

# 2 FOREIGN EXCHANGE OPERATIONS AND ADJUDICATION

## 2.1 Overview

SBP Banking Services Corporation has been assigned the operational work relating to foreign exchange under SBP BSC Ordinance 2001. While the Exchange Policy Department of SBP is engaged in formulation and implementation of foreign exchange policies, the Foreign Exchange Operations Department (FEOD) of SBP BSC is responsible for operational work relating to foreign exchange. The scope of the FEOD consists of implementation of foreign exchange policies by monitoring and overseeing the operations of the Authorized Dealers. Thus the FEOD interface with the Exchange Policy Department of SBP for implementing foreign exchange policy measures.

BSC is also an adjudicating forum to help its stakeholders to ensure compliance of requirement of the Foreign Exchange Regulation Act 1947 concerning repatriation of foreign exchange by the exporter and import of goods and services by importer to the extent of foreign exchange remitted abroad. Foreign Exchange Adjudication Department (FEAD) was set up in 1990 pursuant to insertion of Section 23-B in Foreign Exchange Regulation Act 1947 in 1988. The department operates under the Adjudicating Proceeding and Appeal Rules 1988 enunciated by the Government of Pakistan vide SRO 359(1)/88 of 15th May 1988. FEAD has nine courts all over the country, viz. three in Karachi, two each in Lahore, Sialkot, and one each at Faisalabad and Multan.

## 2.2 Foreign Exchange Operational Activities

During the year FY06 the FEOD has strived to facilitate foreign exchange business in the country. It pursued an ambitious agenda to modernize the working procedures, working environment and mindsets. For this purpose, a Development Unit has been established in the department and the Director FEOD has held several meetings with the staff and officers to improve working of the department. Working Procedures are being documented and suggestions for further improvement are being gathered from stakeholders. In addition a number of initiatives have been taken during the period under review to enhance the efficiency of the department:

### 2.2.1 Export Overdue Cases

A number of steps have been taken to revamp Export Overdue Cases:

- a. New scrutiny sheet for Export Overdue cases was introduced and after obtaining comments of the field offices, the format of the sheet has been finalized and sent to offices for implementation.
- b. Data has been compiled for Export Advisory Committee meetings regarding cases closed / decided in the Adjudication Court for the period 2000-05.
- c. Data regarding Export Overdue cases pending with FEOD and SBP BSC offices up to 30<sup>th</sup> June 2005 for adjudication purpose has been prepared and centralized.
- d. Head Offices of the banks have been advised to arrange updating of data of unrealized cases (V-16) as also of realized cases (V-17) in respect of their branches all over Pakistan. Field offices were advised to take up the matter with regional authorities of the bank for expediting the process.
- e. Information regarding Show Cause Notices vacated from the years 2000 to 2005 obtained from SBP BSC offices are under process of compilation
- f. Foreign currency-wise data prepared on the basis of information collected from SBP BSC offices regarding pending cases of Export Overdue.
- g. Field offices have been advised to initiate action against exporters having defaulted in realization of export proceeds on the basis of information received from regional bank authorities instead of waiting for receipt of the same from FEOD, HOK. It will greatly facilitate in attending to overdue cases.

- h. Contacted with NADRA authorities for determining CNIC number of exporters which were not traced at their addresses.

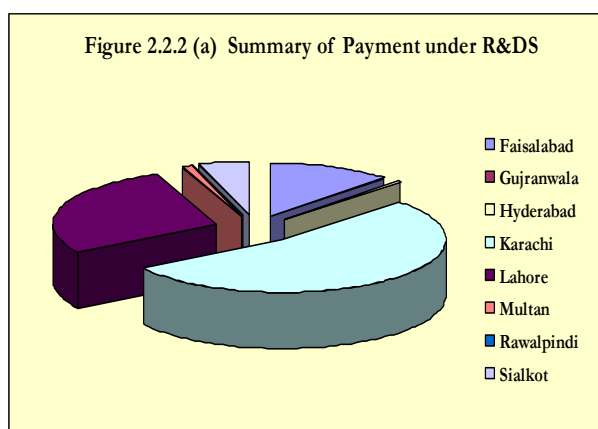
### 2.2.2 Research & Development Support to Garment Industry

Research & Development Scheme was launched by the Ministry of Commerce, Government of Pakistan on May 18, 2005. Research and Development Support (RDS) is provided to the textile garment units manufacturing and exporting textile garments at the rate of 6 percent of the FOB value of the exports to European Union and USA. The said support is applicable to the shipments made on or after April 12, 2005. Since the introduction of the scheme thousands of the cases have been received from the exporters for RDS. In anticipation of the heavy rush of work and excessive pressure, a separate RDS Unit has been established in the FEOD to monitor the processing of RDS claim cases in field offices of BSC. While processing the cases under RDS, many practical difficulties are being faced by the field offices. It has been observed that various Authorized Dealers have forwarded their cases without carrying out proper scrutiny at their end. As a result various common irregularities were detected by the BSC offices which should have been identified by the Authorized Dealers before submitting the claim to BSC. The common discrepancies in RDS cases were:

- Claim lodged for an amount in excess of export proceeds realized
- Claim lodged for an amount in excess of shipment made by the exporter
- Commission not deducted
- Duties not deducted in cases of DDU shipment
- Freight & Insurance not deducted in case of CIF shipment
- Conversion of foreign exchange at a higher rate
- Ineligible commodity / destination
- Less freight deducted
- Less reported in relevant Schedule
- Miscalculation on Annexure I

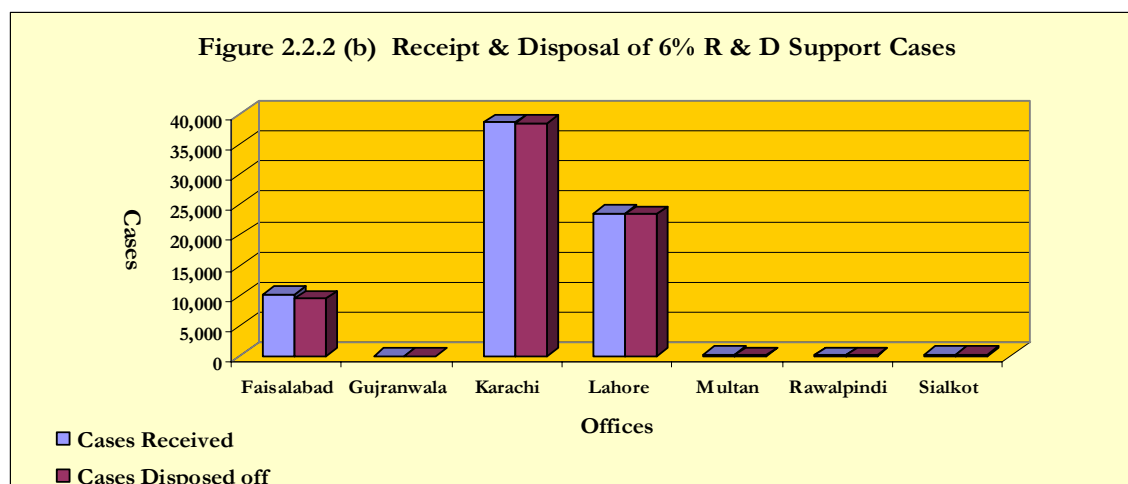
Irrespective of the above difficulties, the FEOD has processed more than 31,000 cases up to July 2006. Of these cases about 28,000 were found eligible for payment while 3,000 cases were under different objections. The main reason for accumulation of under objection cases was lack of proper response from Authorized Dealers. Summary of payment under RDS and number of cases received and disposed of are given in the following tables.

<b>Table 2.2.2 (a) Summary of Payments under Research &amp; Development Support (Rs. in million)</b>		
<b>S #</b>	<b>Field Offices</b>	<b>Total</b>
1	Faisalabad	803.7
2	Gujranwala	6.9
3	Hyderabad	8.4
4	Karachi	3,538.4
5	Lahore	1,856.1
6	Multan	51.3
7	Rawalpindi	6.5
8	Sialkot	326.3
<b>Total</b>		<b>6,597.6</b>



**Table 2.2.2 (b) Receipt & Disposal of 6% Research & Development Support Cases**  
(Cases in number)

(Cases in Number)							
S #	Field Office	Cases Received	Cases Disposed of	S #	Field Office	Cases Received	Cases Disposed of
1	Faisalabad	10,265	9,544	5	Multan	314	211
2	Gujranwala	39	39	6	Rawalpindi	88	88
3	Karachi	38,675	38,515	7	Sialkot	266	245
4	Lahore	23,693	23,516				
Total						73,340	72,158



### 2.2.3 Evaluation of the Performance of Exporters

Each year FEOD performs verification of export performance by processing the EE / EF Statements submitted by exporters through their banks. These statements record the export proceeds repatriated to Pakistan during the year and these are checked through various monthly returns submitted by the banks. On the basis of this export performance, the exporter is granted Export Refinance facility. During FY06, 1,778 cases (158,160 entries) have been received from the authorized dealers and disposed of accordingly.

**Table 2.2.3 EE / EF Cases Received and Disposed of during FY06**

Bank	Cases	Entries	Bank	Cases	Entries
ABN AMRO Bank N V	50	4,660	KASB Bank Ltd.	25	893
Al Baraka Islamic Bank	4	238	MCB Bank Ltd.	73	2,721
Allied Bank of Pakistan Ltd	31	3,535	Meezan Bank Ltd.	49	5,206
Askari Commercial Bank Ltd	127	13,493	Metropolitan Bank Ltd.	164	26,557
Bank Alfalah Ltd.	90	8,557	mybank Ltd.	30	788
Bank AL Habib Ltd.	101	16,854	National Bank of Pakistan	19	2,695
Bank of Punjab	2	33	NDLC-IFIC Bank Limited	82	5,437
Citi Bank N A	53	2,534	Oman International Bank	4	160
Crescent Commercial Bank Ltd.	9	296	PICIC Commercial Bank Ltd	72	2,747
Deutsche Bank	9	792	Prime Commercial Bank Ltd	56	2,709
Faysal Bank Ltd.	69	3,376	Saudi Pak Commercial Bank Ltd	10	301
First Women Bank Ltd.	1	39	Soneri Bank Limited	77	8,145
Habib Bank A G Zurich	109	12,714	Standard Chartered Bank	20	2,617
Habib Bank Ltd.	209	13,380	Union Bank Limited	87	8,696
Hong Kong Shanghai Banking Corp	22	1,597	United Bank Limited	124	6,390
<b>Total</b>				<b>1,778</b>	<b>158,160</b>

### ***2.2.4 Technological Up-gradation***

Previously a number of functions in the FEOD were performed manually as only 5 PCs were available in the department. For the FY06, it was planned to acquire more PCs to improve efficiency and ensure quick disposal of cases. Due to vigorous efforts 15 PCs were provided to the FEOD. Packages in MS Access have been developed within the department for the task relating to Exchange Accounts and Research and Development Support.

### ***2.2.5 Enhanced Communication Network***

The FEOD home page on Electronic Bulletin Board was revamped and updated. Useful information about the department and statistics such as remittances on account of Reuters & SWIFT charges, Amount of L/Cs opened, etc were placed on board and updated regularly. Due to recent change in format of the Electronic Board, the data and information is currently being reformatted and updated. Written communications are being encouraged instead of verbal discussions so that important notes are documented with a view to make the process transparent.

### ***2.2.6 Reorganization of Departmental Functions***

Previously the cases of Export Overdue were processed both in Export Unit and Legal and Enforcement Unit. Individual units were handling references from Authorized Dealers of Karachi region and references from other BSC offices were handled by Central & Statistics Unit resulting in some inconsistency in various decisions. To streamline the processes, several unnecessary layers have been removed improving the effectiveness of the processes and reducing the turnaround time. In this regard following steps have been taken:

- All functions related to Export Overdue have been consolidated in Legal & Enforcement Unit
- Central & Statistics Unit has been dismantled and the references from other offices are now dealt by relevant Unit.
- The core functions of Import and Export have been consolidated by merging the Import and Export Units into a new unit named “Core Operations Unit”
- Vital Statistics Division has been created by consolidating all statistics related functions. The Division consists of Returns Unit and parts of Central & Statistics Unit, Import Unit, Export Unit, etc.

### ***2.2.7 Attachment / Internship with Authorized Dealers***

In the departmental meeting held with Managing Director on 4<sup>th</sup> February, 2006, the proposal of attachment with leading commercial banks was discussed. It was felt that the knowledge and experience possessed by the existing staff is mostly theoretical in nature and do not account for the contemporary trend happening in the external environment. Most of the knowledge and guidance have been acquired from the Foreign Exchange Manual and the booklet of instructions. After getting approval from the Managing Director, prominent banks dealing in foreign exchange were contacted. All the banks welcomed the idea and the program has successfully been started. So far FEOD has sent two batches each consisting of two officers.

### ***2.2.8 In-house Training***

The officers of the field offices attended regular courses on Foreign Exchange operations at NIBAF. The number of employees who attended the course on foreign exchange is given in the following table:

**Table 2.2.8 (a) Training on Foreign Exchange Operations attended by the Officials of BSC**

S #	Field Offices	Number of Trainees	S #	Field Offices	Number of Trainees
1	Bahawalpur	3	8	Lahore	11
2	D.I.Khan	2	9	Multan	3
3	Faisalabad	6	10	Muzaffarabad	4
4	Gujranwala	2	11	N.N.Karachi	2
5	Hyderabad	4	12	Peshawar	6
6	Islamabad	4	13	Sialkot	4
7	Karachi	5	14	Sukkur	4
<b>Total</b>					<b>60</b>

In addition to the courses offered by NIBAF, separate departmental training program has been planned to accommodate the specific requirements of the officials of the Department. Keeping in view the importance of this training, comprehensive training modules were designed. Budget to conduct these sessions was approved by the competent authority. So far 9 sessions of the training have been conducted. Details of in-house training are as follows:

**Table 2.2.8 (b) Detail of In-house Training**

Topic	Name of Speaker	No. of Sessions
Mercantile Law – Incoterms 2000	Mr. Raees Ahmed, AD, EPD, SBP	2
Back Ground, Functions & Modus Operandi of Exchange Companies	Mr. Samar Hasnain, Sr. Joint Director, EPD, SBP	1
Central Banking Prestige & Export Documentation with Related Risks	Mr. Mashkoor A. Babar, Head Forex Operations, MCB	2
Import & Export Documentation	Mr. Mehmood Ahmed, Former Vice President, FPCCI	1
Export Entitlement / Export Finance Verification	Mr. Syed Ishtiaq Ali, Joint Director, SME & Microfinance Department	1
Unit-wise Working Procedure	Officials of respective units	2
<b>Total</b>		<b>9</b>

### 2.2.9 Self Audit Plan

On the recommendations of the Audit, a number of actions have been taken to improve the working of the department. A summary of Audit recommendations and proposed action plan is given in the following table.

<b>Table 2.2.9 Self Audit Plan</b>	
<b>Audit Recommendation</b>	<b>Proposed Action Plan /Timeline</b>
To arrange meetings of Export Advisory Committee (EAC) regularly	Four meetings each year at Lahore / Karachi. A meeting was held in Sialkot during April this year.
Implementation of decisions of EAC	The procedures are being made more effective
Self Audit at the case initiating and Unit supervisory level, followed by random / percentage check by Junior Joint Director / Joint Director / Director	The procedures are being strengthened by rigorous Self Audit, cross check through IMU and probing details

<b>Table 2.2.9 Self Audit Plan</b>	
<b>Audit Recommendation</b>	<b>Proposed Action Plan /Timeline</b>
Holding of departmental training for creating awareness among officers about risks as well as related internal controls, and to equip them with updated knowledge of the field.	Besides the training sessions, attachment / internship with commercial banks is being planned for which proposal has been approved by Managing Director
Updating of Export Overdue data	Ongoing
Revamping of Export Overdue process to timely issue Show Cause Notices and effectively pursue the case	Teams will be formed for disposing of old overdue cases, coordinating with agencies such as NADRA to trace the exporters and with FEAD to ensure proper follow up.
Introducing a computer based program for scrutiny of Forms / Schedules / Returns submitted by Authorized Dealers	The plan has been submitted to ISTD SBP.
Enhancing IT skills of officers of the department by arranging training sessions	The plan has been submitted to ISTD SBP.
To smoothly carry out the work of verification of forms EE-1/EF-1	A system for verification is being devised to carry out the job effectively
Monitoring and pursuing the repatriation of commission / profit reported in monthly statements by companies / firms running bonded warehouses	Standard Operating Procedures have been developed
Implementation of Job Rotation Policy with the goal of developing competency among officials	Revised on need basis
Fixing of responsibility and taking suitable action in case of irregularity	On going
Evacuation drill	On going
Keeping an updated Business Continuation Plan	On going

### ***2.2.10 Strengthening the Role of Internal Monitoring Unit (IMU)***

Previously the role of IMU was limited to a few typical functions within the department. There was monotony and no creativity in their work. Now the role of IMU has been enhanced to encompass the functions of the entire department. Now most of the cases are routed through IMU.

### ***2.2.11 Rotation of Staff***

Periodic rotation of staff has become the regular feature of the department. This is being done to achieve the very purpose of succession planning and to make the processes and functioning of the department as much transparent as possible.

### ***2.2.12 Opening of New Dak Receipt Counter***

Previously there was only one counter in the Subsidiary House which was insufficient in view of the workload. Now a new counter has been established behind the canteen emergency exit to deal exclusively with cases pertaining to FEOD. Further, a separate counter for RDS cases has also been established in the newly established Visitors Lounge.

### ***2.2.13 Scrutiny of the Cases at Counter***

Previously, any objection in a case was communicated by the concerned Unit and took about a week to be conveyed. Resultantly, there was unnecessary delay in disposal of cases. Now the staff posted at the Receipt Counters has been equipped with necessary knowledge about the various types of cases. They conduct preliminary checks of the cases at the counter and inform the representative of the Authorized

Dealer about any objections / discrepancies which are sometimes rectified instantly. This has reduced the turnover time for disposal of cases.

### **2.2.14 Improvement in Physical Environment**

During the period under review entire department has been white washed and floor has been chemical polished. Unnecessary record has been shifted to Index Room. Unit wise cubicles have been set up and new uniform sized tables and chairs have been acquired. New wall almirahs have been provided replacing 30 almirahs and 35 cabinets. A visitor's lobby has been setup at the ground floor, where representatives of Authorized Dealers and other stakeholders such as bankers and exporters meet the officials of the department to discuss their problems. As a result of these efforts the department now gives a decent look.

## **2.3 Foreign Exchange Adjudication Department**

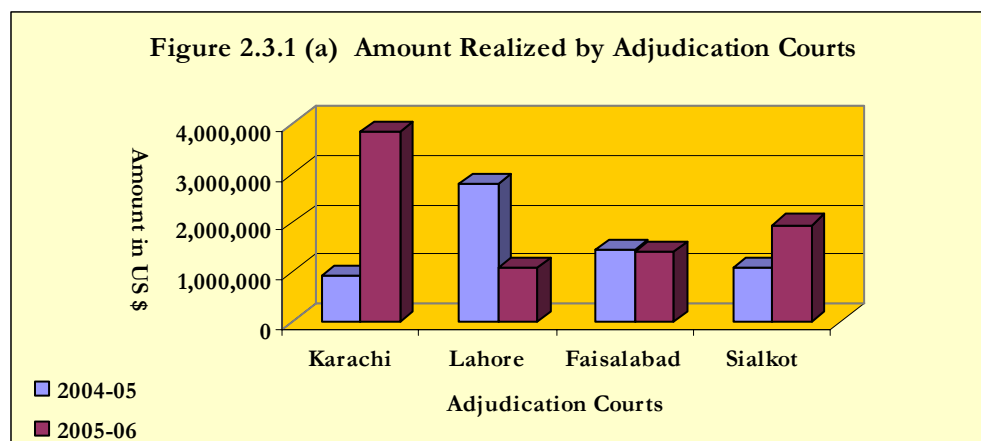
With a view to improve the working of the department the organizational structure of FEAD at Head Office, Karachi has been revamped. This initiative has been taken to ensure prompt judicial process, efficient and effective data compilation and follow up of the closed cases where the fines were imposed on the delinquent exporters. The new structure of the department is as under:

- **Adjudicating Wing**  
This wing is under the direct control of Director and responsible for proceedings of the complaints/cases lodged by the FEOD in the light of powers under Section 23 B of FER Act 1947. Presently three Adjudication Courts have been set up in Karachi each headed by the Director, Joint Director and Junior Joint Director of the FEAD respectively.
- **Coordination & Recovery Division**  
This division ensure liaison among all Adjudication Courts as also with the District Recovery Officers at District Level so as to boost the recovery process. This division is headed by a Joint Director.
- **Administration Wing**  
This wing deals with all administrative matters relating to the department at Head Office and at field offices in case of need.

### **2.3.1 Realization of Export Proceeds**

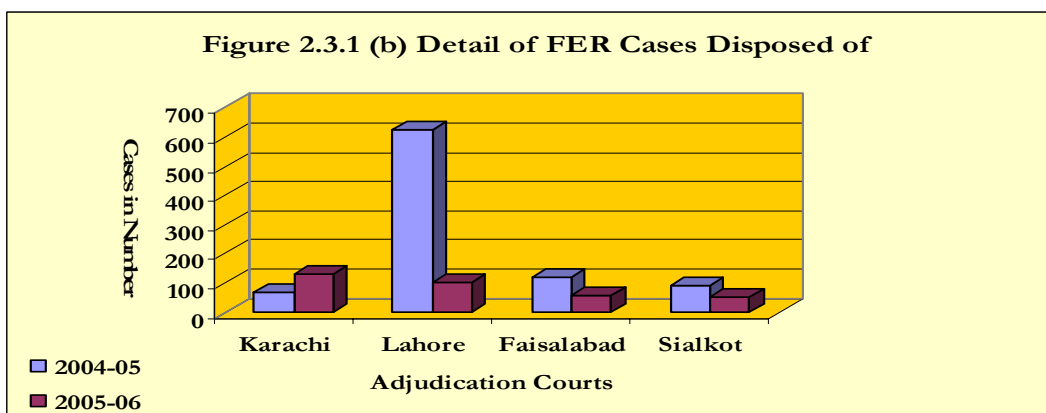
During the FY06 the department has arranged realization of stuck up export proceeds equivalent to US \$ 8.287 million as compared to realization of over due export proceeds of US \$ 6.26 million under FEAD regime during corresponding period i.e. FY05, indicating a net increase of US \$ 2.027 million. The detail of the amount realized by the Adjudication Courts at Karachi, Lahore, Faisalabad including Multan, and Sialkot during FY06 vis-à-vis FY05 is given in the following table:-

<b>Table 2.3.1 (a) Amount Realized by Adjudication Courts</b>			
<i>(Amount in US \$)</i>			
<b>Adjudication Court</b>	<b>2004-05</b>	<b>2005-06</b>	<b>Increase / Decrease in (%)</b>
Karachi	936,323	3,851,586	311.4
Lahore	2,807,360	1,067,686	-62.0
Faisalabad *	1,441,450	1,408,277	-2.3
Sialkot	1,074,718	1,959,314	82.3
<b>Total</b>	<b>6,259,851</b>	<b>8,286,863</b>	<b>32.4</b>
<i>*Including Multan</i>			



In managing realization of the above export proceeds, the department disposed of a total of 346 complaints during FY06 as against 907 FER cases during FY05 as per detail mentioned hereunder:-

<b>Table 2.3.1 (b) Detail of FER Cases Disposed of</b>			
<i>(Cases in Number)</i>			
<b>Adjudication Courts</b>	<b>2004-05</b>	<b>2005-06</b>	<b>Increase / Decrease (%)</b>
Karachi	69	133	92.8
Lahore	627	104	-83.4
Faisalabad*	121	58	-52.1
Sialkot	90	51	-43.3
<b>Total</b>	<b>907</b>	<b>346</b>	<b>-61.9</b>
<i>* Including Multan</i>			



As the department has suspended disposal of cases on ex-parte basis, the overall number of cases disposed of has been reduced. During FY06 negligible numbers of cases were disposed of on ex-parte basis by imposition of fine.

### **2.3.2 Penalty Imposed on Non-realization of Export Proceeds**

During FY06, an amount of Rs.21.5 million was imposed as penalty on the exporters on account of non-realization of export proceeds as compared to Rs.199.2 million during the preceding year, showing a net decrease of Rs.177.7 million. The decrease in the amount of penalty was due to change in the strategy towards repatriation of export proceeds instead of imposing penalty.



### **2.3.3 Co-ordination with Stakeholders**

The main stakeholders of the FEAD are Foreign Exchange Operations Department of BSC, Authorized Dealers and accused firms (exporters and importers). As part of new approach to seek coordination with the stakeholders, the department has started encouraging the Authorized Dealers to take efforts in locating the accused exporter / importer so that he can be motivated for repatriation of export proceeds.

### **2.3.4 Monitoring & Adjudication**

During 2005-06 the department has redesigned the statements / returns to facilitate reporting of data submitted by various FEAD Courts in respect of complaints filed, disposed of and proceeds realized / penalties imposed / recovered from the delinquent importers / exporters. These returns also contain aging of the complaints in FEAD. Redesigned statements / returns are being used for monitoring performance of each of FEAD Court.

### **2.3.5 Automation**

During the period under review the department acquired its first lot of PCs from the ISTD which have now been made operational in networking environment using ISTD server. The department is now taking optimum benefits from the outlook facilities provided by the SBP to communicate with the stakeholders as well as outstation Adjudication Courts through e-mail reducing the time and cost on communication. With the help of computer related infrastructure and technology the department has been able to computerize its record on all Pakistan basis in respect of outstanding complaints with the aging as also reconciliation of the penalty imposed by FEAD Courts in yester years since inception of the department. The department also intends to computerize the work relating to issuance of show cause notices, summons / notices for each case to facilitate timely action against accused. However, the new computer resources have been used to consolidate the data of outstanding cases pertaining to all FEAD Courts on new updated formats as also the updating of record of cases already decided. Accordingly the data relating to all court cases has been computerized and a database is being maintained at the HOK in the following categories:

- a) The cases wherein penalty has been imposed.
- b) The cases wherein Export Proceed has been realized.
- c) The cases under process in various Adjudication Courts.
- d) The cases which were vacated either after realization or exonerated on other grounds.
- e) The cases under which the penalties are recoverable and pending with District Recovery Officers.

### **2.3.6 Capacity Building of Employees**

The training on various modules is being provided to the officials of the department in order to build their capacity as per training calendar prepared by the Administration Department of BSC. In addition to this weekly lectures on various topics are also delivered in the department. Periodical meetings of the employees of the department are also held to provide guidelines to the members of the department to improve their capacity. The department has also been trying to coordinate with the Federal Judicial Academy to organize a short training course for the Adjudicating Officers and other court staff. It is expected that the process will be completed by the end of December 2006.

### **2.3.7 Future Direction**

Although the Adjudicating Officers are empowered to take exparte decisions and impose penalty on the accused which is very simple and time saving for closing down the case. However by taking an exparte decision the FEAD loose the chance to repatriate the foreign exchange in the country. Further, the progress in recovery of the penalty amount imposed on the accused by using the office of the District Revenue Officer has also been negligible. The department will, therefore, continue to motivate the accused to repatriate the foreign exchange by giving him a reasonable time or the option to repatriate the stuck up over dues in installments as well.

