ammunition was purchased, these pistols could not be used

We noticed that though budget provision was available, no expenditure was incurred up to 2008-09. The Excise Commissioner submitted a proposal (May 2008) for purchase of 0.32 pistols and the Government sanctioned (July 2009) the purchase. The Excise Commissioner placed (January 2010) a revised purchase order on Gun and Shell Factory, Cossipore, Kolkata (Purchase order submitted in July 2009 was defective) and purchased 110 pistols at a cost of ₹ 93.89 lakh by utilising the fund of ₹ 28.13 lakh available for 2009-10 and 2010-11 and ₹ 65.76 lakh from the balance available in the allocation for modernisation.

We noticed that the pistols purchased were kept idle as ammunition was not purchased. Further, even after the purchase of 110 pistols, only 160 pistols and revolvers were available against the requirement of 420. We are of the opinion that due to delays in procuring arms and ammunition, the Department failed to adequately arm the enforcement employees despite availability of funds.

In response to our observation, the Department replied that it was decided to purchase ammunition after the purchase of pistols and that only 300 officers were working in the field units of which well trained officers were even less and hence the stock of 160 pistols and revolvers was sufficient.

We are unable to accept the reply of the Department as it was the duty of the top management of the Department to sufficiently train and arm all the employees engaged in enforcement work.

Recommendation 8: The Department may take timely action to equip enforcement employees with arms, ammunition and provide other support facilities like boat.

5.5 Did the Department have effective and economic systems for chemical analysis of samples?

5.5.1 Did the Department maintain complete and accurate records of samples sent for chemical analysis?

Samples of IMFL and toddy were regularly taken during routine inspections of IMFL /toddy outlets or during raids conducted and were sent to the three Regional Chemical Laboratories for analysis. Test check of the records revealed that in two⁴ offices the sample register was not properly maintained. We noticed that the register did not contain details of all the samples sent for analysis and the test results received. In Kozhikode Division, as per the register, 1569 samples were sent for chemical analysis, but test results were noted only in 26 cases. As the Chemical Examiner stated (May 2011) that no test results were pending for Kozhikode, it can be concluded that the test results were not noted in the register maintained at the Division.

We are of the opinion that absence of complete details in the register would hinder generation of important data on the number of cases in which adulterated/spurious liquor was found and the follow up action taken on such cases.

5.5.2 Was the Department able to perform chemical analysis of the samples in a timely manner?

We noticed that as on March 2011 a large number of chemical analysis reports were pending for more than five years in all the test checked circles except Kozhikode as shown below:

Samples given for chemical analysis even five years before were pending at chemical examination labs

Name of Circle	No. of toddy samples sent for chemical examination	No. of samples pending for more than five years	Percent of samples pending
Neyyattinkara	556	113	20.3
Alappuzha	893	504	56.4
Mavelikkara	545	264	48.4
Vadanappally	618	186	30.1
Vadakkanchery	1072	115	10.7
Chittor	335	35	10.4
Kasaragod	107	29	27.1

⁴ ECO Chittoor, EDO Kozhikode

We also noticed that while the chemical analysis reports relating to samples sent from the distilleries were given by the Chemical laboratories on the same day/next day itself, the toddy samples were pending analysis for years.

More than 19000 samples received in Regional Chemical Laboratories during the period 2004 to 2011 were not analyzed so far

The Chief Chemical Examiner, replying (May 2011) to our audit query, stated that the samples were getting accumulated in the laboratory, which created a time gap of one to two years between the date of collection and examination of samples. Lack of sufficient staff strength and priority being given to distillery samples and those involved in the Abkari cases were cited as the other reasons for the delay. The Chief Chemical Examiner also stated that as no purpose was served in examination of samples after the licence period, the Department decided to deviate from the analysis of samples on the order of receipt and started analysing current samples after giving permission to destroy more than 7000 toddy samples relating to old periods. For instance, the samples taken up to July 2005 were not analysed and only samples taken from August 2005 onwards were taken up for analysis. However, due to the huge disparity between receipt and disposal, samples pending analysis increased and it was again decided to analyse fresh samples from July 2009 onwards.

The Chief Chemical Examiner stated that the number of samples pending with them was as follows:

Name of Laboratory	Period	No of samples pending
Regional Chemical Laboratory, Thiruvananthapuram	Up to July 2005	7,762
	September 2008 to July 2009	5,921
	August 2009 to March 2011	1,325
Regional Chemical Laboratory, Ernakulam	October 2010 to March 2011	4,476
Regional Chemical Laboratory, Kozhikode		Nil
	Total	19,484

The Chief Chemical Examiner also stated that even if analysis was completed, there was delay in issuing certificates of chemical analysis due to the large number of cases pending in the typing section for want of sufficient number of typists. This was being cleared by engaging typists on contract basis. A new report generating software was also being developed for preparing and printing the certificates by the analysts immediately after analysis.

We consider that the undue delay in analysing the samples severely impedes enforcement action against erring licensees/spurious liquor traders and delays the preparation of charge sheets. Further, non-analysis of the samples sent to the laboratories may encourage the sale of illicit liquor.

Recommendation 9: The Department may prescribe time limits for completion of chemical analysis and submission of test results. Chemical laboratories may be provided necessary human resources to enable them to discharge their functions effectively.

Even when artificial toddy was detected Chief Chemical Examiner could not report it

5.5.3 Were the test results of chemical analysis useful?

5.5.3.1 Were the test results of toddy samples useful?

The Government fixed 8.1 *per cent* alcohol as the maximum alcohol permissible in toddy. The Department requested the Chief Chemical Examiner to state specifically whether a toddy sample was artificial or natural. We noticed that the chemical analysis report states the percentage of alcohol contained in the sample and whether the sample contained any noxious substance, but does not specify whether the toddy is natural or artificial.

The Chief Chemical Examiner informed (August 2009) the Excise Commissioner that the Chemical Laboratory could not give a definite opinion as to whether the samples of toddy analysed were artificial or natural due to lack of specific norms for natural toddy. He stated that he had requested the SRO 144/07 to be modified by incorporating the recommendations of the Committee on Chemical Composition of Toddy, so that the artificial or adulterated toddy could be clearly identified and reported. The Committee's report (dated 19 January 2009) was still pending with the Government.

We are of the opinion that non-prescription of correct parameters of natural toddy was preventing the Chief Chemical Examiner from reporting samples of artificial toddy, and this lacuna has rendered the chemical analysis of samples a futile exercise. We are of the view that this serious shortcoming may lead to severe health problems to consumers of artificial toddy and facilitate spurious toddy traders to escape from the clutches of law.

After we pointed out the matter the Government stated (November 2011) that the Technical Committee constituted for the purpose of finding out parameters to distinguish natural and artificial toddy had submitted only a preliminary report and that the final report is awaited. Further, due to retirement of certain members, Government is actively considering the reconstitution of the Committee.

Further developments have not been received.

Recommendation 10: The Government may consider taking action to prescribe clear parameters for identifying natural and artificial toddy. The chemical analysis report must should specify whether the sample was of natural or artificial toddy.

5.5.3.2 Were test results of IMFL/Beer samples useful?

We noticed that the test results submitted by distilleries from other states contain detailed analytical reports based on BIS/IS standards. However, the test results given from the State Chemical Examination Laboratories only mention the alcohol percentage/ volume and whether it was harmful for human consumption or not, etc. It could not be ascertained from the report as to whether IMFL samples taken from IMFL retail outlets included low quality (seconds) liquor.

5.6 Did the Department manage man power resources effectively?

As on 31 March 2011 the total sanctioned strength of the Department was 4841 out of which there were 173 vacant positions. The vacancy position was as follows.

Name of Post	Sanctioned Strength	Vacant position
Deputy Excise Commissioners	14	2
Circle Inspectors	136	9
Excise Inspectors	335	27
Assistant Excise Inspectors	80	6
Preventive Officers	982	42
Excise Guards	2913	73
Typist	42	2
Drivers	229	11
Peon	72	1
Total	4803	173

5.6.1 Did the Department have adequate manpower to discharge its functions?

Our analysis revealed that the Department did not possess adequate manpower as detailed below:

There is no separate ministerial staff in the Excise Department

- All the functions of the Department were being carried out by the uniformed personnel. There were no ministerial cadre to carry out the routine office work in the Department. We noticed that the enforcement employees were posted for office duty for short terms which in our view would adversely affect both the enforcement work and the office work as the employees were posted to sections for short periods.

This problem was highlighted in three different study reports submitted by the Personnel And Administrative Reforms Department (P&ARD) in 1998, 2008 and 2010 and it was recommended that ministerial wing abolished in 1968 should be reintroduced. We also observed that the Excise Commissioner sent proposals to the Government for introduction of ministerial staff only in January 2011, which was pending with the Government.

Against 279 vehicles there are only 229 sanctioned post of drivers and in 48 field offices there are no sanctioned post of driver

- The Department has 279 vehicles against which there were only 229 sanctioned posts of drivers. The Department informed us that there were 48 offices having four wheelers without sanctioned post of drivers and that a proposal for creation of post of drivers had been sent to the Government in May 2011. We also noticed that in 51 field units the vehicles were manned by drivers on daily wages. As the field units of the Department were engaged in enforcement work that required quick mobility and reliable drivers, we are of the view that absence of regular drivers hampered the enforcement work.
- Though the department has to pursue hundreds of cases in the courts there was no legal section and a law officer on deputation was functioning without any supporting staff.
- P&ARD in their report (2008) on 'Simplification of procedures and methods in Excise Department' recommended recruitment of women Excise Guards, as women were also involved in abkari cases. It was

also recommended to provide quota to Excise Guards and Preventive Officers in the recruitment of Excise Inspectors. This recommendation has not been acted upon so far.

- KSBC had monopoly rights over the procurement and distribution of IMFL in the State. All the permits for such procurement/transport were issued from the office of the Assistant Excise Commissioner (AEC) attached to KSBC. We noted that the staff strength of AEC office, fixed in June 1997, has not been changed till now though the work load had increased manifold, from 5,183 permits issued in 1997 to 35,085 permits in 2009-10. Similarly, the number of FL1 shops and godowns had also increased during this period.

Recommendation 11: The Department may carry out a work study to clearly assess the manpower needs.

5.6.2 Did the Department provide adequate training to its employees?

The Department has not so far conducted any training needs analysis. Till 1996 the uniformed personnel of the Department were trained at the Police Training College. However, there was no regular training programme in the Department during 1996 to 2004. We noticed that even after setting up of the State Excise Academy and Research Centre at Thrissur in March 2004 only 1,730 persons belonging to different cadres were given three months training and there are still 1,184 personnel in the Department without any training. Even though an annual plan was prepared for the year 2011-12 it could not be adhered to for want of infrastructure facilities. In his letter dated October 2011 to the Excise Commissioner, the Principal of the Training Academy stated that the present building had no space to conduct the proposed training and that the new building constructed for the Academy had not been handed over to them till date.

We also observed that even though an Excise Intelligence and Investigating wing was started in 2004, no special training was provided to the staff for this specific function. We are unable to comment on the quality of training as there are no records of feedback from trainees.

5.7 Was the Department able to effectively address social concerns of alcoholism ?

As pointed out in previous chapters, even though the State revenues from Excise was steadily increasing, studies conducted by UN agencies and NGOs revealed increasing health and social problems in the State due to alcoholism.

Kerala has the highest per capita consumption of alcohol in India, consuming more than 8 litres of liquor per person annually. According to a study by Global Alcohol Policy Alliance, over the past 20 years the number of drinkers has increased from one in 300 to one in 20 in India and the age at which youngsters begin to consume liquor has come down in Kerala from 19 in 1986 to 17 in 1990 and 14 in 1994.

According to a WHO report (February 2011), 3.2 lakh young people between the age of 15 and 29 die annually from alcohol related causes which represents 9 per cent of all deaths in that age group. Even though such statistics for the

State is not available, as the age of initiation was 14 or less, the situation may not be different in Kerala. Decreasing mental health indicators for the state like increase in suicide rate, rising number of divorces linked to alcoholism, etc. are also areas of concern.

One of the policy measures commonly adopted against alcoholism is to increase the statutory minimum age for drinking. According to studies an increase in the age of legal drinking from 18 to 21 achieves 60 *per cent* of the effort of prohibition on alcohol consumption. In Kerala the minimum legal drinking age is 18, whereas in Delhi it is 25 and recently Maharashtra also increased the age to 25 and introduced permit system for drinking.

We are of the view that increase in the number of de-addiction centres in the state in recent years is a pointer to the increasing scourge of alcoholism. We also noticed that none of the de-addiction centres has obtained licence from the Kerala State Mental Health Authority, the licensing authority as per Mental Health Act, 1987, to issue licences to de-addiction centres.

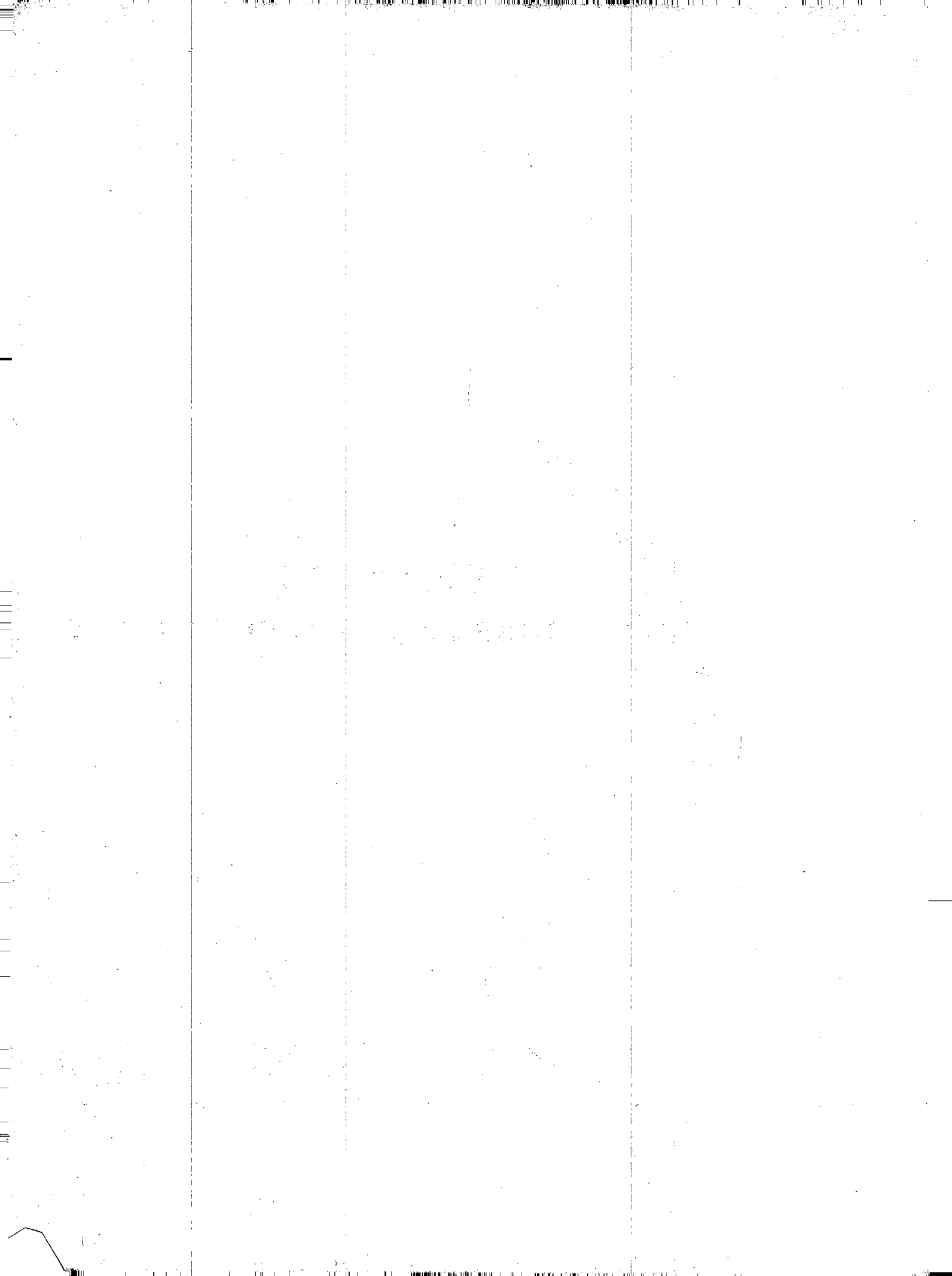
Data obtained from the State Crime Records Bureau revealed that cases of sudden death and suicide due to alcoholism in the State were as shown below:

Year	No of drunken driving cases registered	Sudden death due to alcoholism	Suicide due to over alcoholism
2006-07	16664	67	20
2007-08	26330	74	22
2008-09	56994	54	19
2009-10	97935	96	13
2010-11	168686	93	44
Total	366609	384	118

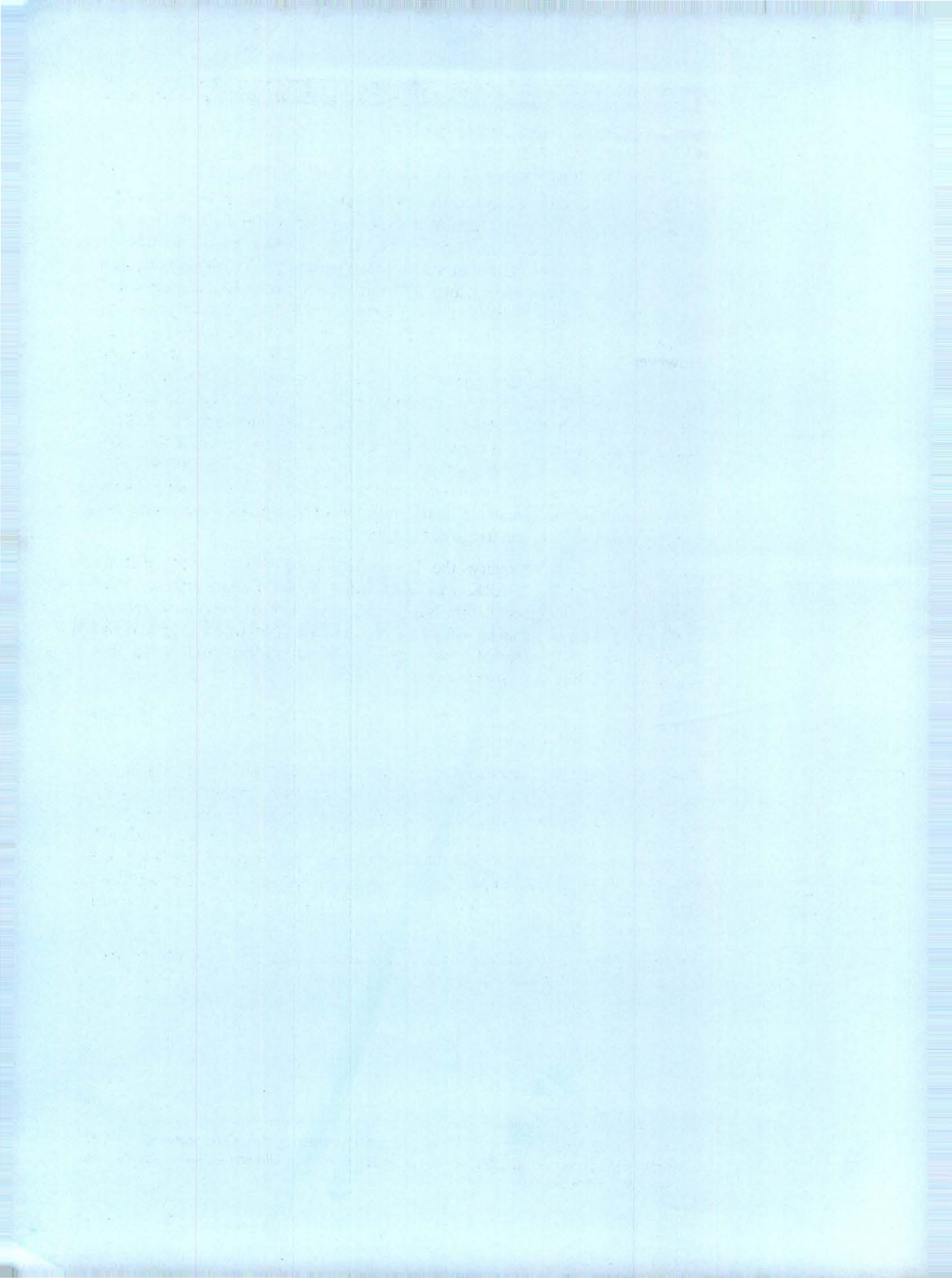
As these are only reported cases, the actual numbers would be much higher. The P&ARD report on 'Simplification of Procedures and Methods' stated that a study had shown that nearly 70 *per cent* of 42,365 road accidents in the State during 2007 were due to drunken driving.

We are of the opinion that the Department does not have an effective strategy to counter various social ills caused by alcoholism like suicides, road accidents, falling health and premature death.

As per Police records, sudden death due to alcoholism was 67 in 2006-07 which increased to 93 in 2010-11



Chapter VI
Information and Communications



CHAPTER-VI: INFORMATION AND COMMUNICATIONS

6.1 Was computerisation effective?

6.1.1 Was computerisation by M/s Keltron effective?

The Department started computerisation in 2002-03 by purchasing from M/s Keltron 18 computers, of which four were installed in the Commissionerate and the other 14 issued to the 14 divisions. Work was awarded (April 2004) to M/s Keltron for development of six software modules¹. As per records, M/s Keltron completed the work (April 2005) and the software was demonstrated (May 2005) to the officials of the Department. Further details regarding utilisation of the software were not available in the records provided to us. However, we noticed from the letter (26 October 2007) sent by the Excise Commissioner to the Government that the Department did not have any software except SPARK system, for preparing the pay rolls. The Government sanctioned (March 2011) purchase of a web based solution from M/s Keltron at a cost of ₹ 11 lakh for issuing No Objection Certificates, permits for ENA, approving labels, etc. We noticed that during 2002-03 to 2010-11 the Department purchased 277 computers and peripherals for ₹ 1.22 crore. As the Department did not maintain stock register of computers, we could not comment on the issue and usage of the computers.

In reply to our audit query, the Department agreed (May 2011) that no software other than SPARK was being used in the Department and that discussion was being held with NIC for development of various softwares. Regarding non-maintenance of stock register, the Department replied that absence of stock register of computers was already noticed and that urgent steps will be taken to verify the stock.

6.1.2 Was computerisation of issue of transport/import permit system put to effective use?

We noticed that on an average the Assistant Excise Commissioner, attached to KSBC, issued 1,750 transport permits and 110 import permits every month. The Department proposed (2005) and the Government sanctioned (April 2007) computerisation of the permit issue system. The work was entrusted to C-DIT and funds were provided by KSBC. The software was prepared by C-DIT and handed over (June 2008) to KSBC. However, as final approval of the software has not been given by the Commissioner of Excise so far, the software could not be put to use.

We are of the view that despite the high volume of work and even eight years after initiation of computerisation, the Department has been unable to computerise any of its core functions.

The work of computerisation of issue of permits for import/ export/ transportation of spirit/ liquor started 6 years back was not yet completed

¹ Crime monitoring, Abkari arrears & Licence Managing system, Court cases tracking & monitoring system, Establishment Management System, Old arrears and reconciliation system, and audit system

6.2 Was the Department publishing its administrative report timely?

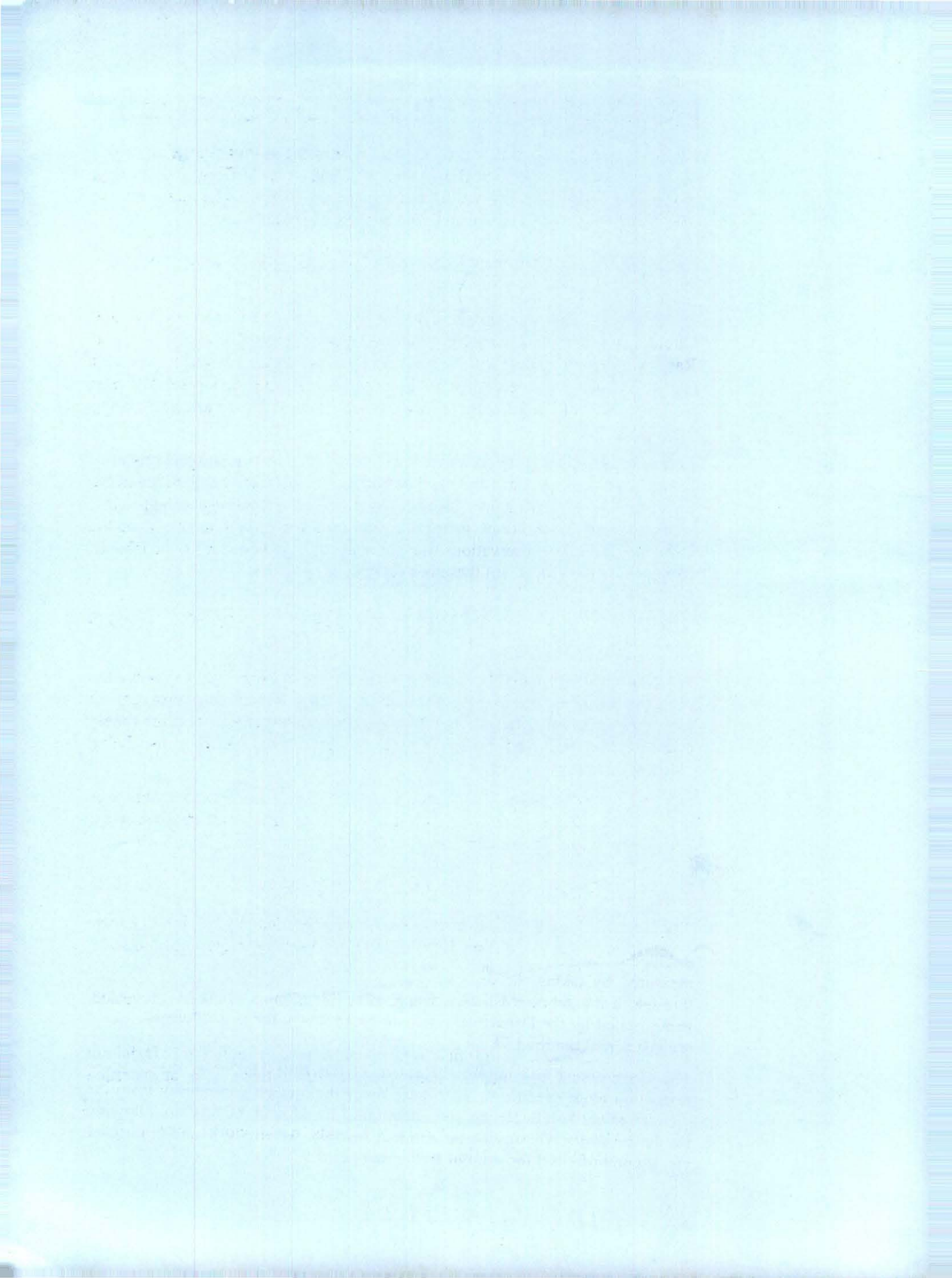
The annual administrative report published by the Department is the document that highlights the functions and achievements of the Department. It is thus an important information tool to reach the public. We noticed that the administrative reports of the Department were pending from 2001-02 onwards.

6.3 Does the Department have an informative website?

We noticed that though hosting of the website of the Department was included in the modernisation programme statement of 2003-04 and recommended in various study reports it has not been done so far. We are of the view that as the Department's functions necessitates constant interaction with the general public and stake holders like the licensees, a comprehensive website would have helped in speedy dissemination of information.

Chapter VII

Monitoring



CHAPTER-VII: MONITORING

Monitoring of work was done in the Department through internal audit, internal inspection, periodical meetings at field level offices and through closing of various registers. Our findings on the effectiveness of the monitoring mechanism are given in the ensuing paragraphs

7.1 Was internal inspection being used as an effective monitoring mechanism?

Internal Inspection was being conducted by the Deputy Commissioners and Circle Inspectors. The Deputy Commissioner inspects Circle Offices and Ranges under his jurisdiction once in six months and Circle Inspectors inspect Ranges/ Check posts, etc once in three months. An inspection register was being maintained in these offices in which the dates of inspections were being noted.

In the six districts test checked by us, we noticed that internal inspections were being carried out regularly and the dates of inspections were being noted in the register. We noticed some instances where the inspecting officers had recorded their observations in the register. Follow-up action taken on the inspecting officer's observations was not available and hence we are unable to comment on the efficacy of these inspections.

7.2 Were periodical meetings used as effective monitoring mechanisms?

We appreciate that monthly meetings were being held regularly to review the progress of court cases, enforcement activities undertaken, progress in realisation of arrears, raids etc and instructions were being issued for timely action on the discussed issues. Minutes of these meetings were also being prepared.

We are of the opinion that effectiveness of the periodical meetings was hampered slightly as action taken on instructions issued in past meetings were not followed up in subsequent meetings.

7.3 Was the Internal Audit department effective?

The Internal Audit Department (IAD) was headed by a Joint Excise Commissioner with Assistant Excise Commissioner (1), Superintendents (3), Excise Inspectors (2) and Preventive Officers (5).

Our examination of the records relating to the functioning of the IAD revealed that:

- Though there are 300 field units to be covered in audit, the IAD did not prepare annual/biennial audit plans to cover these units at specified intervals.
- During 2010-11 the IAD audited 93 units, which works out to only 31 per cent of the total field units.

- As on 31 March 2011, 226 Inspection reports and 277 paras were outstanding as shown in the following table:

Year	No of Inspection reports pending	No of paras to be cleared
2003	4	4
2004	12	18
2005	7	10
2006	22	26
2007	5	7
2008	8	11
2009	66	78
2010	52	59
2011	50	64
	226	277

- Our test check revealed that effective action was not being taken on the internal audit reports.

7.4 Were the registers maintained and physical verification conducted properly ?

7.4.1 Was the Stock Register of receipt/permit books maintained properly?

A stock register of various forms, books, etc. like TR5 receipt books, Transit permit books and Export and Import permit books was being maintained in the Excise Commissionerate. We observed that:

- The balance was not arrived at after each receipt/issue of the books
- The register was not closed periodically
- Physical verification was not done periodically
- In case of permits which were printed in the Government press, the numbers were being assigned by the press, and the numbers were not continuous. On this being pointed out by us, the Department stated that our observations were noted for future guidance.

7.4.2 Was Vehicle Register maintained properly?

We noticed that:

- The Department did not maintain a stock register for vehicles containing details of vehicles purchased, issued, condemned, etc.
- Expenses incurred on repairs and maintenance of each vehicle was not noted. Only the total amount incurred on repairs and maintenance was being noted.

Responding to our audit observations, the Department replied that absence of stock registers of departmental vehicles purchased was already noticed and urgent steps were being taken to verify the stock.

The various stock registers were not properly maintained or annual stock taking/ physical verification conducted

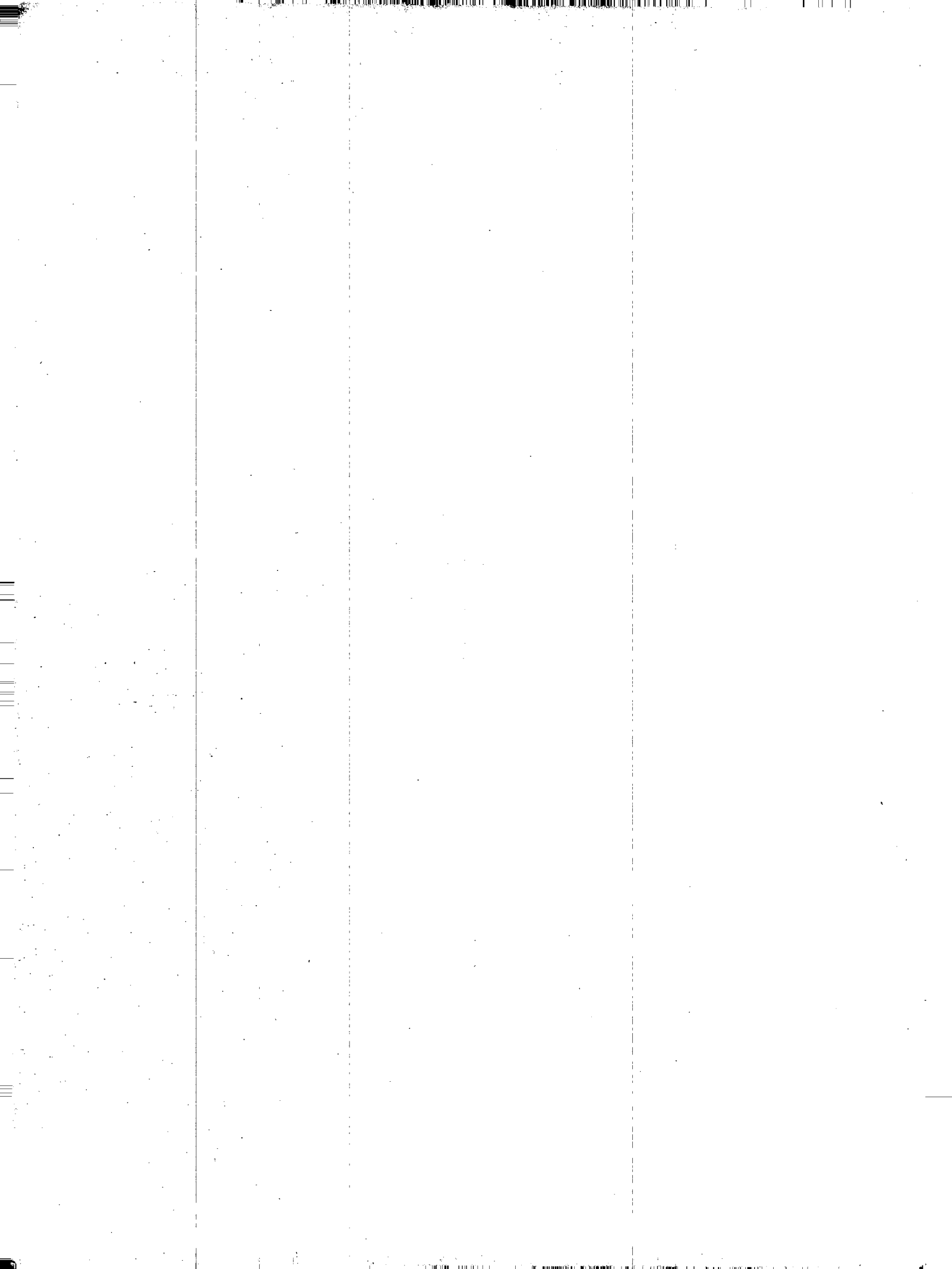
7.4.3 Were all details available in the Allotment/Appropriation register?

Our scrutiny of the allotment/appropriation register maintained at the Commissionerate revealed that expenditure against allotment was not properly/completely noted. Expenditure was not seen noted against Pay and Allowances allotment.

On this being pointed out, the Finance Officer stated that Pay, DA, HRA and other allowances under the heads of accounts viz. 2039-00-001-99-01, 98-01 and 97-01 were seen drawn without allocation and that was the practise followed in that Department. Hence no expenditure was recorded in the allotment register and that during the current financial year (2011-12) expenditure would be recorded. The Finance Officer also stated that there was no proper Finance Section with Superintendents/Section Officers. Preventive Officers and Excise Inspectors were being taken for ministerial work and they were not given proper training in financial matters and budgetary work.

7.4.4 Did the Department conduct periodical verification of Arms and Ammunition?

We noticed that physical verification of the arms issued to the field units was not conducted. The Deputy Commissioner, Palakkad stated that after 2002, the physical verification was being done by the possessor himself which shows there was no control mechanism to verify the stock of arms and ammunition.



Chapter VIII
Conclusion and Summary of
Recommendations

CHAPTER-VIII: CONCLUSION AND SUMMARY OF RECOMMENDATIONS

8.1 Conclusion

The Excise Department has not set forth a mission and vision for itself nor identified risks to the achievement of its goals. Lack of vision has resulted in declaration of conflicting policy statements like reduction of alcohol consumption on the one hand and opening more outlets for liquor consumption on the other.

The Department though entrusted with the task of collection of excise revenue, along with regulatory and enforcement activities, has only a limited role in respect of revenue generation. The Department did not levy permit fee amounting to ₹16.45 crore due on the transport permits issued from FL9 godowns to the retail outlets. It was able to achieve some of the objectives of the Amnesty Scheme by clearing about 50 per cent of the outstanding cases.

There was laxity in enforcement activities and the cases detected were also accumulating due to delay in registration/charge sheeting. 46,183 cases were pending as on 31 March 2011. Even though the department has its own intelligence wing, and sufficient inputs are given, the enforcement wing did not utilise/follow up the inputs to prevent illegal activities.

Chemical analysis results were pending for more than five years due to lack of infrastructure facilities at the laboratories, causing delay in registration/charge sheeting of cases wherever necessary. Around 20,000 samples were pending analysis even after the Department sanctioned destruction of more than 7,000 samples. Even artificial toddy detected was not being reported due to technical reasons.

418 bar hotels were functioning though they were not entitled for licence under the existing rules. Though the declared policy of Government was to discourage alcohol consumption, during the last five years, the Government granted 153 bar licences and the liquor consumption in the state increased by 63 percent.

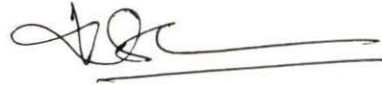
Lack of sufficient infrastructure facilities, training and proper equipments for the personnel were among the factors contributing to the ineffective enforcement.

8.2 Summary of Recommendations

The Government/Department may consider implementing the following recommendations:

- The Department may consider preparing a strategic plan covering mission, vision and objectives. Further, such a plan may be published widely amongst employees and the public.
- The Department must ensure that security labels are printed under its direct supervision.
- The Department may take immediate steps to levy and recover the permit fees under Section 11 of the Abkari Act for the period from 2006-07 onwards.
- The Government may consider amending the Rules (like prescribing aerial distance) to ensure that the distance restriction principle of prohibiting functioning of bars near educational institutions, places of worship etc is applied in practice.
- The Department may immediately provide the required infrastructure support to the enforcement wing, so that enforcement activities can be carried out more effectively.
- The Department may prescribe norms for leakage of seized spirit and monitor adherence of such norms.
- Fresh toddy collection centres may be started under direct supervision of the Excise Department and toddy distributed to other divisions under excise escort.
- The Department may take timely action to equip enforcement employees with arms, ammunition and provide other support facilities like boat.
- The Department may prescribe time limits for completion of chemical analysis and submission of test results. Chemical laboratories may be provided necessary human resources to enable them to discharge their functions effectively.
- The Government may consider taking action to prescribe clear parameters for identifying natural and artificial toddy. The chemical analysis report should specify whether the sample was of natural or artificial toddy.

- The Department may carry out a work study to clearly assess the manpower needs.



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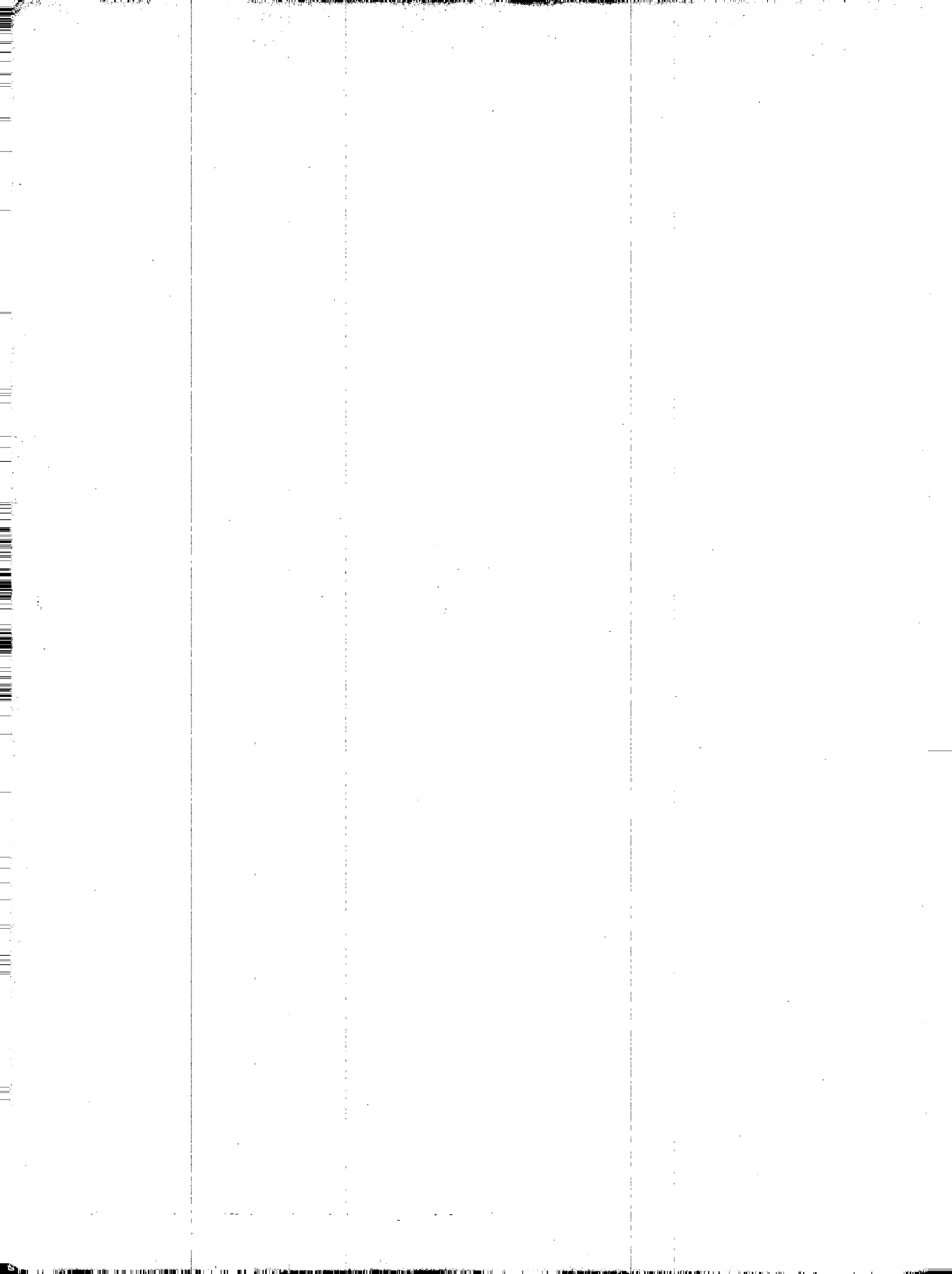
(K.S. SUBRAMANIAN)
Accountant General (WF&RA)
Kerala

Countersigned

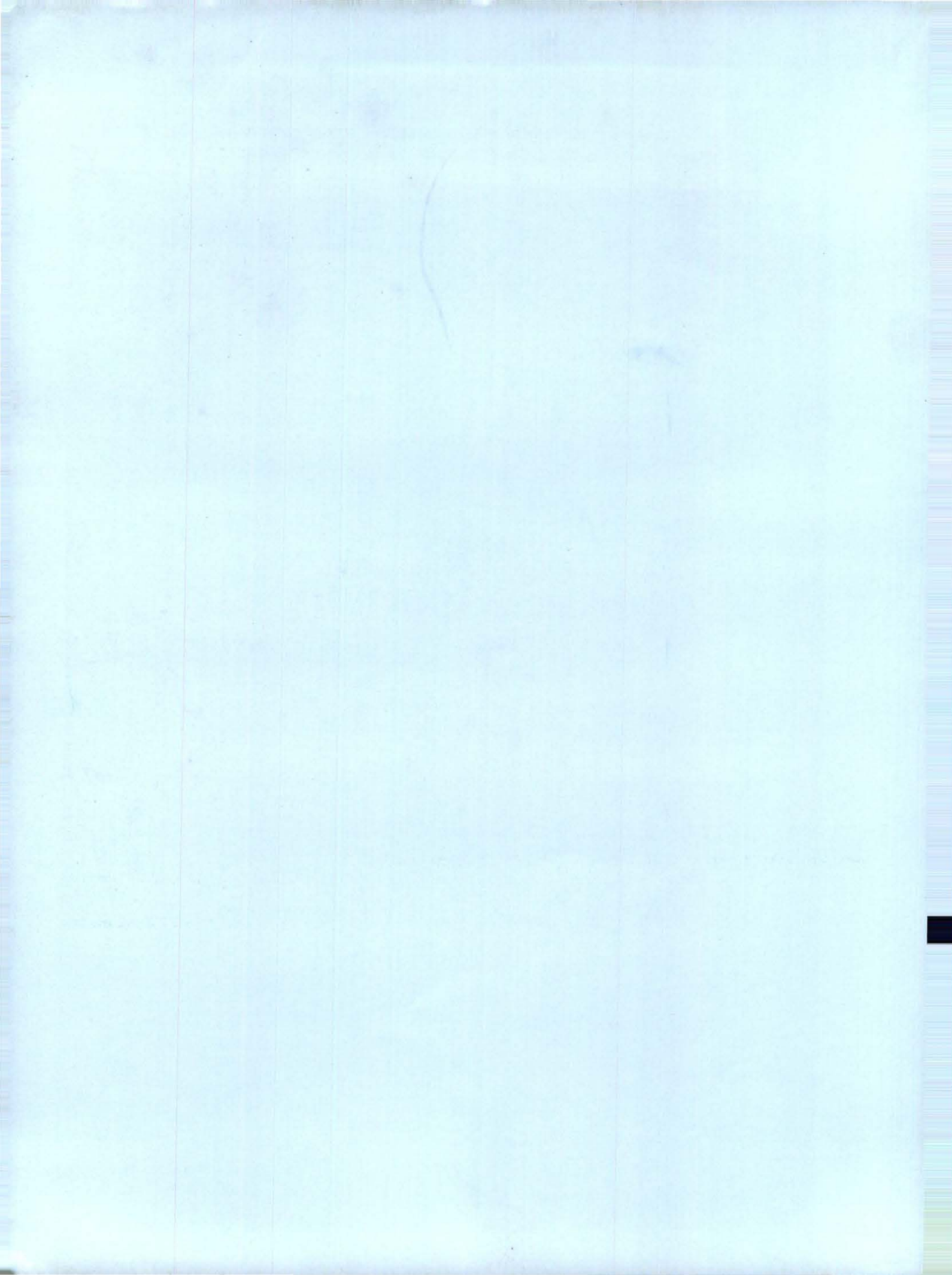


New Delhi,
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(VINOD RAI)
Comptroller and Auditor General of India



Appendix



Appendix

(Criteria for selection of Excise Department for review)

Criteria	Priority	Remarks
Financial materiality	Medium	Excise revenue constitutes eight to nine <i>per cent</i> of the total tax revenue of the state.
Significance of the activities of the Department	High	The Department discharges important functions of collection of excise revenue, supervision of distilleries and breweries and preventing production and consumption of illicit liquor
Visibility of the activities of the Department	High	Liquor tragedies and various social ills caused due to liquor consumption were being regularly highlighted in the media
Risk to management: (a) Financial Risk (b) Operational Risk	Medium High	Revenue is paid by Kerala State Beverages Corporation, a public sector unit and hence major revenue leakage was not expected Past local audit reports and media reports indicated weaknesses in functioning of several key controls
Estimated audit impact	High	Review of the Department has not been taken up by us in the recent past
Overall assessment	High	As the assessment revealed four criteria to be 'high' and two as 'medium' priority.

