

**VOLUME – I**

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## **CHAPTER – 1**

### **INTRODUCTION**

#### **1.1.1 HISTORY**

Tax has an extremely long established history, both in India and internationally. In the ancient times, it was a 'custom' for a merchant to make a suitable offering to the King on entering his kingdom for trade. Driven by the need for resources to run the royal administration, this custom morphed into 'customs duty'. The reason for so much of importance being accorded to public finance and the taxation system since early human civilization is not really far to seek. According to Chanakya, the power of the government depended upon the strength of its treasury. He states: "From the treasury comes the power of the government, and the earth, whose ornament is the treasury, is acquired by means of the treasury and army."

The growth and development of modern system of taxation is traced to imposition of poll tax in Britain in 1377. First imposition of customs duty in modern times was on basic commodities in Britain in 1643 and on beer and wine in the USA in 1764. Customs duties are known to have been levied in both Japan and China in ancient and medieval periods.

#### **1.2. EVOLUTION OF LEGISLATIVE ARCHITECTURE**

In India too, there is evidence of imposition of import duties during the ancient and medieval era. However, the modern period may be said to begin with the establishment of the first Board of Revenue in Calcutta in 1786. The provincial import duty was subsequently made applicable through out the territories through the Customs Duties Act, 1859 with the general rate of duty of 10 per cent. Sea Customs Act was passed by the British Government in 1878. The Indian Tariff Act was passed in 1894. Thereafter, Air Customs was covered under the India Aircrafts Act of 1911 and the Land Customs Act was passed in 1924. The Indian Tariff Act 1934 governed the Customs tariff.

After Independence, the Constitution of India provides for division of the taxation powers between the Union and the States. By virtue of entry No.83 in List-I (Union

List) to the Schedule VII to the Constitution, the Union Government is empowered to levy “duties of Customs including export duties.” The earlier legislations pertaining to Customs such as Sea Customs Act 1878 and Land Customs Act 1924 were consolidated into the Customs Act 1962. Similarly, the Indian Tariff Act 1934 was replaced by the Customs Tariff Act (CTA) 1975, being an Act to consolidate and amend the laws relating to customs duties. The First and Second Schedule to the CTA comprise the Import and Export tariff, specifying the rates of Customs duties levied under the Customs Act on import and export of goods respectively.

The Customs Act came into force with effect from February 1, 1963 vide notification M.F.(D.R.&I) No.16-Customs, dated 23.01.1963 and extends to the whole of India [section 1(2)] which includes the territorial waters of India [section 2(27)] which means the waters extending into the sea upto the limit of contiguous zone of India under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 and includes any bay, gulf, harbour, creek or tidal river [section 2(28)].

The Customs Tariff Act, came into force with effect from August 2, 1976 vide notification No.398-Customs, dated 31.07.1976 and extends over the same territory as the Customs Act. The most obvious implication of extension of the Customs laws to the EEZ and continental shelf of India is that the mineral oils, etc. extracted or produced in the sea within such geographical area and brought to the mainland of the country would not be covered within the ambit of imports. Similarly, materials and equipment supplied to such installations would not amount to export.

### **1.3. NATURE OF CUSTOMS DUTIES**

Customs duties may be levied on goods imported into, or exported from India. Section 12 provide that duties of customs shall be levied at such rates as may be specified under the CTA, or any other law for the time being force, on import or export goods. Customs duties are more prevalent on imports across the world,

including India. In India, only a certain export items are presently subjected to export duties. In addition, export cess in the nature of customs duty is being levied under different statutes on certain specified items.

In common parlance, the customs duty for which rates are prescribed under the First Schedule to the CTA is known as Basic Customs duty (BCD). The imposition of BCD is justified on the grounds of tariff protection to domestic industry. The maximum rates of duty that can be levied on different tariff lines are negotiated under the World Trade organization (WTO) and the country specific commitment regarding the maximum rates are called Bound Rates. The rates of duties prescribed by the Parliament under the CTA within the WTO bound rates are called the Tariff rates. However, the effective rates of duties may be fixed by the Government at a rate lower than the tariff rates through issue of notifications.

In addition to the BCD, section 3 of the CTA provides for levy of additional duty of customs, commonly called the Countervailing duty (CVD), equal to the excise duty for the time being leviable on a like article produced or manufactured in India.

The Customs Tariff Act (section 9A) provides for imposition of anti-dumping duty where any article is imported into India at less than its 'normal value', an anti dumping duty not exceeding the margin of dumping in relation to such articles. Imposition of anti-dumping duty by Department of Revenue is preceded by determination of the normal value, margin of dumping, etc. by the Director General (Anti- dumping), Department of Commerce following the procedure laid down in the Customs Tariff (identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. These levies are country-specific or sometimes even manufacturer/exporter specific. The Customs administrations across world are faced with new challenge in the form of attempts to evade anti-dumping duties through what is commonly referred to as "origin frauds".

The Customs Tariff Act (section 8B) provides for levy of safeguards duty on any article imported into India in the case of its imports in such increased quantities and under such conditions so as to cause or threaten to cause serious injury to the domestic industry. Levy of safeguards duty is preceded by enquiry by Directorate General of Safeguards, Department of Revenue as per Customs Tariff (Identification and Assessment of safeguards Duty) Rules, 1997. The Act also provides that, unless otherwise specifically made applicable, both anti-dumping duty and safeguards duty are not imposed on articles imported by a hundred percent export oriented undertaking, free trade zone and special economic zone.

The CTA also provides for imposition of protective duties upon recommendation made by the Tariff Commission established under the Tariff Commission Act, 1951 under provisions of section 5. It also provides for imposition of countervailing duty on subsidized articles where any exporting country or territory pays any subsidy, directly or indirectly, upon manufacture, production or exportation under section 9. No such levies have, however, been imposed by the Central Government.

The authority for levy of a lower rate of duty under a bilateral trade agreement is provided in section 5 of the CTA, which also provides for framing of rules of origin.

#### **1.4. PROHIBITION ON IMPORT OR EXPORT**

No goods can be imported or exported, except in accordance with provisions of the law. Section 11 empowers the central Government to prohibit, through issue of notification, either absolutely or subject to pre/post clearance conditionality, import or export of any goods if it is satisfied that it is necessary so to do for any of the twenty two purposes listed in the sub clause (2) of Section 11.

These purposes, inter alia, include the protection of patents, trademarks and copyrights [Section 11 (2) (n)]. Accordingly, notification No. 49/2007-Customs dated

8th May 2007 has been issued, which prohibits import of goods infringing intellectual property rights of the right holders under the following Acts:

- (i) Copyright Act, 1957;
- (ii) Trade Marks Act, 1999;
- (iii) Patents Act, 1970;
- (iv) Designs Act, 2000; and
- (v) Geographical Indications of Goods (Registration and Protection) Act, 1999.

The prohibitions are subject to the conditions and procedures as specified in the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.

The said twenty two purposes also include the prevention of the contravention of any law for the time being in force [Section 11 (2) (u)]. In addition, section 111 which relates to confiscation of improperly imported goods, etc. vide sub section (d) provides for confiscation of any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purposes of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force. Similar provisions for confiscation of goods attempted to be improperly exported contrary to any prohibition imposed by or under this Act or any other law for the time being in force exist under section 113(d).

In view of the increased emphasis on Green Customs, two of the Rules relating to trans-border movement of ozone depleting substances and hazardous wastes are cited. The Ozone Depleting Substances (Regulation & Control) Rules, 2000 has been framed in exercise of the powers conferred by sections 6, 8 and 25 of the Environment (Protection) Act, 1986. The said Rules provide for prohibition of various categories of ODS and articles containing ODS from different countries with effect from different dates.

Hazardous Wastes (Management & Handling) Rules, 1989, as amended by Hazardous Wastes (Management & Handling) Amendment Rules, 2003 has been framed under the authority of sections 6, 8 and 25 of the Environment (Protection) Act 1986. The said Rules, inter alia, prescribe that import of hazardous waste are not permitted for dumping and disposal of such waste.

The relevant Acts and Rules that have significance for legality of trans-border movement of goods have been dealt in detail in the subsequent chapters.

### **1.5. ORGANIZATIONAL SET UP:**

The economic affairs in the country are managed by the Ministry of Finance. Department of Revenue under the Ministry handles issues relating to policy formulation and implementation of tax revenues. Department of Economic Affairs and Department of Expenditure are two other important departments of the Ministry of Finance, besides Department of Financial Services (erstwhile Banking and Insurance Division of the Department of Economic Affairs) and Department of Disinvestment. The Central Board of Excise & Customs (CBEC) and Central Board of Direct Taxes (CBDT) are administratively under control of Department of Revenue. The CBEC came into being following the recommendations of the Direct Taxes Administration Enquiry Committee (1958-59) and the Central Excise Reorganization Committee (1963) and the passage of Central Board of Revenue Act, 1963.

The Board currently has a Chairman and five other Members. Under the Central Board of Excise & Customs (Regulation of Transaction of Business) Rules, 1964, the Chairman of the Board may distribute the business of the Board among himself and other Members and specify cases which shall be considered jointly by the Board.

CBEC, according to its Citizen's Charter, "is the apex body for administering the levy and collection of indirect taxes of the Union of India viz. Central Excise duty,

Customs duty and Service Tax, and for facilitating cross border movement of goods & services.” The Board is the administrative authority for its subordinate organizations, including Custom Houses, Central Excise Commissionerates and the Central Revenues Control Laboratory.

The Central Board of Excise and Customs maintains an updated website <http://www.cbec.gov.in/> which may be visited for details regarding the organization and functioning of the Board.

Some of the Directorates that assist the Board in discharge of its functions relating to Customs, enforcement and related matters are described in brief below:

(i) **National Academy of Customs, Excise & Narcotics (NACEN)** – The Academy with its main facility at Faridabad and regional centres imparts training to direct recruit officers and arranges refresher and specialized courses for departmental officers as well as the officers from Asian and African countries. NACEN may be visited at <http://www.nacen.co.cc/index.html>

(ii) **Directorate Revenue Intelligence (DRI)** – It is the apex customs intelligence organization, responsible for collection, collation, analysis and dissemination of intelligence regarding illicit trans-border movement of goods. It is also entrusted with maintaining liaison with other domestic intelligence and enforcement agencies as well as with foreign customs and enforcement agencies and in-depth investigation of important cases having inter-commissionerate and international ramifications, alerting field formations for interception of suspects and contraband goods, assessment of current and likely trends in smuggling and advising the Ministry in all matters pertaining to plug any loopholes and attending to such other matters as may be entrusted by the Ministry/Board for investigation. DRI may be visited at <http://dri.nic.in/>

(iii) **Directorate General of Central Excise Intelligence (DGCEI)** – Collection, collation and dissemination of intelligence relating to evasion of Central Excise duties, studying of price structure, marketing patterns and classification of commodities vulnerable to evasion of Central Excise duties, coordinating action with agencies like Income-tax, etc. in cases involving evasion of Central Excise duties, investigation of cases of evasion of Central Excise duties having inter-commissionerate ramifications and advising the Board and the commissionerates on the modus operandi of evasion of Central Excise duties and the appropriate remedial measures thereof. Similar powers have also been vested in the officers of the Directorate in respect of Service Tax. DGCEI may be visited at <http://www.dgcei.nic.in/>

(iv) **Directorate General of Human Resource Development (DGHRD)** – This Directorate has been created by amalgamation of Directorate of Organization & Personnel Management and Directorate of Housing and Welfare. It is mandated to cater to the various needs connected to cadre management and staff welfare.

(v) **Directorate General of Valuation** - The Directorate is entrusted with the main task of assisting and advising the Board in Policy matters concerning Customs Valuation; developing valuation tools (including databases) and best practices for the effective and uniform application of valuation law; monitoring valuation trends of sensitive commodities and taking corrective action; and providing guidance and advise to field formations on valuation questions and for checking undervaluation / over valuation of imported or export goods so as to prevent leakage of Customs revenue. DGOV may be visited at <http://www.dov.gov.in/newsite3/index.asp>

(vi) **Directorate General of Systems and Data Management** – The Directorate handles all aspects of the implementation Customs and Central Excise Computerisation Projects including acquisition of hardware, development and maintenance of software, training of personnel and monitoring of expenditure budget

on computerisation at the Central and field level. The Risk Management Division (RMD) of the Directorate is responsible for the roll out and management of the Risk Management System (RMS) and the Accredited Clients Programme (ACP).

(vii) **Directorate General of Safeguards** – The Directorate is entrusted with causing the enquiry as per Customs Tariff (Identification and Assessment of safeguards Duty) Rules, 1997 preceding the imposition of safeguards duty.

(viii) **Directorate General of Export Promotion** -

(ix) **Directorate General of Inspection** – It studies the working of the departmental machinery throughout the country, suggests measures for improvement of its efficiency and rectification of important defects.

(x) **Directorate General of Vigilance** - It maintains the vigilance cases against officers of Customs & Central Excise. It maintains proper surveillance on officials of doubtful integrity and also maintain close liaison with the Central Bureau of Investigation, local Directorate of Revenue Intelligence and Commissionerate Vigilance Branches to ensure that the programmes of vigilance and anti-corruption are implemented in all Commissionerates of Customs and Central Excise and Narcotics Department.

(xi) **Directorate General of Service Tax** - The main functions assigned to the Directorate include monitoring of the collection and assessment of service tax, study of the implementation of Service Tax in the field and to suggest measures to increase revenue collection; to undertake study of law and procedures, and to develop a data base.

(xii) **Directorate of Logistics** – It handles assessment of needs and procurement of equipment, weapons, marine vessels, etc. and maintenance thereof.

(xiii) **Central Revenue Laboratory** - To analyse sample of goods and render technical advice to the CBEC and its field formations in regard to dutiability or otherwise of various goods

## 1.6. CUSTOMS FORMATIONS

The work of customs administration across the length and breadth of the country is performed by various Commissionerates, each headed by a Commissioner, with geographical jurisdictions notified by the Government in exercise of powers under section 4 of the Customs Act. The extant jurisdictions are prescribed vide notification No.63/2002-Customs (NT) dated 03.10.2002 read with notification No.64/2002-Customs (NT) dated 24.10.2002, as amended from time to time. The extant jurisdiction of the Chief Commissioners are prescribed vide notification No.14/2002-Customs (NT) dated 07.03.2002, as amended. Similarly, the extant jurisdiction of officers in the rank of Addition Commissioner/Joint Commissioner/Deputy Commissioner and Assistant Commissioner are also prescribed vide aforesaid notification Nos. 63/2002-Customs (NT) and 64/2002-Customs (NT) in terms of geographical jurisdiction of the Commissioner of Customs.

The Act vide section 7 empowers the Board to appoint the ports, airports and inland container depots (ICD) to be the eligible for loading of export goods or unloading of imported goods. The Board has similar powers to notify land customs stations (LCS), land or inland water routes between LCS and international frontier

and ports for coastal trade. The powers to declare a place to be warehousing stations is vested with the Board vide section 9. However, powers to approve landing places and specify limits of customs area (section 8) and for appointment of boarding stations (section 9) are vested with the Commissioner of Customs.

## **1.7. OFFICERS OF CUSTOMS**

Section 3 of the Customs Act provides for the following classes of Customs officers, namely –

- (a) Chief Commissioner of Customs,
- (b) Commissioner of Customs, which includes an Additional Commissioner of Customs, except for the purposes of Chapter XV, as per section 2(8) of the Act.
- (c) Commissioner of Customs (Appeals),
- (d) Joint Commissioner of Customs,
- (e) Deputy Commissioner of Customs,
- (f) Assistant Commissioner of Customs, and
- (g) Such other class of officers as may be appointed for the purposes of the Act.

In addition, section 4 provides that the Board may appoint such persons as it thinks fit to be officers of customs. It is under the provisions of this section that the officers of various Directorates as well as officers of Uttar Pradesh PAC, Intelligence Bureau, etc. posted in specified regions of the country have been appointed as officers of customs. In addition, section 6 of the Act provides that the Central Government may entrust either conditionally or unconditionally to any officers of the Central or State Government or local authority any functions of the Board or any officer of customs. Accordingly, specified powers of the customs officers have been vested with officers of Border Security Force (BSF) and Indo-Tibetan Border Police (ITBP) wherever they are posted. Similar powers are vested with officers of Coast Guards within the Indian customs waters. However, officers of Central Reserve

Police Force (CRPF) and police officers of Andaman & Nicobar Islands, Lakshadweep Islands have been entrusted with specified powers of customs officers within the specified territories.

The Customs Act empowers customs officers of various classes to exercise powers conferred upon them by the Act. In addition, the Act enjoins certain functions such as assessment of duty under section 17 to be performed by 'proper officer'. Section 2(34) provides that "proper officer" in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the Commissioner of Customs. Different Commissionerates have issued appropriate notifications for appointment of proper officers.

## **CHAPTER - TWO**

### **2. THE PREVENTIVE DEPARTMENT**

#### **2.1. PRELIMINARY**

*In the earlier days, the trans-border trade was less diversified and fairly limited in terms of amplitude, media and destinations. The items of trade were few and the governing laws for the same were simple. Violations of the regulations in force were few and far between. The job of collection of admissible dues for the foreign trade was entrusted to the Revenue Officers who were also responsible for enforcing the existing statutes and for taking procedural actions in the cases of violations thereof.*

*Over the passage of time, however, the foreign trade developed into a multitudinal activity assimilating various aspects of national and international importance. This necessitated the formulation of new trade policies and laws on the part of the State as well as the International trading fraternity. With this came the new aspects of tax management and its violations. So, it became necessary to expand the functional network for collection of revenue and enforcement of laws. New departments were established to administer the same. Further, aggrandisement of foreign trade posed operational difficulties for the staff which were assigned multi-functional responsibilities.*

*India has 14,880 kms of land border running through 92 districts in 17 States and a coastline of 5,422 kms touching 12 States and Union Territories (UTs). India also has a total of 1197 islands accounting for 2094 kms of additional coastline. In fact, barring Madhya Pradesh, Chhattisgarh, Jharkhand, Delhi and Haryana, all other States in the country have one or more international borders or a coastline and can be regarded as frontline States from the point of view of border management.*

*It, thus, became inevitable to bifurcate the Customs manpower machinery into two wings for the two main streams of activity. One wing has been entrusted the job of collection of revenue while the other has been assigned the task of enforcement of the statute related thereto. Thus the Preventive setup for Commissionerates, seaports, dry ports (ICD and CFS), Land Customs Stations and airports came into*

*existence. Some specific Preventive Commissionerates and zones have been formed to combat the smuggling as well as misuse of different export promotion schemes and evasion of customs duty.*

*The Preventive Wing as the name would suggest, is involved in the prevention of smuggling activities by employing various deterrent methods, like maintaining intelligence network, cultivating informers, making searches leading to seizures, confiscation of contraband and arrest of offenders. Under the preventive wing function various intelligence units, which work in collaboration with each other for the single purpose of prevention of smuggling activities.*

*Every country has formulated its own Customs and Excise Laws to protect its national economy, natural resources, culture and environment. This entails putting ban, restriction and prohibition on the import / export of certain items. In addition to this, extensive and continuous vigil is also required to be maintained along the international land, sea and air frontiers of the country.*

*Banned, restricted or prohibited goods attract lucrative premiums. The premiums entice unscrupulous businessmen, traders, merchants, tourists and other category of travellers to clandestinely bring into or take out of country, such goods. Individuals, organised groups or international gangs can indulge in this activity, known as smuggling. Tracking and immobilising such offenders is one of the primary tasks of Customs Department in general and of Preventive Department in particular.*

## **2.2. SET-UP OF THE PREVENTIVE DEPARTMENT**

*Before going to discuss the preventive set up for each of the customs formations i.e Commissionerates, seaports, dry ports (ICD and CFS), Land Customs Stations, airports, specific Preventive Commissionerates and zones, the*

characteristics which are common in all the preventive setups are discussed as under:

### **2.2.1. ESTABLISHMENT:**

The founding blocks of the Preventive Department consist of the Superintendents, Preventive Officers ( in case of seaports) / Inspectors, Group 'D' staffs, Drivers, Boat / Motor launch staffs ( in case of seaports / Commissionerates) and the Communication Staff.

Recruitment to the Group 'D' cadre is either directly through Employment Exchange and Sports quota etc. or by promotion from the menial staff of Loaders and Hamals etc., as per the existing recruitment policy.

Similarly, the recruitment to the cadre of Preventive Officers / Inspectors is through the Staff Selection Commission as well as by promotion from the ministerial staff such as Tax Assistants, U D Cs and Stenos, as per the rules framed in this regard.

Recruitment at the level of Superintendent, however, is done entirely by promotions from the cadre of Preventive Officers / Inspectors. The next promotional avenue for the Superintendents cadre is the post of Assistant Commissioner. The Group A officers of the level of Assistant Commissioners and above have a common cadre of Indian Customs & Excise Services.

### **2.2.2. SELECTION OF PREVENTIVE OFFICERS:**

The success of preventive and intelligence work largely depends on the selection of the right type of officers as the personal factor invariably plays an important role in this type of work. The natural aptitude for detection, the knack for collecting intelligence, the honesty, integrity, initiative and drive of the officers should be

*carefully examined in making the selection. A list of the officers with a flair for detection with a high sense of integrity and devotion to duty should be prepared and from out of this list, selection should be made for the post of preventive officers.*

### **2.2.3. TRAINING**

*Every preventive officer should be given a proper training after his selection to enable him to have a sound knowledge of his duties. He must be trained in the collection of information, compilation of intelligence reports, conducting investigations, carrying out searches and raids, making seizures and the various other duties concerned with his work. Unless his knowledge of the Rules, regulations and procedures is thorough and up to date, he will lack in both confidence and the ability to do useful preventive and detection work. He must be made fully aware of his powers and limitations so that he may not be guilty of excesses and indiscretions.*

### **2.4. DEPLOYMENTS OF THE PREVENTIVE STAFF**

*The Preventive staff forms the backbone of the all the anti-smuggling operations executed by the Commissionerates and other Custom formations. Besides this, its services are also utilised for general duties like guarding of Customs stations, escorting of import I export goods from one place to another, boarding of vessels, patrolling Customs areas, clearance of passengers and baggage, supervision of loading I unloading of export I import goods, supervision of etc.*

*Thus the deployment of Preventive staff can broadly be divided into two categories:*

**a) General duties** - *where the tasks performed are of Supervisory nature and for implementation of the Customs Laws and generally performed at sea ports and have been discussed in the seaports part.*

**b) Special duties** - where the tasks executed are of Operative nature and for detection and prevention of violations of Customs Laws - popularly known as Preventive or Intelligence Duties which is performed by all preventive setups.

## **2.5. RECRUITMENT OF INFORMERS & IDENTIFICATION OF SOURCES**

### **COLLECTION & DEVELOPMENT OF INTELLIGENCE**

#### **EXECUTION OF INTELLIGENCE**

The basic need of a Preventive set up is to identify the different sources and cultivate informers providing the intelligence. The intelligence / information obtained from the said sources is further developed and executed by way of searches / examination or under summon proceedings. These aspects have been discussed in Chapter 1 of Volume II.

#### **2.6. Search Operations:**

During the course of Search, the importer / exporter or any other persons whose premises is to be searched has a right to demand production of Search Warrant issued by the Dy. Commissioner / Asst. Commissioner of Customs. This Search Warrant however, will not be given to the importer / exporter, but only shown to him and his signature is obtained thereon. The importer / exporter can also demand production of identity cards of the officers who are going to search his premises. The search will be carried out in the presence of two independent witnesses and a mahazar / Panchnama will be drawn indicating the proceedings conducted there, such as recovery of documents and goods if any, listing out the full details. The copy of the mahazar / Panchnama drawn at the time of search will also be given to the occupant of the premises. If any person refuses to show the search warrant or the identity card and still insists on the search of the premises, the matter may be brought to the notice of Dy. Commissioner / Assistant Commissioner and

*higher authorities.*

## **2.7. Issuance of Summons:**

*Wherever it is necessary to conduct an enquiry in respect of the investigation in a particular case, the persons connected with the case will be summoned to give statement / produce documents and records relating to the transactions. Summons will be issued by an Appraiser / Superintendents or officers of higher rank. Sufficient time will be given for appearing before the Appraiser / Superintendents or of higher rank. The proceedings / enquiry under summons shall be deemed to be a judicial proceedings within the meaning of Sec.193 and Sec.228 of Indian Penal Code 1860. Willful disobedience and non-attendance for the summons will attract penal provisions as per IPC.*

## **2.8. PROVISIONAL ASSESSMENT / RELEASE OF GOODS:**

*In all cases where goods have been seized by the custom officers, the importer / exporter may take release of the goods provisionally, pending further investigation and issue of SCN. Except in the case of prohibited goods, the adjudicating authority will order for provisional release of the goods with sufficient surety and security in the form of duty deposit / bank guarantee and bond. To avoid demurrage charges all importers and exporters are advised to take provisional release of the goods by making a pre-deposit of the differential duty amount and by furnishing security for probable fine and penalty to be decided by the adjudicating authority. The duty deposit / bank guarantee will be adjusted in accordance with the final adjudication order passed by the adjudicating authority.*

## **2.9. OBTAINING COPIES OF THE SEIZED DOCUMENTS:**

*In all cases, where documents / records have been seized from the premises of importer / exporter / CHA, they can take photo copies of the seized documents in the presence of an authorized officer. Original documents required for investigation will not be returned to the importer / exporter / CHA until the adjudication proceedings are completed.*

**2.10. ISSUE OF SHOW CAUSE NOTICE AND ADJUDICATION PROCEEDINGS:**

*On completion of the investigation, Show Cause Notice will be issued to the parties concerned asking them to furnish replies to the charges made therein. After issue of Show Cause Notice, the file will be transferred to the adjudicating authority. After the submission of replies by the party, the case will be adjudicated by the adjudicating authority and an order in original will be issued.*

**2.11. REWARDS TO INFORMERS**

*Rewards of up to 20% of the duty evaded, redemption fine and penalty recovered are given to informer who gives specific information to the department leading to seizure of goods, currency, bullion and incriminating documents to establish duty evasion in cases of misdeclaration of quantity, value and description of the goods. In the case of bullion / narcotics, the quantum of rewards depends on the quantity and purity. If the information is specific and contains all details, the same will be recorded by an officer of SIIB and will be kept in a sealed cover after obtaining the thumb impression of the informer. This will be kept confidential and opened only at the time of grant of reward by the proper authority, only to establish the identity of the informer. Information which is general in nature and vague without specific details will not be acted upon unless an independent verification is carried out by the department. Any person who wishes to give specific information relating to under invoicing of imports and over invoicing of exports and any other offences in violation of Customs Act and EXIM policy may contact the authorized officers of Customs in person or on given telephone numbers.*

**2.12. Smuggling & Other Violations and Penal Provisions:**

*Unscrupulous parties do attempt to evade the duties leviable and bypass various prohibitions/restrictions in relation to imports by attempting to bring the goods into the country from places other than the notified ports/airports/Land Custom Stations without reporting or presenting the goods to customs. Similar attempts are made to take out goods out of the country unauthorizedly. This is essentially what is termed 'smuggling' and customs officers have very important role to play in ensuring that they detect any such attempts of smuggling into or out of the country and take appropriate action both against the goods as well as against the persons involved in*

*smuggling or violation of various restrictions/prohibitions for personal gains at the cost of exchequer unmindful of various other harmful effects which the prohibited and sensitive goods may have, if these are allowed entry into the country. Strict penalties in relation to the goods/persons – involving seizure/absolute confiscation of the prohibited goods, fines and penalties on the persons involved in the offence as well as those abetting the offence are provided. The law also empowers Customs for carrying out searches, arrests and prosecution of persons involved in smuggling and serious commercial frauds and evasion of duties or misuse of export incentives by fraudulent practices (misdeclaration of nature, and value of the goods or suppression of quantities etc.)*

*The customs law provides deterrent penal provisions for all such violations but due processes of law have to be followed before any action is taken against the offending goods or persons/conveyance etc. involved. The customs officers have to act as quasi-judicial authorities and the liabilities for duty evaded or sought to be evaded, fines and penalties etc., are adjudged by adjudication action wherein the persons concerned are duly given notice of the contemplated action against the goods/persons/conveyance etc. including the gist of the charges and their basis, and they are provided opportunity for representation as well as personal hearing. The adjudication powers are vested in the customs officers of different specified ranks.*

*In grave offence cases prosecution action with imprisonment upto 7 years is also permissible under the Customs Act, but this action is to be taken following the usual criminal proceedings in a court of law, after prosecution sanction has been given by the competent Customs officer.*

### **2.13. Important provisions of Customs Act, 1962 applicable in day to day work of Preventive Officers:**

**2.13.1. Section 100 - Power to search suspected persons entering or leaving India, etc.** – (1) *If the proper officer has reason to believe that any person to whom this section applies has secreted about his person, any goods liable to confiscation or any documents relating thereto, he may search that person.*

(2) *This section applies to the following persons, namely : –*

(a) any person who has landed from or is about to board, or is on board any vessel within the Indian customs waters;

(b) any person who has landed from or is about to board, or is on board a foreign-going aircraft;

(c) any person who has got out of, or is about to get into, or is in, a vehicle, which has arrived from, or is to proceed to any place outside India;

(d) any person not included in clauses (a), (b) or (c) who has entered or is about to leave India;

(e) any person in a customs area.

**2.13.2. Section 101 - Power to search suspected persons in certain other cases.** – (1) Without prejudice to the provisions of section 100, if an officer of customs empowered in this behalf by general or special order of the [Commissioner of Customs], has reason to believe that any person has secreted about his person any goods of the description specified in sub-section (2) which are liable to confiscation, or documents relating thereto, he may search that person.

(2) The goods referred to in sub-section (1) are the following : –

(a) gold;

(b) diamonds;

(c) manufactures of gold or diamonds;

(d) watches;

(e) any other class of goods which the Central Government may, by notification in the Official Gazette, specify.

**2.13.3. Section 102 - Persons to be searched may require to be taken before gazetted officer of customs or magistrate.** – (1) When any officer of customs is about to search any person under the provisions of section 100 or section

101, the officer of customs shall, if such person so requires, take him without unnecessary delay to the nearest gazetted officer of customs or magistrate.

(2) If such requisition is made, the officer of customs may detain the person making it until he can bring him before the gazetted officer of customs or the magistrate.

(3) The gazetted officer of customs or the magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4) Before making a search under the provisions of section 100 or section 101, the officer of customs shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do; and the search shall be made in the presence of such persons and a list of all things seized in the course of such search shall be prepared by such officer or other person and signed by such witnesses.

(5) No female shall be searched by any one excepting a female.

**2.13.4. Section 103 - Power to screen or X-ray bodies of suspected persons for detecting secreted goods.** – (1) Where the proper officer has reason to believe that any person referred to in sub-section (2) of section 100 has any goods liable to confiscation secreted inside his body, he may detain such person and produce him without unnecessary delay before the nearest magistrate.

(2) A magistrate before whom any person is brought under sub-section (1) shall, if he sees no reasonable ground for believing that such person has any such goods secreted inside his body, forthwith discharge such person.

(3) Where any such magistrate has reasonable ground for believing that such person has any such goods secreted inside his body and the magistrate is satisfied that for the purpose of discovering such goods it is necessary to have the body of such person screened or X-rayed, he may make an order to that effect.

(4) Where a magistrate has made any order under sub-section (3), in relation to any person, the proper officer shall, as soon as practicable, take such person before a radiologist possessing qualifications recognized by the Central Government for the purpose of this section, and such person shall allow the radiologist to screen or X-ray his body.

(5) A radiologist before whom any person is brought under sub-section (4) shall, after screening or X-raying the body of such person, forward his report, together with any X-ray pictures taken by him, to the magistrate without unnecessary delay.

(6) Where on receipt of a report from a radiologist under sub-section (5) or otherwise, the magistrate is satisfied that any person has any goods liable to confiscation secreted inside his body, he may direct that suitable action for bringing out such goods be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction :

**Provided** that in the case of a female no such action shall be taken except on the advice and under the supervision of a female registered medical practitioner.

(7) Where any person is brought before a magistrate under this section, such magistrate may for the purpose of enforcing the provisions of this section order such person to be kept in such custody and for such period as he may direct.

(8) Nothing in this section shall apply to any person referred to in sub-section (1), who admits that goods liable to confiscation are secreted inside his body, and who voluntarily submits himself for suitable action being taken for bringing out such goods.

*Explanation.* - For the purposes of this section, the expression "registered medical practitioner" means any person who holds a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (7 of 1916), or notified under section 3 of that Act, or by an authority specified in any of the Schedules to the Indian Medical Council Act, 1956 (102 of 1956).

**2.13.5. Section 104 - Power to arrest.** – [(1) If an officer of Customs empowered in this behalf by general or special order of the Commissioner of

*Customs has reason to believe that any person in India or within the Indian customs waters has committed an offence punishable under section 132 or section 133 or section 135 or section 135A or section 136, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.]*

*(2) Every person arrested under sub-section (1) shall, without unnecessary delay, be taken to a magistrate.*

*(3) Where an officer of customs has arrested any person under sub-section (1), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police-station has and is subject to under the Code of Criminal Procedure, 1898 (5 of 1898).*

*(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this Act shall not be cognizable.*

**2.13.6. Section 105 - Power to search premises.** – *(1) If the [Assistant Commissioner of Customs or Deputy Commissioner of Customs], or in any area adjoining the land frontier or the coast of India an officer of customs specially empowered by name in this behalf by the Board, has reason to believe that any goods liable to confiscation, or any documents or things which in his opinion will be useful for or relevant to any proceeding under this Act, are secreted in any place, he may authorise any officer of customs to search or may himself search for such goods, documents or things.*

*(2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs, the words [Commissioner of Customs] were substituted.*

**2.13.7. Section 106 - Power to stop and search conveyances.** – *(1) Where the proper officer has reason to believe that any aircraft, vehicle or animal in India or any vessel in India or within the Indian customs waters has been, is being, or*

*is about to be, used in the smuggling of any goods or in the carriage of any goods which have been smuggled, he may at any time stop any such vehicle, animal or vessel or, in the case of an aircraft, compel it to land, and -*

*(a) rummage and search any part of the aircraft, vehicle or vessel;*

*(b) examine and search any goods in the aircraft, vehicle or vessel or on the animal;*

*(c) break open the lock of any door or package for exercising the powers conferred by clauses (a) and (b), if the keys are withheld.*

*(2) Where for the purposes of sub-section (1) -*

*(a) it becomes necessary to stop any vessel or compel any aircraft to land, it shall be lawful for any vessel or aircraft in the service of the Government while flying her proper flag and any authority authorised in this behalf by the Central Government to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognized means, and thereupon, such vessel shall forthwith stop or such aircraft shall forthwith land; and if it fails to do so, chase may be given thereto by any vessel or aircraft as aforesaid and if after a gun is fired as a signal the vessel fails to stop or the aircraft fails to land, it may be fired upon;*

*(b) it becomes necessary to stop any vehicle or animal, the proper officer may use all lawful means for stopping it, and where such means fail, the vehicle or animal may be fired upon.*

**2.13.8. Section 106A - Power to inspect.** – *Any proper officer authorised in this behalf by the [Commissioner of Customs] may, for the purpose of ascertaining whether or not the requirements of this Act have been complied with, at any reasonable time, enter any place intimated under Chapter IVA or Chapter IVB, as the case may be, and inspect the goods kept or stored therein and require any person found therein, who is for the time being in charge thereof, to produce to him for his inspection the accounts maintained under the said Chapter IVA or Chapter IVB, as the case may be, and to furnish to him such other information as he may reasonably*

*require for the purpose of ascertaining whether or not such goods have been illegally imported, exported or are likely to be illegally exported.]*

**2.13.9. Section 107 - Power to examine persons.** – *Any officer of customs empowered in this behalf by general or special order of the [Commissioner of Customs] may, during the course of any enquiry in connection with the smuggling of any goods, -*

*(a) require any person to produce or deliver any document or thing relevant to the enquiry ;*

*(b) examine any person acquainted with the facts and circumstances of the case.*

**2.13.10. Section 108 - Power to summon persons to give evidence and produce documents.** – *(1) Any Gazetted officer of Customs [\* \* \*] shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making under this Act.*

*(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.*

*(3) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required*

**Provided** *that the exemption under section 132 of the Code of Civil Procedure, 1908 (5 of 1908), shall be applicable to any requisition for attendance under this section.*

*(4) Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).*

**2.13.11. Section 109 - Power to require production of order permitting clearance of goods imported by land.** – Any officer of customs appointed for any area adjoining the land frontier of India and empowered in this behalf by general or special order of the Board, may require any person in possession of any goods which such officer has reason to believe to have been imported into India by land, to produce the order made under section 47 permitting clearance of the goods :

**Provided** that nothing in this section shall apply to any imported goods passing from a land frontier to a land customs station by a route appointed under clause (c) of section 7.

**2.13.12. Section 110 - Seizure of goods, documents and things.** – (1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods :

**Provided** that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

[(1A) The Central Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification in the Official Gazette, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (1), be disposed of by the proper officer in such manner as the Central Government may, from time to time, determine after following the procedure hereinafter specified.

(1B) Where any goods, being goods specified under sub-section (1A), have been seized by a proper officer under sub-section (1), he shall prepare an inventory of such goods containing such details relating to their description, quality, quantity, mark, numbers, country of origin and other particulars as the proper officer may consider relevant to the identity of the goods in any proceedings under this Act and shall make an application to a Magistrate for the purpose of -

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of the Magistrate, photographs of such goods, and certifying such photographs as true; or

(c) allowing to draw representative samples of such goods, in the presence of the Magistrate, and certifying the correctness of any list of samples so drawn.

(1C) Where an application is made under sub-section (1B), the Magistrate shall, as soon as may be, allow the application.]

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized :

**Provided** that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Commissioner of Customs for a period not exceeding six months.

(3) The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

**2.13.13. Section 110A - Provisional release of goods, documents and things seized pending adjudication.** - Any goods, documents or things seized under section 110, may, pending the order of the adjudicating officer, be released to the owner on taking a bond from him in the proper form with such security and conditions as the Commissioner of Customs may require.

**2.14. Guidelines to be followed while arresting a person:**

The Hon'ble Supreme Court of India in their judgment dated 18.12.1996 in the case of Shri D..K. Basu v. State of West Bengal in W.P. (CRL) No. 539 of 1986 with W.P. (CEL) 592 of 1987 in the case of Ashok K. Johri v. State of U.O [JT `997 (1)

S.C.1] stipulated the following requirements to be observed by the officers of the Customs & Central Excise and DRI in all cases of arrest/detention.

- (i) *The personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations.*
- (ii) *The officer carrying out the arrest should prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where arrest is made. The memo should also be countersigned by the arrestee and shall contain the date/time of arrest.*
- (iii) *A person who has been arrested or detained, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, unless the attesting witness of the memo of arrest is himself a friend or a relative of the arrest.*
- (iv) *The time, place of arrest and venue of custody of arrestee must be notified, where the next friend or relative of arrestee lives outside the district or town, through the Legal Aid Organization in the District and the Police Station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.*
- (v) *The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.*
- (vi) *An entry must be made in the diary, at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the officials in whose custody the arrestee is.*
- (vii) *The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo". Must be signed both by the arrestee and the officer effecting the arrest and its copy provided to the arrestee.*
- (viii) *The arrestee should be subjected to medical examination by a trained doctor every 48 hours of his detention in custody by a doctor on the panel*

*of approved doctors appointed by the Director of Health Services of the concerned State or Union Territory.*

- (ix) Copies of all the documents including the memo of arrest, referred to above, should be sent to the 'illaqa' Magistrate for his record.*
- (x) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.*

## **2.15. PREVENTIVE SETUP AT DIFFERENT CUSTOM FORMATIONS**

### **2.15.1. Inland Container Depot (ICD)/ Container Freight Station (CFS) - The preventive set up of ICD/ CFS is known as Special Intelligence and Investigation branch (SIIB).**

*The Special Intelligence and Investigation Branch is a Branch in the Custom House dealing with the gathering of intelligence and investigation of cases detected. The cases of under valuation of imports and over invoicing of exports and imports and exports in violation of the EXIM Policy are investigated by the Special Intelligence and Investigation Branch.*

#### **ORGANIZATIONAL STRUCTURE:**

*Special Intelligence and Investigation Branch is headed by a Dy. Commissioner / Assistant Commissioner with required nos. of Appraisers / Superintendents, Examiners / Inspectors and necessary ministerial staff under the overall supervision of Additional Commissioner of Customs / Joint Commissioner of Customs..*

#### **FUNCTIONS OF SIIB:**

*Special Intelligence and Investigation Branch deals with gathering of intelligence and investigation of cases. For this purpose, informers are cultivated to gather intelligence. Any information given by an informer will be kept confidential and necessary action will be initiated based on the information. However, the information has to be specific and accurate to take immediate action. In case of general and vague information, the cases will not be taken up unless a primary*

verification of the information received is carried out. As part of the investigation, SIIB carries out search and seizure operations and arrest of persons involved in serious offences. Search of commercial / residential premises are carried out by the officers of SIIB under an authorisation of search issued by the Dy. Commissioner of Customs (SIIB). In case of prima facie evidence of offence, the goods involved are seized. In case of serious offences, the persons who are directly connected with the offence will be arrested after obtaining the permission from superior officers. SIIB also takes up value verifications in respect of suspected under invoicing of imports and follow up actions in respect of cases detected at other Custom Houses. After the completion of investigation, a Show Cause Notice is issued to the importer. In addition to these works SIIB also carries out following works:

- i) Maintaining Coordination with CONCOR & CISF on behalf of Customs
- ii) Reconciliation of Receipt & Dispatch of Consignment/Container(s)
- iii) Monitoring all Consignments/containers where the seal integrity is violated.
- iv) Obtaining necessary information in the said context from
  - CONCOR
  - And all Gateway Port(s)
  - On a regular/real time basis
- v) Coordinating with Shipping Line(s) for obtaining necessary claim(s) related information
- vi) Monitoring the entry and exit of
  - Truck/Containers
  - Labor, CHA and Visitors

*With respect to un-authorized ingress and movement in the Restricted Area(s)*

- Through surprise check(s)
- Review of the passes issued by CONCOR
- Gate Record(s)
- Reviewing all shut out/con-dispatched export cargoes vis-à-vis LEO

- *Patrolling and Preventive vigilance of the Customs Area of (CI)*
- *All miscellaneous work assigned from time to time.*

### **2.15.2. Commissionerates of Customs (Preventive)**

*There are 93 Central Excise & Customs Commissionerates spread across the country. These Commissionerates perform executive functions entrusted by the Board, predominantly concerning central excise duty. Some of these Commissionerates also deal with customs and anti-smuggling work in their respective jurisdictions.*

*There are 35 Commissionerates exclusively of Customs and Customs (preventive) spread all over the country. These Commissionerates have been assigned following functions :*

- (a) Implementation of the provisions of the Customs Act, 1962 and the allied acts, which includes levy and collection of customs duties and enforcement functions in their earmarked jurisdiction.*
- (b) Surveillance of coastal and land borders to prevent smuggling activities. Marine and telecommunications wings and available with the Board to assist these Commissionerates in their anti-smuggling work and surveillance of sensitive coastline.*

*Groups like City Preventive, ICD, Air Cargo, Air Intelligence, General headed by Dy. Commissioners / Assistant Commissioners who are assisted by suitable nos. of Superintendents / Inspectors, work under the supervision of Additional Commissioners / Joint Commissioners under the overall supervision of Commissioner. The nature of work performed by them has already been discussed in foregoing paras.*

*The preventive staff of the customs also keeps a very careful vigil in the port areas for checking any illegal activities and develops intelligence to guard against any possible attempts of unauthorized removals from the docks and unloading of un-manifested cargo etc.*

### **2.15.3. Land Customs Stations (LCS):**

*Land Customs Stations are opened on the important land borders of adjoining countries from where adequate quantum of trade is expected and there is good connectivity. India is connected by Road with Pakistan, Bangladesh, Myanmar, Nepal, Bhutan and China. Trade with these countries is regulated by the trade treaty with the respective countries. Therefore, officers posted there should be well conversant of the said treaties. These LCS are headed by the Deputy Commissioners / Assistant Commissioner and assisted by required no. of Superintendents/ Inspectors, Sepoys and ministerial staffs. Small LCS are headed by Superintendents and assisted by Inspectors and sepoy. Larger LCSs are also having there preventive setups headed by Superintendents and assisted by required nos. of Inspectors and sepoy under the overall supervision of the AC / DC incharge of the respective LCS. These land borders are very sensitive in view of smuggling of food grains, Narcotics, Arms and weapons, explosive, ODS etc. Therefore, the preventive officers should be well acquainted with allied acts and rules thereof. The preventive officers are also responsible for the CARNATE system i.e. entry of foreign vehicles with valid documents.*

### **2.15.4. International Airports**

*The Air Customs comprises of different sections viz. Baggage,, Technical, Administration, Unaccompanied baggage, Disposal, COFEPOSA and Preventive. The preventive setup is commonly known as Air Intelligence Unit which takes care to prevent smuggling activities, commercial frauds, including trade of narcotics. These AIUs are headed by Dy. Commissioner / Assistant Commissioner with suitable nos. of Superintendents, Inspectors and sepoy. They should have thorough knowledge of scanning and rummaging of aircrafts.*

### **2.15.5. SEAPORTS:**

**( a ) General duties**

*The broad spectrum of areas where the Preventive Staff may be deployed for performing duties of general nature is briefly outlined below*

*(i) Offices - in Personnel & Establishment section, Vigilance section, Maintenance section, Preventive and Group 'D' service sections, sports & training sections, P R section, outstanding dues recovery section, etc., for assisting the superiors in maintaining general administration and for carrying out other tasks in the Commissionerate.*

*(ii) Docks - the docks are enclosed and guarded areas normally utilised as berthing places of ships I vessels for loading, unloading and storage of export I import goods. The dock is generally divided into Divisions which are sub-divided into Sections for the purpose of better supervision and control of Customs work by the Customs staff. Further, customs Boarding Offices are also situated inside the docks which monitor the arrival and departure of vessels and ships. Also, there are some places out of the docks limits which are used for stuffing I destuffing of the export I import cargo.*

**2.16. Periodical Shifts of the Preventive Staff**

*Like any other law-enforcing department, the Preventive service has to perform diversified tasks in enforcing the statutes in force. In the process, at times it comes across many situations and cases which are unique and dealt with in particular manner. As the deployments are varied in terms of nature and place of work, so are the actions taken and experiences gained. The same can be utilized for similar situations at other places of deployment gainfully.*

*In order to give maximum exposure to the widespread Customs work and to utilise the experience so gained optimally, the Preventive staff is shuffled periodically among the aforesaid Sections / formations. The frequency of rotation, tenure of the staff in a particular deployment, distribution of the charges, etc., are stipulated by the cadre controlling Commissioner.*

*Other aspect of the periodical shift is to discourage any unhealthy acquaintance and mixing up of the bad elements with the staff at a given formation which may lead to any kind of nexus or connivance.*

*In some Commissionerates, the set-up, sanctioned strength of staff and functions of certain Sections have been specified by the Ministry / Board. However, depending upon the requirements, the concerned Commissioners may use their discretion for creating new Sections and restructuring the existing ones.*

### **2.17. Prescribed Working Hours**

*At present it has been stipulated that the Preventive staff shall render services 8 hours per day on all days except on Sundays and holidays. Preventive staff is entitled to receive Overtime allowance for the service rendered beyond prescribed working hours or on Sundays and holidays. The Heads of Department have full discretion to prescribe working hours for a particular formation and to adjust the shift timings of the staff working under them subject to the condition that the staffs concerned gives an effective service of 8 hours per day. But in order that the staffs are not put to any inconvenience, every effort should be made to adjust the shift timings in such a manner that the staffs are not relieved at night after 12 midnight.*

### **2.18. Deployment beyond working hours**

*The movement of people and goods through the land, sea and air routes continues round the clock. With that, the Customs functions have also to be executed by the Customs staff day in and day out. More so is the case with the Preventive staff who have also to attend to anti-smuggling duties. This entails posting of the Preventive staff beyond normal working hours and on Sundays and holidays.*

*Section 36 of the Customs Act stipulates that no loading I unloading of export I import cargo shall take place on Sundays I holidays and on any other day beyond normal working hours except after giving the prescribed notice and on payment of prescribed fees with the exception of baggage accompanying a passenger or a member of crew, and mail bags. Vide notification no. 4-Cus., dated 21.01.1950, issued by the Board under section 72 of the erstwhile Sea Customs Act, the hours between 6 a.m. and 6 p.m. has been appointed for all Customs ports to be the hours between which goods other than passenger's baggage may be discharged from any vessel or be shipped or water borne to be shipped without written permission of the Customs Commissioner.*

*Further, there are many other works related to the clearance of import I export cargo which require Preventive supervision during as well as beyond the normal working hours.*

## **2.19. MERCHANT OVERTIME FEES**

*As discussed earlier, the services of the Preventive staff can be requisitioned by the trade beyond normal working hours, on Sundays and holidays and also at a place away from the normal place of work, on payment of prescribed fees.*

*The rates and other aspects of Merchant Overtime postings of the Preventive Staff have been discussed in Chapter Four of this Manual.*

## **2.20. Overtime Allowance to the Preventive Staff**

*The Preventive staff rendering services beyond normal working hours of duty and also on Sundays and holidays are entitled to receive Overtime Allowance as per the guidelines issued by the Government. The staff, in this regard is entitled to claim the Government Overtime as well as Merchant overtime. The criteria for admissibility, rates per hour, night weight-age, ceiling on O T A etc., issued by the Govt. from time to time, are enumerated in the 'Miscellaneous' Chapter of this Manual.*

## **2.21. FUNCTIONS & DUTIES OF THE PREVENTIVE STAFF**

*The duties of the Preventive Staff in relation to a particular formation have been described in the respective Chapters, the duties of a few Preventive Superintendents and Preventive Officers have been described below:*

### **2.21.1. (1) Superintendent (Preventive)**

*For effective control over the working of the Preventive Service, a Superintendent (Preventive) is generally posted in every Customs House to assist the Assistant Commissioner of Customs, incharge of Preventive Department for posting of the Preventive Staff and distribution of overtime work at night and on Holidays.*

*He generally attends to:*

*(a) Posting and attendance register of the floating staff.*

*(b) Distribution of O.T. Work to the staff every day out of officer hours, and on Sundays and Holidays.*

*(c) Posting of Preventive staff for examination of passengers' baggage and of crew baggage.*

*(d) Posting of Preventive staff for supervising ships in streams, break bulk of hazardous cargo, guard and bandobast duties.*

*(e) To assist divisional Superintendents in various Divisions.*

*(f) Posting of Officers for escorting/receiving/delivery of bonded goods in the docks/private bonded warehouses etc.*

*(g) To depute staff as and when required according to the exigency of work.*

*(h) Posting of the floating staff in the docks, dock gates on rotation basis.*

*(i) To attend to the work of correspondence with steamer agents, shipping agents, ship chandlers, Port Trust Authorities regarding the preventive matters of Customs as and when required.*

0) Posting of officers in shifts at various places and points according to the tenure of the posts.

(k) To assist Asstt./ Dy. Commissioner (Preventive) is framing and implementing policies regarding Preventive Deptt.

2.21.2. (2) Superintendent (Preventive)/Administration

Besides Supdt (Preventive), there is another important posting, that of Supdt. (Preventive)/Administration, who assists Asstt./Dy. Commissioner (Preventive) (General) in running day to day administration and in dealing with policy matters related to administration of the Preventive service. The main functions of Supdt. Preventive/Administration are :

- (a) Matters pertaining to administration of Preventive Service.
- (b) Integration of policy matters, laws, regulations, etc., in terms of their application in day-to-day work.
- (c) Issuance of Public Notices regarding policy matters like notification of Warehousing Stations, Customs Areas, etc., under the Customs Act, 1962.
- (d) Updating of Preventive Manual - Compilation of orders.
- (e) Statistical statements in respect of all preventive work.

(f) *Control over the ministerial work involved in Preventive section, pay bill section etc. in the preventive Service (Main) Department.*

(g) *During the absence of Posting Superintendent, Supdt. Administration has to attend his duties in addition to his usual functions.*

(h) *Attending to correspondence from trade regarding matters pertaining to Preventive Deptt., its functions & jurisdiction.*

(i) *Any other work assigned by AC/DC (Preventive).*

**2.21.3. Escorting of Dutiable Goods by Preventive Officers- Instructions [Circular No. 170/16.07.1977 issued by Asst. Collector, Preventive (General), Mumbai in F .NO. S/43-1582/77P]**

*The following instructions are issued for the guidance of Preventive Officers deputed for escorting jobs:*

(1) *The Preventive Officers should acquaint themselves with the provisions of Customs Act, 1962 and instructions given in the Preventive Service Manual and Bond Department Manual on the subject.*

(2) *Before the escorting job is taken in hand by the Preventive Officer, he should ensure that the documents produced by the party, i.e. Into Bond Bill of Entry, Shipping Bill, Transhipment Permit, Transfer application or any other document - are completed by the concerned, department of the Custom House.*

*(3) Before starting the job, it should be ensured that description, marks and numbers etc. given in the document tally with the goods to be escorted by him. He should also see that the packages are in sound condition and in case they are sealed as per document, he should check up whether the seals are in tact.*

*(4) At the time of escort the Preventive Officers should as far as possible see that a closed vehicle is made available by the party especially in case of sensitive goods. If closed vehicle is not available, the goods like Cigarette, Whisky, Films, etc. should be covered by tarpaulin to avoid public attention.*

*(5) The Preventive Officers will as far as possible sit in the vehicle in which the goods are kept unless it is against traffic regulations. In case it is not possible to sit in the vehicle, the Preventive Officer should follow closely the vehicle in another conveyance. However, under no circumstances the vehicle containing the goods should be lost sight off.*

*(6) On reaching the place (bond) where the goods are to be stored it should be seen that the necessary entries are made into the Bond Register and receipt from the bonder is obtained on the duplicate copy of the B/E as well as the OT. application form in token of completion of the job.*

*The Preventive Officer will also see that the packages are properly stacked in the Bond keeping space between the two rows and a 'Stack Card' giving particulars of B/E, Bond No. etc. is placed on the lot.*

*If it is observed that the goods are not stored properly and no stack cards are maintained by the Bonders, a report in this regard should be submitted to Asst. Commissioner, Bond through Supdt, Bond.*

*(7) In the case of ex-bond supplies of liquor, cigarettes etc. the Preventive Officer should ensure that the packages are marked with the name of the ship on which the bonded goods are being supplied and also with the bonders particulars. The ex-bond supplies are to be entered in the register kept for this purpose in the Section Office and the Preventive Officer should as far as possible take the Section Officer along with him at the time of actual shipment, who will place the goods in the Bonded Locker of the ship and seal the locker. In case the section officer is not available, the Preventive Officer escorting the goods should keep the goods in a separate room/cabin and seal the place. Under no circumstances the bonded goods should be left unsealed on board the vessel.*

*(8) In case of transshipment cargo the P.O. should enter the particulars of the T.P. cargo in the register maintained for the purpose by the B.P.T. at the gate.*

*(9) In case of 're-shipment cargo after endorsing the relevant documents, i.e. file, B/E, Shipping Bill etc. the P.O. will enter the papers in the Register maintained for the purpose in the Section Office.*

*(10) When goods are being sent in Bond to other Commissionerates, the P.O. should ensure that the Railway Receipt, Roadway Bill or Air consignment note is made in the name of the concerned Collector and not in the name of the party. The R.R., Road-way bill, Air consignment Note should be brought to the Custom House and handed over to Superintendent in-charge of Postings, who should sent it under despatch to the concerned section.*

*(11) After completion of the job, the P.O. should report to the Posting Section and not to waste his time anywhere else. In case the Custom House is closed, he should keep the Bond keys at prescribed Station. The entire job should be done in proper*

uniform.

**2.21.4. Conveyance Allowance for services rendered to the Trade:**

*It is incumbent on the party requisitioning the services of a Preventive staff for escorting jobs to provide them with motor-transport to-and-fro or pay the conveyance charges in Custom House at the time of requisition.*

*In view of the above the preventive staffs posted for the jobs are hereby informed that they should not receive any cash from the parties in lieu of conveyance.*

*The preventive staff can claim the conveyance allowance in case transport is not provided by the party from the Custom House as per the instructions enclosed*

*"[(4) Transport charges to officers for journeys from Custom House to bonded factories or warehouses and back. - It has been decided by the Government of India that shipping agents or merchants who apply for the services of the Custom Officer for work in private bonded warehouse or for escorting dutiable cargo from bonded factories or warehouses to the ships and vice-versa provide conveyance free of charge. Staff are despatched on duty to places at some distances from the Custom House concerned. It is considered equitable to allow them to draw the actual cost of conveyance charge. The President is, therefore, pleased to decide that officers both gazetted and nongazetted should be granted the conveyance allowance in respect of their journeys from Custom House to bonded factories, warehouses etc. and back subject to the following conditions:*

*(1) The amount claimed should within the schedule scale of charges fixed by the*

*local authorities.*

*(2) No free conveyance was provided by the bonder nor so any conveyance hire drawn by the Government servant directly from bonders (a certificate to this effect should be furnished by the Government Servant along with the claim).*

*(3) The journey was not performed in the Government Servant's own conveyance or in conveyance of another person without payment of its usual expenses.*

*(4) Payment of conveyance hire to the officers will not affect their entitlement of overtime even if otherwise admissible to them.*

*(5) The Government Servant drawing the conveyance hire under these orders will not be entitled to any T. A. under the rules in force. (2) The expenditure involved should be debited to contingency in the case of non-gazetted separate and the allowance and travelling allowance in the case of gazetted officers. The amount of expenditure should, therefore, be recovered from the bonders etc. and credited as Customs miscellaneous vide M. F. D. B. No. 12/45/56 Adm. III, dated the 5t Dec., 1957.*

*Casual work - The persons requesting for posting of officers should give on the overtime application one of the following declarations:*

*"We shall provide motor transport to the Officer" or "We shall pay the taxi charges" .*

*In the latter case the money should be paid along with the application for overtime to the Custom House and not to the Officer who may be posted. The Officer concerned should claim the conveyance charges from the Government."*

#### **2.21.5. (3) DUTIES OF SEPOYS AND HAVALDARS**

*1. In supersession of this Department's letter F. No. 11019/31/89-Ad. IV dt.27.12.89 on*

*the above subject, of this is to say that the matter regarding nature of duties of Sepoys/Havaldars, as raised by the staff -side member representing them in the Departmental Council of this Ministry has been reconsidered by the Board. Duties of Sepoys/Havaldars are well understood. Sepoys/Havaldars attached to an officer are required to assist them in their work and also perform duties which are incidental to the official work of the officers.*

- 2. In this connection, it may be observed that Sepoy and Havaldars of these Departments are deployed in the office to perform duties as exigencies demand and also in the field formations to assist executive officers in carrying out their functions. In performance of these functions, they are required to act under and in accordance with the orders of such executive officers. The duties of such executive officers are of multifarious nature.*
- 3. In the Customs field formations, the duties of such executive officers (in performance of which Sepoy/Havaldars assist them) are: check of import/export cargo in docks/Air-cargo sheds, check of baggage of outgoing/in-coming passengers at airport/ports, guarding of entry/exit points at Airports, docks and warehouses, rummaging etc. of vessels, guarding of goods in custom custody, escorting of seized goods and detained persons, raids and surveillance duties etc.*
- 4. In the Central Excise field formations, the duties of such executive officers are: stock-verification in factories, warehouses, etc. road-checks, escorting of seized goods and detained persons, raids and surveillance duties, etc.*
- 5. Likewise, in the field formations of the Central Bureau of Narcotics, they are required to assist the executive officers in their functions like issue of licence for poppy cultivation, crop survey, weighment and collection of opium, escorting of opium consignments, road-checks, escorting of detained persons, road-surveillance duties etc.*
- 6. It may, however, be mentioned that as in the case of other officers, Sepoys/Havaldars are also required to attend to such other duties as may be assigned to them by their higher officers.*
- 7. The Havaldars besides supervising the work of Sepoys will, where required, also attend to the work of Sepoys.*

8. *Annexure I & II give illustrative lists of duties of such officers of the Customs, Central Excise and Narcotics Departments.*

*Annexure I*

*2.21.5.2. Illustrative list of Duties of Sepoy/Hawaldar in the Customs & Central Excise Departments*

*Some illustrations of specific items of duties which are generally performed by Sepoys/Hawaldar in the customs Department are indicated below:*

*(i) Guarding of Exit Gate etc. at Customs' Stations :*

*Sepoys have to guard entry/exit gates at Airports, docks, bunders and other checkpoints at Customs Stations to check passengers/vehicles to ensure that only authorised goods are allowed. Similarly, they have to guard detainee conveyances and persons suspected to have committed offences under the Customs Law.*

*(ii) Arms duties :*

*(a) Guarding: Sepoys have to carry out armed guard duties in Warehousing where detained/confiscated goods are stored.*

*(b) Patrolling: Sepoys carry out patrolling, keeping watch over in coming and outgoing passengers, intelligence gathering, etc. in the vulnerable towns docks/sea areas as part of anti-smuggling exercises under the supervision of Customs Officers.*

*(c) Escort duty: Sepoys have to perform escort duty in respect of seized / confiscated or other goods moving from one Customs station to another pending clearance thereof from Customs and/or lodging of the same at the destination in proper condition.*

(iii) *Customs seal duty: Sepoys put seals on goods to be forwarded from one Customs Station to another Customs Station (where escort is not possible). (iv) Search: Sepoys accompany and assist the Customs Officers in carrying out search of suspected premises/persons, and in rummaging duties.*

(v) *Indoor duties: To attend to the Customs Officers, receipt and dispatch work, carrying files from one Department to another and generally to perform duties as are required to be performed in the office.*

2. *The above illustrations apply, mutatis mutandis, to sepoy working in the Central Excise Departments.*

#### 2.21.5.3. *Duties of Sepoys of Narcotics Department*

*Assisting Executive Officers in regulation of poppy cultivation, e.g. measuring of fields, weighment and collection of yields, etc. On the preventive side assist the Preventive Officer in gathering intelligence, trailing the suspects, conducting road-blocks, participating in raids, preventing trafficking in opium/smuggling, etc.*

*[M. F., D.R., letters F. No. 8-12014/6/90 - Ad IV dated 15.3.1991 and dated 19. 8.1992]*

#### 2.21.5.4. *Escorting by Sepoys of Lorries carrying dutiable goods*

*In this connection, it is informed that as per the prevailing practice and the rules, a Sepoy has to escort one lorry only. But if there is a convoy of trucks, a Sepoy is permitted to escort maximum three lorries at a time, provided the three lorries go together.*

*[Excerpts from letter F. No. S/43 - 157/94 P, of Assistant Commissioner (Preventive Deptt.), New Custom House, Mumbai]*

2.22. All Preventive Officers should be well aware about the designated proper officers under important sections of Customs Act, 1962 as detailed under:

<u>Sections under Customs Act, 1962</u>	<u>Purpose in brief</u>	<u>Proper Officer</u>
7	Appointment of Customs port and Airport	Central 'Government
8	Approve landing places and specify limits if Customs Area	Commissioner of Customs and Central Excise
9	Declare places to be warehousing Stations	CBE&C
10	Appointment of Boarding Stations	Commissioner of Customs and Central Excise
14(b)	Valuation Rules	Assistant Commissioner / Deputy Commissioner
17(1)	Examination Test	Superintendent / Appraisers, Chemical Examiner and Asstt.Chemical Examiner
17(3)	Power to call for documents for the purpose of assessing duty under Sec.17(2)	Superintendent /Appraisers

17(4)	Accepting declaration for assessment prior to the examination	Superintendent /Appraisers
18	Provisional Assessment	Deputy./ Asst.Commissioner
19	Proviso (a)-Rules	Dy./Asst.Commissioner
21	Proviso (b)-Acceptance of value for purpose of separate assessment	Superintendent /Appraisers
21	Waiving of duty on goods, derelict, jetsam etc.	Dy./Asst.Commissioner
22(3)(A)	Ascertaining the value of damaged or deteriorated goods	Dy./Asst.Commissioner
22(3)(B)	Sale of goods by either public auction or by tender	Dy./Asst.Commissioner
25	Power to grant exemption from duty	Central Government
27	Power to grant Refund of Duty Amount	Dy./Asst.Commissioner
27(3)	Refund of duty consequent to any order passed in appeal or revision	Superintendent /Appraisers/ Inspectors
28(1)	Serving of notice for payment of duty that has not been levied or has been short levied or erroneously	Superintendent /Appraisers/ Inspectors

	<i>refunded.</i>	
30(1)	<i>Delivery of Import Manifest or Import report</i>	<i>Dy. Office Superintendent/ U.D.C.</i>
30(1) Proviso	<i>(a) Delivery of Import Manifest before arrival of the vessel</i>	<i>Dy. Office Superintendent/ U.D.C.</i>
30(1) Proviso	<i>(b) Delivery of Import Manifest after 24 hours</i>	<i>Dy./Asst. Commissioner</i>
30(3)	<i>Permission to amend Import Manifest</i>	<i>D.O.S./Superintendent except the levy of consolidated fee or fine under Sec. 117 and reduction in the number of packages in the Import Manifest, where the Asst./Dy. Commissioner will be the proper officer.</i>
31(10)	<i>Permission to grant entry inward</i>	<i>Inspector</i>
31(2)	<i>Entry Inward and permission to land before Import Manifest is delivered [in relation to 30(1)(b)]</i>	<i>Where incomplete manifest is filed- Superintendent. Where no manifest is filed-Asst./Dy. Commissioner</i>
32	<i>Permission to unload imported goods unless mentioned in the Import Manifest</i>	<i>Asst./Dy. Commissioner</i>
33	<i>Permission to unload goods at other than approved places</i>	<i>Asst./Dy. Commissioner</i>

34	<i>Supervision of Import and Export of goods from and on any conveyance.</i>	<i>Inspector</i>
35 Proviso	<i>Special permission for any goods or any class of goods to be waterborne w/o being accompanied by a Boat Note</i>	<i>Asst./Dy. Commissioner</i>
37	<i>To board vessel</i>	<i>Inspector</i>
38	<i>Proper Officer to require the person in charge of conveyance to produce any document and to answer questions</i>	<i>Supdt./Appraiser/ Inspector/D. O.S.</i>
39	<i>Entry Onwards</i>	<i>D.O.S./U.D.C/ Inspector</i>
40 (a)	<i>Proper officers for passing a shipping bill or a bill of transshipment</i>	<i>Inspector</i>
40(b)	<i>Passing of baggage and mail bags</i>	<i>Inspector</i>
41(1)	<i>Delivery of export manifest</i>	<i>Receiving clerk</i>
41(1) Proviso	<i>Furnishing of security as the proper officer deems sufficient for delivery manifest within 7 days from the date of departure of the vessel</i>	<i>Asst./Dy. Commissioner</i>

41(3)	<i>Amendment of export manifest</i>	<i>Asst./ Dy. Commissioner</i>
42	<i>No conveyance to leave without written order</i>	<i>Asst./ Dy. Commissioner</i>
45	<i>Custodians of Imported Goods</i>	<i>Commissioner of Customs</i>
45 (2)(b)	<i>Permission to remove the goods from the Customs area</i>	<i>Supdt./Appraiser</i>
46 (1)	<i>Entry of goods on importation</i>	<i>Receiving clerk(Import dept.)</i>
46(1) Proviso	<p><i>a. Examination of goods prior to entry on importation in the absence of full information</i></p> <p><i>b. Permission to deposit such goods without warehousing</i></p>	<p><i>Superintendent</i></p> <p><i>Asst./ Dy. Commissioner</i></p>
46(2)	<i>Acceptance of bill of entry for part consignment and of bill of entry covering goods brought under more than one bill of lading</i>	<i>Asst./ Dy. Commissioner</i>
46(4)	<i>Production of invoice by importers in support of his declaration</i>	<i>Supdt.</i>
46 (5)	<i>Permission for substitution of bill of entry for home consumption for a bill of entry for warehousing and</i>	<i>Asst./ Dy. Commissioner</i>

	<i>vice versa</i>	
47	<i>Permitting clearing of goods for home consumption</i>	<i>Supdt.- in case of second appraisalment. D.O.S./O.S.- in case of first appraisalment</i>
48	<i>Permission to clear goods for home consumption after two months. Permission to sell goods, clearance of transshipment after two months</i>	<i>Asst./ Dy. Commissioner</i>
50(1)	<i>Entry of goods for exportation</i>	<i>Receiving clerk of the exporting department</i>
51	<i>Permitting clearance of goods for export</i>	<i>Supdt./Appraisers/ Examiners/ Inspectors</i>
54(1)	<i>Permission of allowing loading</i>	<i>All Inspectors</i>
54(1)	<i>Presentation of bill of transshipment</i>	<i>Receiving clerk of Import section</i>
54(3)	<i>Permission for transshipment</i>	<i>Asst./ Dy. Commissioner</i>
59(3) <i>Proviso</i>	<i>Acceptance of a fresh bond from the transferee when warehoused goods are transferred to another person</i>	<i>Asst./ Dy. Commissioner</i>
60	<i>Permission to deposit goods in a warehouse</i>	<i>Superintendent</i>

61	<p><i>Extension of ware housing period by 6 months</i></p> <p><i>Extension of Ware Housing period beyond Six Months</i></p>	<p><i>Commissioner</i></p> <p><i>Chief Commissioner</i></p>
62(1)	<p><i>Control over warehoused goods</i></p>	<p><i>Inspectors /Preventive officers</i></p>
62(2)	<p><i>Permission to enter a warehouse and remove goods</i></p>	<p><i>Asst./ Dy. Commissioner</i></p>
62(3)	<p><i>Causing any warehouse to be locked with the lock of the customs department</i></p>	<p><i>Asst./ Dy. Commissioner</i></p>
62(4)	<p><i>Power to have access and examine the goods</i></p>	<p><i>Supdt./Appraisers/ Examiners/ Inspectors</i></p>
63(2)	<p><i>Permission of sale of goods deposited in a warehouse if the rent or warehoused charges are not paid within 10 days</i></p>	<p><i>Asst./ Dy. Commissioner</i></p>
64(a) to (c)	<p><i>Permission for the owner to deal with the warehoused goods</i></p>	<p><i>Asst./ Dy. Commissioner</i></p>
64(f)	<p><i>Permission to take samples of goods without entry for home consumption and if permitted without payment of duty on such samples</i></p>	<p><i>Asst./ Dy. Commissioner</i></p>

67	<i>Permission to remove goods from one warehouse to another</i>	<i>Asst./ Dy. Commissioner</i>
68 ©	<i>Clearance of warehoused goods</i>	<i>Superintendent</i>
69©	<i>Clearance of warehoused goods for exportation</i>	<i>Asst./ Dy. Commissioner</i>
72(1)	<i>Demanding duty payable together with penalties, rent, interest and other charges payable in respect of warehoused goods.</i>	<i>Asst./ Dy. Commissioner</i>
72(2)	<i>Sale of warehoused goods by auction</i>	<i>Asst./ Dy. Commissioner</i>
73	<i>Cancellation of warehoused bonds</i>	<i>Asst./ Dy. Commissioner</i>
77	<i>Declaration of contents of baggage by the owner</i>	<i>Superintendent</i>
79(1)	<i>Passing baggage free of duty</i>	<i>Supdt./Asst./Dy. Commissioner</i>
80	<i>Temporary detention of dutiable or prohibited articles for being returned to the passenger on his leaving India</i>	<i>Asst./ Dy. Commissioner</i>
85	<i>Stores allowed to be warehoused without assessment</i>	<i>Asst./ Dy. Commissioner</i>

86 (2)	<i>Permission to transfer stores imported in a vessel to any other vessel as stores for consumption</i>	<i>Asst./ Dy. Commissioner</i>
89	<i>Stores to be free of export duty</i>	<i>Asst./ Dy. Commissioner</i>
97(2)(b)(c)	<i>Guarantee deposit for payment of all dues besides any penalty that may be levied under sec.116</i>	<i>Asst./ Dy. Commissioner</i>
100	<i>Power to search suspected persons entering or leaving India</i>	<i>Supdt./Inspectors</i>
101	<i>Power to search suspected persons in certain other cases</i>	<i>Supdt./Inspectors</i>
103	<i>Power to detain with a view to screen or x-ray bodies of suspected persons for detecting secreted goods</i>	<i>Supdt.</i>
104	<i>Power to arrest</i>	<i>Supdt./Inspectors</i>
106	<i>Power to stop and search conveyances</i>	<i>Supdt./Inspectors</i>
107	<i>Power to examine persons</i>	<i>Supdt./Inspectors</i>
110	<i>Seizure of goods, documents and things</i>	<i>Supdt./Inspectors</i>

129(2)	<i>To return to the appellant such amount of duty or penalty as was decided in appeals is not leviable</i>	<i>Supdt./Appraiser</i>
142 (1)(a)	<i>Recovery of sums due to the Government</i>	<i>Asst./ Dy. Commissioner</i>
141 (1)	<i>Power to take samples</i>	<i>Supdt./Appraisers/ Examiners/ Inspectors</i>
145	<i>Examination of goods</i>	<i>Supdt./Appraisers/ Examiners/ Inspectors</i>
149	<i>Amendment of documents</i>	<p><i>1. B/E (amendments in the Import department prior to their receipt in the appraising department</i></p> <ul style="list-style-type: none"> <li><i>• Minor discrepancies in marks, nos. description of packages as declared and as declared in the bills of entry-Sudpt./Appraiser</i></li> <li><i>• Discrepancies of serious nature or presenting doubtful features— Asst./Dy.Commr.</i></li> <li><i>• Bills of entry : amendment in description, contents, quantity, quality or value: all appraisers, inspectors and Asst./Dy.Commr. according to the duty and value limits involved.</i></li> </ul> <p><i>II Shipping Bills- Same as (a),</i></p>

		<p><i>(b), (c) relating to bills of entry.</i></p> <p><i>III Amendments to Transshipments and reshipments applications-Asst./Dy. Commissioner</i></p> <p><i>IV Amendments in Port Clearance-Asst./Dy. Commissioner</i></p> <p><i>V Amendments in Baggage declaration-Asst./Dy. Commissioner, Inspector</i></p> <p><i>VI Amendments to Bonds (all kinds)-Asst./Dy. Commissioner</i></p> <p><i>VII Any other documents-Asst./Dy. Commissioner</i></p>
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### **CHAPTER - THREE**

#### **3. IMPORTS AND EXPORTS BY SEA**

##### **3.1. PRELIMINARY**

To effectively regulate the movements of goods and people across huge amplitude of borders, the Central Government has notified Customs areas such as ports, airports, land customs stations, ICDs, CFSs, FPOs, etc., under Sections 7 and 8 of the Customs Act, 1962. These places only are the authorised places for loading / unloading, warehousing and clearance of imported / export goods or coastal goods.

This Chapter deals with the provisions envisaged in the Customs Act, 1962, for arrival, departure and stay in a customs area, of vessels carrying imported or export goods. The procedures regulating arrival / departure of aircrafts are discussed in the Chapter on Airport.

Section 141 of the Customs Act, 1962, lays down that all conveyances & goods in a customs area shall, for the purposes of enforcing the provisions of the Act, be subjected to the control of the officers of Customs.

### **3.2. *ARRIVALS OF VESSELS IN PORT / HARBOUR***

The bulk of the import / export of the goods in India is still handled through the sea routes which is catered to by the vessels owned by Indian companies as well as foreign companies. The various formalities related to the arrival / departure including documentation, of these vessels are handled by the owner or appointed shipping companies.

### **3.3. Anchorage Lines**

Anchorage line is an imaginary line on the bordering sea of the port /harbour which defines and demarcates the outer and inner limits of the port/harbour.

**a) Inner Anchorage-** the inner anchorage is the notional extension of the port/harbour where anchoring positions are assigned to the vessels before their entry into the port/harbour/docks. It extends approximately one nautical mile from the shore and is regarded as the limits of the port/harbour, wherein the entry of the vessels is declared to be as entry into the port/harbour.

This is the area where the Customs Boarding Officer has to board the vessel and take the Arrival Report from the Master of the vessel. Further, the requirements

of giving prescribed notice and of paying the prescribed fees under the Customs Act, 1962, are applicable to loading / unloading of any export/imported goods within this limit.

**b) Outer Anchorage-** just like Inner Anchorage, the Outer Anchorage is the demarcated place between the Inner Anchorage and the entrance channel of the port/harbour. The vessels anchored in this area are beyond the jurisdiction of the Boarding Officer as the entry of the vessel into this area is not regarded as entry into the port/harbour.

### **3.4. PREVENTIVE CONTROL IN THE PORT/HARBOUR**

The movement of conveyances carrying imported & export goods within and around docks areas is a continuous activity. It is therefore important to monitor, control, regulate and keep watch on the movements of these conveyances not only for implementation of various rules and laws governing such movements but also to check any illegal activity that these conveyances may indulge in.

Preventive staff functioning as Section Officers are empowered under Sections 37, 38, 106 and 141 of the Customs Act, 1962, to board any conveyance carrying imported / export goods, inspect or search it or require the person-in-charge to produce any documents and answer any questions in respect of such goods.

#### **3.4.1. Boarding Of Vessels:**

As per Section 10 of the Customs Act, 1962, the Commissioner of Customs is empowered to appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers of Customs.

Every vessel arriving into India have to report its arrival immediately to the Customs and Port Authorities. This is done by the Master of the vessel by submitting an ' Arrival Report ' to the Boarding Officer of the Customs. The Boarding Officer is required to board all the vessel on its arrival in India. The main purpose of boarding a vessel, inter-alia, is to collect the Arrival Report and putting the bonded stores of the vessel under Customs seal.

### **3.5. Arrival Report**

The Arrival Report is the first document which gives details about the vessel, its stores, cargo and personnel carried on board. It usually consists of ( all documents in duplicate )-

- a) General declaration,
- b) Vessel's store list
- c) Crew list
- d) Private property list of the members of Crew,
- e) In case of passenger ships, a list of all disembarking / embarking passengers at the port and in transit to other foreign / Indian ports.

The other documents to be collected (in duplicate) along with the Arrival Report are

- i) list of same bottom cargo,
- ii) list of deck cargo, vessel's currency declaration,
- iii) list of arms & ammunition on board,
- iv) list of permissible dangerous drugs for the use of vessel and its crew,

If the vessel has arrived from a foreign port via an Indian port, a ' Circulating Copy ' of the documents listed at a) to e) above, placed on board in a sealed cover by the Section Officer of the last Indian port of call, is also to be collected.

### **3.6. *Duties of the Boarding Officer :***

- a) He shall keep an updated record of arrival / departure programmes of all the vessels in the port and shall maintain a register for all the vessels arrived,

anchored in the stream or taken berth in the docks, indicating all the details therein.

- b) He shall board all the vessels immediately on their first arrival in the port in a voyage and collect the Arrival Report thereof in the manner described above and endorse the same.
- c) He shall verify the consumable stores of the vessel with declarations and put the items like liquor, cigarettes & tobacco, arms & ammunitions and other sensitive items, belonging to the vessel as well to the crew, under Customs seal, as prescribed in the Regulations above.
- d) He shall carry out a percentage check (minimum 5 %) of the property in possession of the Crew vis-à-vis their declarations and liquor and cigarettes in excess of permissible quantity shall also be kept under seal.
- e) He shall forward without delay, the Arrival Report and other documents collected by him to the Import Department / Manifest Clearance Department of the Custom House and keep a record of despatch of the same.
- f) After obtaining the documents, he should physically check the "Deck and load line " of the vessel to the effect that they are clearly marked and well preserved and should make an endorsement accordingly on the Arrival Report.
- g) He shall verify if any gift / favour parcels have been declared on board and check the nature of contents, port of delivery, consignee / consignor's particulars, etc, shall the same and direct the master of the vessel to get them cleared through Customs at the Divisional Office.
- h) He shall check the shops or the ' shopchest ' as the case may be in accordance with the list provided by the master in selective manner and place them under paper seals.
- i) He shall also ascertain that undeclared and prohibited goods have not been placed or secreted on board the vessel by taking casual strolls around the deck, crew cabins etc.
- j) Any discrepancies in quality or quantity in the stores of the vessel or the property of the crew should be reported to the Asstt. / Dy. Commissioner (Preventive) through Divisional Superintendent as these anomalies attract penal provisions of the Customs Act, 1962.
- k) He shall regularly intimate the Rummaging Section of the Custom House about the arrival/departure of the vessels into/from the port/harbour.

While carrying out the above duties by the Boarding Officers, care should be taken to show utmost courtesy and maturity while entering cabins, checking the private belongings of the Officers and other Crew members. Needless to say that the members of the crew, who may be sleeping after night-duty, should not be disturbed as far as possible. This, however, does not imply that the Boarding Officer should be negligent or lenient or should in any way compromise while carrying out his duties.

### **3.7. ENTRY OF VESSELS AND CARGO**

#### ***Entry Inwards***

Section 31 and 32 of the Customs Act, 1962, stipulate that imported goods shall not be unloaded unless an 'entry inwards' has been granted and the goods are mentioned in the Import Manifest or Import Report. To obtain 'entry inwards', the Shipping or Steamer Agents file an application for the same along with Import Manifest in the Import Department of the Custom House. As the Customs Act, 1962, also provides for the submission of Import Manifest before the arrival of the vessel, normally the Steamer Agents submit before the arrival of the vessel, a 'prior entry manifest' and obtain a 'prior entry inwards' which facilitates the processing of documents by the Steamer Agents and the importers of the goods. The 'prior entry inwards' is granted by the Import Department of the Custom House on the undertaking by the Steamer Agents to produce all the prescribed documents within 24 hours of the arrival of the vessel.

### **3.8. Import Manifest**

Section 29 of the Customs Act, 1962, read with the Import Manifest (vessels) Regulation 1971 prescribes that the person-in-charge of a vessel or aircraft entering India from a place outside India shall not cause or permit the vessel or aircraft to call or land at any place other than a Customs Port or Customs Airport for the first time

after arrival in India or at any time while it is carrying passengers or cargo brought in that vessel or aircraft. However, subject to certain conditions, these restrictions are relaxed in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause.

As per Section 30 of the Customs Act, 1962, after arrival, the person-in-charge of a vessel or an aircraft is required to deliver to the proper officer, an Import Manifest and in the case of a vehicle, an Import Report, within 24 hours in the case of a vessel and within 12 hours in the case of an aircraft or a vehicle. In case of delay, on sufficient cause being shown, the Import Manifest or Import Report may be accepted by the proper officer any time thereafter. In the case of a vessel or an aircraft, there is provision to deliver the Import Manifest before arrival of the vessel or the aircraft. Further, if there is no fraudulent intention, the proper officer may allow amending or supplementing the Import Manifest. The Import Manifest or Import Report, consists of, inter alia , details of all the goods including the goods to be unloaded at the port.

Note:- The principal notification No. 35, dated the 17th April , 1971 published in the Gazette of India , Part II, Section 3, Sub-Section (ii), dated the 17th April, 1971 vide S.O.1640 and last amended vide notification No. 17/95-CUSTOMS (N.T.), dated the 13th March, 1995, published in the Gazette of India Extraordinary, Part II, Section 3, Sub-Section (i), dated the 13th March , 1995 vide G.S.R. number 132 (E).

### **3.9.. PREVENTIVE CONTROL IN DOCKS / BUNDERS**

Once a berth has been allotted, the vessel moves inside the docks for loading / unloading of the cargo. The ports have special facilities for berthing of the vessels called 'jetties' or wharves. These wharves or jetties often have enclosed areas alongside for storage of and equipment for loading / unloading of export / import cargo. There are also some specific docks, known as ' Dry docks ', for repairing etc. of the vessels. The docks are enclosed and guarded areas wherein all the activities related to the shipping are mainly concentrated. The Docks have several Gates through which movement of goods, ships stores, personnel, etc. takes place. These Gates are always manned by the Security staff, Port staff and the Customs staff

also. Some of these Gates operate round the clock whereas some Gates have specific timings and restrictions about the nature of Cargo moving through the same. The Preventive staff posted at these Dock Gates have to perform multi-faceted duties in relation to transaction of Customs work in the Docks. Besides this, they also have to be alert towards unauthorised removal of any goods, ship stores etc. from the Docks.

The vessels carrying imported or export goods berth into these docks depending upon the nature of cargo, facilities and availability of the berths. For loading and discharging of oil, petroleum and hazardous cargo, there are special jetties, usually at a secluded place, having special facilities and equipment for handling the same. Besides this, there are special berths & jetties for embarkation / disembarkation of the passengers & vessels' personnel within the docks.

Similarly, there are Bunders and Minor Ports near or outside the docks. These formations are guarded but normally not enclosed and generally cater to the coastal trade. They also have the storage and loading / unloading facilities more or less like docks.

### **3.10. Divisions & Sections**

On berthing in a Section, the vessel remains under the Preventive control of Section Officers who are supervised by the Divisional Superintendents (Preventive).

A dock normally consists of several wharves or jetties for berthing of vessels and having equipment & enclosed storage areas (Sheds) for loading / unloading of cargo. For customs administration purposes, the entire docks area under preventive control is divided into ' Divisions ', each of which is supervised by a Preventive Superintendent, assisted by Preventive Officers. These Divisions are sub-divided into ' Sections ' comprising of a number of jetties & their Sheds. The Sections are manned by Section Officers, normally Superintendents ( Preventive ) assisted by Preventive Officers.

### **3.11. Divisional Superintendents - Duties**

For administrative purposes, the areas of Docks are divided into Divisions and each Division is placed under the charge of a Superintendent ( Preventive ) according to the need and sanctions at the respective ports. The Superintendents ( Preventive ) attend their duties at these Divisions according to the timings prescribed by the local Custom House. Following is the broad spectrum of the duties of Divisional Superintendent :-

- a ) Each Divisional Superintendent is primarily responsible for ensuring adequate arrangements for dealing promptly and efficiently with all transactions of Customs work related to the Preventive Department within the limits of the Division and he should ensure that the provisions of the law and regulations in force are well understood and intelligently applied by the staff under his control. He should take special care to satisfy himself that no irregularities are being committed by any member of the staff.
- b ) While visiting the stations in his Division, the Superintendent should ensure that all the Officers and Sepoys posted at various stations and beats are present at their posts and are alert. He should not confine his attention only to the stations where staff is posted, but should also visit the stretches of foreshore in his Division where no special guard is provided.
- c ) He should supervise the transactions that take place in the sheds at the time of his visit and should check the cargo vis-à-vis documents. He should pay particular attention to bonded, drawback, and transhipment cargo and to the goods landed at and cleared from docks and bunders. Occasionally, he should also check Cart Chits or a Bill of Entry to see that the goods are properly accounted for.
- d ) He should pay surprise visits to vessels in his Division and see that firearms, wines and spirits, cigarettes, etc., have been placed under seal. He should also visit vessels after all the passengers have disembarked and see that no baggage has been left on board or elsewhere – which may be irregularly passed out once

examination and clearance of baggage has been completed in the ordinary course.

- e) The Divisional Superintendent is also required to check at least once during a vessel's stay in Port, the account of the stock of Bonded stores on board. He should thereafter suitably endorse the store list of the vessel every time he carries out such checks.
- f) He should regularly check the work of Officers posted at the Gates and other Stations and should endorse their Station diaries indicating the time & other details of his visits and also mentioning therein any special or important observations. He should check all the records maintained at the Gates and other Stations and initial the same in token of having checked them.
- g) Divisional Superintendent supervising the Baggage work shall be responsible for the smooth and efficient clearance and avoidance of delay & harassment to the passengers or vessels' crew. He should ensure that all the Officers & other staff posted for clearing baggage do not leave their places of posting without proper relief and should also keep watch over suspected passengers and persons.
- h) Appropriate entries should be made in brief in Divisional Superintendents' diary to indicate the extent of his supervision, visits made and any irregularities noticed by him in his jurisdiction.
- i) Any irregularities noticed by them should be reported immediately to the Asstt. / Dy. Commissioner of Customs ( Preventive )(General).

### **3.12. Superintendent's Patrol at Nights and on Sundays / Holidays**

The Divisions, where Superintendents are not posted in shift duties, shall be patrolled by Superintendents ( Preventive ) on the nights of all the working days and on Sundays and holidays to the extent decided by the respective Customs House, for the purpose of supervising the work of the staff posted for duties at various stations in these Divisions.

The Superintendent in-charge postings shall depute the Superintendents for such night patrols on all working days and for day and night patrols on Sundays / holidays with the approval of the Asst. / Dy. Commissioner ( Preventive ). The posting for patrols on Sundays and holidays and for night patrols on working days shall be made on the previous working day.

The patrolling Superintendent ( Preventive ) shall perform duties of Divisional Superintendents as described above, so far as supervision of the staff is concerned. He shall keep record of his visits and any observation made, in a register prescribed for the purpose and the same shall be submitted to Asstt. / Dy. Commissioner ( Preventive ) in the morning of next working day for perusal.

### **3.13. Duties Of The Section Officers**

As described earlier, the unloading / loading of goods or embarkation / disembarkation of passengers on a vessel takes place at the wharves or jetties which have equipment and other facility for the same. Thus the Sections are the areas where all the important activities related to a vessel or the goods take place. This is the place wherefrom the vessel's personnel and staff of various other agencies move around. Thus, the Section Officer has to perform some very important multi-functional duties.

Some of the duties of the Section Officers are summarised below-

- a) He shall be responsible of all the work and all the documents relating to the vessels in his jurisdiction and in the event of any vessel changing berths between Sections, shall forward all the papers relating to the vessel to the concerned Section.
- b) He shall patrol in and around his Sections and be on alert so as to detect and prevent any unlawful activity like unauthorised loading / unloading of dutiable, prohibited or restricted goods.

- c) He shall keep a watch on the gangway and examine, wherever necessary, all the hawkers, vessel's personnel, staff of Steamer Agents and other agencies and any suspect person- boarding or leaving the vessel.
- d) He shall exercise general supervision in respect of discharge or shipment of the cargo and shall ensure that nothing is placed on board without a duly passed shipping bill except for stone ballast, passengers' accompanied baggage, crew belongings, fresh vegetables, fruits and common stores, in reasonable quantities, required for daily use on the vessel.
- e) In case of any vessel berthing in his Section directly or which has not been boarded, he shall perform all the duties of the Boarding Officer as detailed in the previous paragraphs.
- f) He shall ensure that the shipments of dutiable, drawback, reshipment, transshipment and ex-bond goods are covered by proper documents.
- g) He should board the vessels in his Sections in order to ensure that the bonded stores put under seals are not dealt with in any manner by anyone except as provided under the rules. He shall also check other stores randomly.
- h) He shall ensure that all the fresh supplies of bonded stores received by the vessel in port are duly entered in the Section records and in the vessel's stores list and circulating copy, and are kept under the seal of Customs on board.
- i) During the vessel's stay in the port, he shall issue the bonded stores for the consumption of vessel's personnel in accordance with manner described in next paragraph.
- j) He shall ensure that no imported goods / equipment of the vessel for repairs, discharged from the vessel, leave the shed without proper covering of documents.
- k) He shall not only verify the covering documents but also check all drawback, reshipment, transshipment and ex-bond cargo to be shipped.
- l) After the shipments of the goods is complete, he shall certify the Shipping Bills and A R 4 forms in the case of excisable goods, to that effect on the basis of Mate Receipts issued by the Agents, with clear endorsements.
- m) He shall make necessary authentication of any change in the vessel's crew list, store list, property list and any other documents.

- n) In the case of movement of vessel's equipment for repairs, aerated water bottles, vessel's linen, the procedures described in the Chapter on 'Ship's Stores' of this Manual, should be followed.
- o) At the time of departure, he shall board the vessel and after having ensured that the Master of the vessel has complied with all the Customs formalities, shall grant the Port Clearance, issued by the Export department, to the Master of the vessel and shall collect required departure documents.
- p) He shall make entries in the Section Register for all the Bonded Cargo/ Transshipment Cargo etc. brought under Preventive escort and ensure that the same is duly received by the vessels' Agents / Master.
- q) He shall forward all the Bonded Cargo / Transshipment Cargo etc., duly sealed, under Preventive escorts and keep a record of the same.
- r) In cases, where the Shipping Bills for the cargo shipped through his Section have been processed electronically, he shall complete the certification of shipment and other formalities in respect of such cargo, as has been discussed in the Chapter ' Electronic Data Interchange '

### **3.14. Duties Of Docks' Gate Officers**

The efficiency of the Preventive control in the docks depends to a great extent on the alertness and vigilance of the Gate Officers and on their knowledge of the regulations and orders applicable to the different classes of goods and persons with which they have to deal. They should therefore be thorough with the latest rules, regulations and standing orders. Following is the summary of the duties, which they are required to perform. –

- (a) The Gate Officer must satisfy himself that no dutiable goods are passed out except under proper authority and for this purpose shall examine any package brought by any person or by any vehicle (other than cargo). When any goods liable to duty are found, the person or vehicle shall be directed to the Divisional Superintendent's office under the escort of a Sepoy. If the detection is made at night or on Sundays or holidays when the office is closed, he shall detain the articles and give the owner or person-in-charge of the goods a detention receipt

with instructions to attend the Divisional Superintendents office on the following working day.

- (b) In the case of imported cargo delivered to consignees by the Port Trust and brought to the gate for passing out into town, he shall occasionally, check the contents of vehicles and verify that the numbers, marks and descriptions of the packages correspond with the particulars shown in the relative cart chits and Bills of Entry. He shall also see that the Bills of Entry bear the signature of the proper officers of Customs authorising removal of the goods. A record of the cases in which this check has been applied shall be kept in the prescribed form.
- (c) In the case of cargo brought to the docks for shipment he shall occasionally, satisfy himself that the goods are covered by shipping bills and that the packages do not contain any goods, the export of which is prohibited.
- (d) Baggage imported by passengers shall only be passed through the Gates authorised for this purpose after the officer concerned has satisfied himself that the goods have been dealt with as required by the Baggage regulations.
- (e) No special check need be applied in the case of passengers' accompanied baggage brought to the docks for shipment. Unaccompanied baggage must, however, be covered by a shipping bill.
- (f) Motor cars and carriages when going in or out of the docks gates through which such traffic is authorised, shall be stopped and searched if necessary, by the Gate officer concerned in order to verify that no dutiable goods or contraband are being removed in such vehicles or on the persons of the passengers. When such vehicles are carrying women in purdah, arrangements should be made for the search to be made by Lady Officer, if such examinations is considered necessary. The right to stop and search need not be exercised in the case of motor cars belonging to and conveying Government and Port Trust officials of superior status well known to officers of the Department except when there is special reason for believing that dutiable goods or contraband have been concealed in such vehicles. All cases of failure of any vehicle to stop at the Gates when required should be reported to the Assistant / Dy. Commissioner through the Divisional Superintendent.
- (g) The Gate Officer should exercise a special surveillance over all persons passing through the Gate with a view to prevent the smuggling of contraband e.g. arms, dangerous drugs, etc. on the persons of suspicious characters. When any goods

cause for suspicion exists, he should search such persons in the presence of 2 witnesses.

- (h) In dealing with the following classes of articles, the Gate Officer shall be guided by the instructions in the respective paragraphs of this Manual. –
- (1) Official property of the Port Trust.
  - (2) Ship's stores, provisions and daily bazar.
  - (3) Private personal property of ship's Officers and crew.
- (i) He should keep a record of all searches of suspects made and of examination of vehicles done by him at the gates. The record of his activities should be so maintained as to enable the Divisional Superintendents or the other superior officers to check the work of the gate officer at any time.
- (j) When a member of the staff, including a sepoy brings to the notice of the gate or other officer any matter in which his suspicion has been roused, he should let the officer concerned deal with the matter immediately and submit a report to the Superintendent detailing the circumstances as observed by him and the name of the officer, the information that was passed on to, including the action taken by the officer concerned if such information is available. The officer concerned should similarly submit a report immediately to the Superintendent stating the information furnished to him and the action taken by him. Both these reports should be submitted to Assistant / Dy. Commissioner (Preventive) in due course.
- (k) As regards aerated water bottles, ship's linen, ship's gear & machinery parts, etc. being passed in and out of the gate the instructions in Chapter on Stores should be followed.
- (l) Officers are not supposed to enter docks if not on duty without the prior permission of Divisional Superintendent.

### **3.15. UNLOADING AND LOADING OF GOODS**

Section 31 stipulates that no imported goods shall be unloaded from any vessel until an entry inwards for the same has been granted by the proper officer. This restriction, however, does not apply to unloading of accompanied baggage of a passenger or a crew, mail bags, animals, perishable goods and hazardous goods.

Further, Section 32 requires that no imported goods, which are required to be mentioned in the import manifest or import report shall be unloaded at any customs station unless the same are mentioned in the said import manifest or import report.

Section 33 of the Customs Act, 1962 prescribes that except with the permission of the Proper Officer no imported goods shall be unloaded and no export goods shall be loaded at any place other than a place approved under Section 8 (a) of the Customs Act, 1962, for the purpose.

Section 34 stipulates that imported goods shall not be unloaded from and export goods shall not be loaded on any conveyance except under the Supervision of the proper officer. The proviso to the Section permits the Board to grant general permission and the proper officer to grant special permission in any particular case for unloading or loading of goods without the supervision of the proper officer.

### **3.16. Loading / Unloading in Stream**

Many a times the vessel carrying imported/export goods do not take berth in docks due to various reasons. Sometimes, the cargo imported or to be exported is of hazardous nature. In such cases, the imported goods are unloaded and export goods loaded, with special permission for the same, under the supervision of proper officer of customs.

Section 35 of the Customs Act, 1962, specifies the restriction that no imported goods shall be water-borne for being landed from any vessel and no export goods, which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a boat-note in the prescribed format. The proviso to the Section empowers the board to give general permission and the proper officer to grant special permission in any particular case for any goods to be water-borne without accompanied by a boat-note.

### **3.17. Unloading / Loading of goods on Sundays / holidays etc.**

The transaction of Customs work at many Seaports, Airports and Land Customs Stations is a continuous activity. The arrival/departure of conveyance, discharging & shipment of imported & export goods, etc. takes place at these Customs Stations around the clock. Section 36 of the Customs Act, 1962, however puts some restrictions on the loading/unloading of goods beyond normal working hours & on holidays.

As per Section 36 of the Customs Act, 1962, no imported goods shall be unloaded from and no export goods shall be loaded on any Conveyance on Sundays or on any Customs holiday or on any other day after the working hours, except after giving the prescribed notice and on payment of prescribed fees, if any. However, the Section exempts the loading and unloading of accompanied baggage of a passenger or crew and mail bags, from payment of such fees.

It is pertinent to note that vide CBR notification no. 47-Cus dated 13.8.1949 and no 121-Cus dated 18.11.1961, discharge and shipping of cargo is prohibited on the Independence Day, the Republic Day and Mahatma Gandhi's Birthday.

The Preventive wing of the Custom House is main functional machinery to implement the provisions contained by Chapter VI of the Customs Act, 1962. As the Shipping and allied activities in the Ports/airports take place round the clock, the trade has to obtain necessary permission from the proper officer and has to pay the prescribed fees for requisitioning the services of different categories of Customs officers for performing Customs work on Sundays/holidays and beyond normal working hours, in terms of the Customs (fee for rendering services for Customs Officers) regulation, 1998.

### **3.18. Short Landed Goods**

In the case of Shaw Wallace & Co. Ltd. v. Assistant Collector of Customs (in Writ Petition Nos.1236/1981 and 1354/1984), the Bombay High Court have laid down the general guidelines to be followed by Customs authorities, Bombay Port Trust

authorities and persons-in-charge of conveyances and their agents, while determining the liability of penalty for the short landing of goods, so as to provide for smooth exercise of functions under the provisions of the Customs Act as well as to ensure that injustice is not caused to any of the authorities or to the persons-in-charge of the conveyance. Following are the guidelines: -

**(A) Liquid Cargo in bulk: -**

- (i) The quantity shown in the Bill of lading reflected in the Import General Manifest should be prima facie accepted as the cargo on board the vessel brought for unloading at the Port of Bombay.
- (ii) In case, the person-in-charge of the ship or his Agent produces the ullage survey report prepared at the Port of loading and certified by an independent Surveyor, then the quantity mentioned in the ullage survey report should be accepted as the correct quantity brought by the vessel for unloading.
- (iii) The vessel should be permitted to discharge liquid cargo after a ullage survey is carried out under the supervision of the Customs Officer and such survey report is signed by the Customs Officer, by the ship owner and the consignee.
- (iv) After the discharge of the liquid cargo from the vessel, a fresh survey should be carried out in the presence of the Customs Officer and this discharge completion survey report should be signed by the Customs Officer, the ship-owner, and the consignee.
- (v) In case of any difference between the bill of landing, quantity and the discharge port ullage survey report quantity, then such difference shall be considered as short landed quantity and for which the ship owner should be held responsible.

**(B) Cargo brought in container: -**

*( a ) F.C.L. Container (Full Container Load)*

- (i) A full container load when unloaded from the vessel and the seals are found intact, then the vessel owner shall not be held responsible for any short landing or be made liable to pay penalty.

- (ii) In case where the seal is found broken, the survey report will be prepared of the contents of such container in the presence of Customs Officer and this survey should be carried out within 72 hours after the container is unloaded and seal is found broken. The Customs Officer and the Port Trust authorities should ensure that the container is re-sealed after completion of the survey reports of the contents. Any shortage noticed in such survey report will have to be accounted for by the carrier and the liability for such shortage will be solely of the carrier.

*(b) L.C.L. Container (Less Container Load): -*

- (i) At the time of unloading of the L.I.C. container, if the seals are intact and again at the time of de-stuffing of the container, the seals are found intact, then the carrier should be responsible to account for the difference between the manifested quantity and the de-stuffing tally.
- (ii) In case, the seals of the L.C.L. containers at the time of unloading are found to be intact, but are broken or tampered with at the time of de-stuffing then the responsibility for difference between the manifested quantity and de-stuffing quantity would be that of the Port Trust authorities and not of the carrier.

**(C) Dry Bulk Cargo: -**

- (i) In respect of dry bulk cargo, an independent survey report should be prepared by the carrier and the consignee and such report should be counter-signed by the Customs Officer before discharge of the Cargo. Such report should be accepted for the purpose of ascertaining the actual cargo unloaded.
- (ii) The Bombay Port Trust authorities should not issue out turn report on the basis of actual weighment after landing in cases where the survey report is prepared and counter-signed by the Customs Officer, carrier and the consignee.

**(D) General Cargo: -**

- (i) The Port Trust authorities shall maintain tally at the time of landing of the cargo with appropriate marks in respect of cargo without any remarks or numbers.
- (ii) A copy of the tally sheets shall be furnished to the carrier or its agent and the Customs Officer at the earliest. The tally sheets shall be rectified or

amended, if any discrepancy is brought to the attention of the Port Trust authorities and the customs authorities.

- (iii) The Customs authorities shall ascertain whether any cargo was short landed on the basis of the copy of the tally sheets furnished by the Port Trust authorities and not on the basis of any out turn report forwarded by the Port Trust authorities long thereafter.
- (iv) In respect of bulk cargo in bags, if the bags or packages are found in intact condition, it should be so shown in the tally sheets. If the packages or bags are found in damaged or torn condition, the survey shall be carried out immediately and the survey report should indicated the short landed quantity. Such survey report should be carried out as far as possible within 48 hours of unloading.
- (v) In the case of cargo containing the packages or bags and found damage, the Customs authorities shall also take into consideration the sweepings on the wharf and in the ship for ascertaining whether the quantity could be accounted for.
- (vi) Even if the cargo is landed without any makes or numbers, it should be accepted on account of the cargo referred to in the manifest, it is established that the cargo landed from the particular vessel.

**(E) Hazardous Cargo Discharged in Barges & Lighters: -**

- (i) In case where the hazardous cargo is discharged in lighters and barges, the stevedore who unload the cargo shall prepare the tally sheets and unloading in lighters and barges shall place under the supervision of the Customs Officer.
- (ii) Such tally sheets should be included in the boat-note signed by the Master of the ship, the Master of barge, the stevedores and the Customs Officer.
- (iii) The boat note along with the tally sheet shall be the basis for ascertaining whether the cargo has been short landed and the quantum thereof.

These guidelines should be carried out by all the concerned parties both in its letter and spirit so that the problems would be reduced, if not totally eliminated.

On the merit of the case, Bombay High Court has held -

- (a) Penalty proceeding under Sec. 116 are quasi judicial proceeding hence to be commenced by device of a show cause notice.
- (b) Penalty imposition solely on basis of out turn report and other facts not at all considered, the High Court held the order passed by adjudicating authority bad in law.

### **3.19. DEPARTURE OF VESSELS**

Once the imported goods to be unloaded at a Customs Station have been unloaded and other procedures have been complied with, the vessel prepares for loading of Export goods. Usually, the Customs and other formalities are completed beforehand by the master/agent of the vessel during the stay of vessel in the port. The first step towards the completion of procedures for Customs clearance of Export of goods, is the filing of Entry Outwards for the vessel.

### **3.20. Entry outwards**

According to the provisions of Section 39 of the Customs Act, 1962, the Master of a vessel shall not permit the loading of any Export goods, other than baggage and mail bags, until an 'Entry Outwards' has been granted to such vessel by the proper officer.

### **3.21. Export Manifest**

Section 41 of the Customs Act, 1962, stipulates that the person in-charge of a conveyance carrying Export goods shall, before departure from a Customs Station, deliver to the proper officer, an Export Manifest or an Export Report in the prescribed format. There are provisions in this Section for acceptance of such Manifest or Report by the proper officer, within seven days from the departure of the conveyance, if the Agent or person-in-charge of the conveyance furnishes required security in this regard to the proper officer.

This Section read with the Export Manifest (Vessels) Regulation 1976, also makes it mandatory for the person delivering the Export Manifest or Export Report to make and subscribe, at the foot thereof, a declaration as to the truth of its contents.

### **3.22. Loading Of Export Goods**

Section 40 of the Customs Act, 1962, makes it mandatory for the person-in-charge of a conveyance not to permit loading of Export goods, other than baggage and mail bags, unless a Shipping Bill or a Bill of Export or a Bill of Transhipment, duly passed by the proper officer, has been handed over to him by the Exporter of the goods. Also he shall not permit loading of Mail bags & Baggage, unless their Export has been duly permitted by the proper officer.

Under this Section, loading of export goods is prohibited till the time the same are duly examined & permitted Clearance by the proper officer of Customs. An obligation has been cast on a person-in-charge of the conveyance not to permit loading of Export goods unless he verifies this position from the documents handed over to him by the Exporter.

Transhipment of goods is allowed provided they are mentioned in the Import Manifest or Report as for Transhipment, and a transhipment application has been made and duly allowed by the proper officer. Loading of dutiable or prohibited goods on a conveyance without the permission of proper officer, renders such goods liable for confiscation under Section 113 (g) of the Customs Act, 1962, attracting penal provisions under Section 114 of the Act.

#### **3.22.1. Departure of Vessels from the port**

Once all the unloading of imported goods & loading of export goods has been completed and all the formalities of Customs, Port authorities and other Government agencies have been complied with, the vessel is ready to leave the port.

Section 42 of the Customs Act, 1962, prescribes that no conveyance shall leave any Customs station until a written order to that effect has been given by the proper officer.

The conditions of grant of such order are as follows –

(a) the person-in-charge of the conveyance has answered the questions put to him under Sec. 38;

(b) the provisions of Sec. 41 have been complied with;

(c) the shipping bills or bills of export, the bills of transshipment, if any, and such other documents, as the proper officer may require have been delivered to him;

(d) duties leviable on any stores consumed in such conveyance, and all charges and penalties due in respect of such conveyance or from the person-in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(e) the person-in-charge of the conveyance has specified the proper officer that no penalty is leviable on him under Sec.116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(f) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force relating to export of goods,-

(i) such goods have been unloaded, or

(ii) where the Assistant Commissioner of Customs is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India.

### **3.23. Port Clearance –**

The written order referred to in Section 42 is called “Port Clearance”, which is issued by the Assistant/ Deputy Commissioner, Export Department, on a written application made by the Owner, Master or the Agent of the vessel, subject to the fulfilment of the conditions laid down in the Section 41 and 42 of the Customs Act, 1962.

The Section Officer shall board the vessel one hour before its departure for granting the port clearance to the Master of the Vessel. He should ascertain that the vessel has completed loading of all export cargo/stores etc. and all the hatches are closed. He should verify and check that the load lines are well above the water level and visible. This is to ensure that the vessel is not overloaded, endangering the vessel and its crew members.

He should verify that the seal on the bonded stores is intact and not tampered with. He should carry out percentage check of the private property list of the members of the crew. He should ascertain that the balance of the Indian Currency received by the Master for disbursement to the crew of the vessel from the agents, if any, has been returned back to town. If any discrepancies are noticed while checking the above they should be reported to the Divisional Supdt. immediately. On the other hand if everything is found in order he should deliver the Port Clearance to the Master alongwith the Circulating copy of the vessel’s store list in a sealed cover - if the vessel is proceeding to an Indian Customs Port. He should obtain the following documents -

- 1) Receipt for the Port Clearance in duplicate.
- 2) List of deck cargo in duplicate.
- 3) List of ships currency in duplicate.

After the vessel has departed, he should despatch the receipt for the P C and copy of Deck Cargo memo to Export department in the Custom House, Passenger list and Currency declaration to the Baggage Section in the Custom House.

### **3.24. Exemptions to Certain Vehicles and Conveyances**

Chapter VI envisages the provisions under Customs Act, 1962, for regulating the movements of the conveyances carrying imported or export goods.

Section 43 of the Customs Act, 1962, however, outlines certain exemptions granted to certain classes of conveyances from the provisions of Chapter VI. These exemptions under Section 43 stipulates that –

- a) Provisions of Section 30, 41 & 42 shall not apply to a vehicle that carries no goods other than baggage of its occupants.
- b) The central Government may exempt the following class of conveyance from all or any of the provisions of Chapter VI of Customs Act, 1962 –
  - (i) Conveyances belonging to the Government or any foreign government.
  - (ii) Vessels & aircraft which temporarily enter India by reason of emergency.

### **3.25. PREVENTIVE CONTROL IN BUNDERS**

As discussed earlier, Bunders are small ports mainly catering to the Coastal Trade and the goods carried by native / country crafts. The Bunders are normally un-enclosed but guarded areas. The Preventive supervision on loading / unloading of goods and other activities carried in and around Bunders is necessary from the point of view of prevention of smuggling and other illegal activities at these places. A contingent of Preventive staff is always posted at these Bunders to oversee these requirements.

#### **( A ) Bunders**

Although the volume of work at the Bunders is considerably less than that in the docks, the scope for evading the requirements of the law and the prohibitions and restrictions imposed is greater owing to the fact that the Port Trust undertake no responsibility for the custody and delivery of goods landed at or brought for shipment

at any of the Bunders and that any of these places are not provided with barriers in the form of surrounding wall of fencing to prevent the surreptitious removal of goods. There is therefore a need for a continuous Preventive vigilance over the whole area covered by these Bunders. For carrying out the necessary preventive measures and for dealing with the transactions at these Bunders, a staff of Preventive Officers and Sepoys is provided which are supervised by the concerned Divisional Superintendents. The duties of the staff at a bunder, in relation to the arrival and departure of vessels and the importation, warehousing, exportation and transshipment of goods are described in the related chapters of this Manual.

### **3.26. Duties of Guard duty officers at Bunders**

All members of the Preventive Service posted for Guard duty at various Bunders are expected to be alert during the entire time they are on duty in addition to making systematic and intelligent patrols as required by the relevant orders in force at each station. On leaving to visit another Bunder and to patrol the intermediate portion of the foreshore, they must enter the fact in their diaries and state the time of their departure and return. A similar entry must be made in the diary at the Bunder visited.

### **( B ) Boarding Office for Native / Country crafts**

This Office normally referred to as Anchorage Office, is usually situated outside the docks area preferably at a centrally located place. This is the place provided for dealing with all transactions connected with the arrival and departure of country crafts carrying imported/export goods, which are required, on arrival in port –

- (a) To report arrival / departure at the port,
- (b) To unload imported goods / load export goods,
- (c) to anchor at the places appointed by the Notifications issued under Customs Act, and

(d) to comply with any other Rules and Regulations as to the discharge and shipment of cargo at these places.

At many Ports, the Anchorage Officer is also given charge of some Bunders where such goods are loaded / unloaded. In such cases, the Anchorage Officer has to function also as Bunder Officer in addition to his Anchorage duties.

### **3.27. Functions of Preventive Staff at Anchorage Office**

The staff from Preventive department is posted for dealing with the Preventive & clerical duties and supervisory functions connected with the transactions at this Office. The Anchorage office is supervised by the Superintendent ( P ) in- charge, who is responsible for seeing that the procedures and instructions laid down from time to time in this regard, are properly understood and intelligently applied and for taking effective measures to prevent the smuggling of dutiable goods or contraband from the vessels moored in the anchorage lines.

The primary function of the Anchorage Officer is to act as the Boarding Officer for country / native crafts arriving and departing from / to foreign destinations at the port / Bunder.

The duties of Superintendent and Preventive Officer at the Anchorage Office are as follows:-

### **3.28. Duties of Superintendent / Anchorage**

1. Supervision of the work of Preventive staff at Anchorage Office
2. Occasional examination of vessels-
  - (a) on arrival from foreign or Indian ports in for arms, ammunition, contrabands, etc.
  - (b) from which cargo is jettisoned,
  - (c) with dutiable cargo proceeding to a Bunder for discharge,

- (d) for measurement of Deck cargo on export.
  - (e) which has brought passengers.
  - (f) Country crafts which have been compelled to return after grant of Port Clearance due to unforeseen circumstances.
3. Occasional checking of imported bond and other stores, and also when a country craft is converted from the foreign to coasting trade.
  4. General supervision of :-
    - (a) shipment of ex-bond goods,
    - (b) shipment of drawback goods,
    - (c) transshipment of dutiable goods.
  5. Patrolling the Bunder / port for occasional check of –
    - (a) loading operations.
    - (b) Discharge operations,
    - (c) Transshipment and drawback cargo,
    - (d) Cargo boats, barges, etc., and

### **3.29. Duties of P. O. In-charge / Anchorage**

1. He grants Arrival Report for all Sailing Vessels arriving from foreign ports and going to foreign ports.
2. He checks Import Cargo Manifest, Deck Cargo Manifest, if any, stores list, Private property list of crew of such vessels and receives copies of these documents in triplicate.
3. He boards the vessels and perform the duties of Boarding Officer and deals with the papers accordingly and maintains Arrival Register and physically verifies the declaration made in above documents.
4. He carries out the examination / inspection of the abovesaid vessels
  - (a) for arms/ammunition (b) the cargo jettisoned (c) for dutiable cargo for discharge at the port/bunder (d) for checking of Stores List (e) for check of Private property of the crew (f) for measurement of deck cargo ,if any.
5. He boards the vessels again, after the final reports, completion of discharge of cargo and after examination of the vessel, endorses the Import Manifest accordingly.

6. He grants permission to the Tindal to take his vessel for oiling and painting or loading with export cargo to designated place, after obtaining application in quadruplicate. The 1<sup>st</sup> copy is for his record, 2<sup>nd</sup> copy for information of Division office, 3<sup>rd</sup> copy for information to the Division, where the vessel is leaving for oiling and painting and 4<sup>th</sup> copy for the Tandel of the vessel.
7. He patrols the wharves of Bunder(s) under his control, where, cargo is being unloaded from country crafts plying on foreign routes and does occasional check of discharge operations. He also keep does occasional check on discharge of cargo from Cargo Boats and Barges in the wharf.
8. He carries out examination of vessels and check of stores when a vessel is converted from the foreign to coastal trade and vice versa.
9. He also carries out the examination of vessels whenever cargo is reported to have been jettisoned or which have returned back after grant of port clearance, due to unforeseen circumstances, such as, bad weather, engine trouble, services sickness of any crew member etc. In such cases, the P. O. in-charge will record the statement of the Tindal and submit his report to Asstt./ Dy. Commissioner(PG) through Superintendent /Anchorage.
10. He issues Boat Notes for local or transshipment cargo and makes appropriate endorsements in these documents after completion of functions and endorses Import Manifest accordingly for goods transhipped. He maintains Register for Boat notes issued.
11. He takes Arrival Report of Cargo Boats, Barges and maintains Registers of such arrivals at the Bunder under his charge. He patrols the wharves under his charge to ensure that no unauthorised shipment or landing is taking place and also to prevent smuggling from country crafts, etc.
12. He supervises unloading, if any, of Import Cargo landed by Cargo Boats, Barges or from foreign going country crafts and maintains Cargo Boat/Barges Register.
13. He assists Superintendent / Anchorage in disposal of references from other departments / ports regarding transactions dealt with at Anchorage Office.
14. He forwards Monthly statements of Arrival of Country Crafts plying on foreign routes and other statements, as per orders from Custom House.

15. He also submits report regarding cargo Short Landed or Excess Landed from country crafts plying on foreign routes, Cargo Boats/Barges and maintenance of Register regarding to Asstt./ Dy. Commissioner (P) (G) through Superintendent / Anchorage.

**( C ) Fishing jetties / wharves**

Fishing crafts of various sizes & capacity, along with their fishing and other gear depart from the ports and return to the port after few days with their catch. In each port, certain jetties / wharves are earmarked for departure / arrival of fishing crafts and unloading of fish.

Fishing activity is regarded as a 'coastal trade' activity. Accordingly, the customs formalities in respect of arrival / departure have been relaxed, except the issuance of the seasonal passes to such crafts. Before issuance of such passes, the owners / tindels of these crafts have to observe certain rules / regulations issued by the Mercantile Marine Department and concerned local authorities of the State governments.

## **CHAPTER - FOUR**

### **4. CONTAINERS AND CONTAINERISED GOODS**

Standard Container sizes are 40/20/10 feet long, 8 ft. wide and 8ft. in height while Containers of ISO standard are normally 20ft x 8ft x 8 1/2 ft or 40ft x 8 1/2ft x 9 1/2ft. Some Containers have open tops or sides while liquids are generally carried in boiler-shaped tanks surrounded by rectangular frame. Other Containers may be

insulated or refrigerated. In general, the different types of Containers are referred to as: (a) Dry (b) Tank (c) Reefer (d) Open Top (e) Flat etc. Containers are usually identified by a 11 digit alpha numeric number - four alphabets like APLU, ICSO, TEXU etc., followed by 7 numeric digits that is affixed on the sides. This identifier is assigned by an International body regulating the registration of Containers of all Shipping lines. Containers are also referred to as FCL or Full Container Load (when the stuffed with cargo belonging to a single party), LCL or Less Container Load (when stuffed with more than one party's cargo) and SOC or Shippers Own Container (when belonging to Shipping Companies or Freight Forwarders or private parties for special cargo).

#### **4.01 Import of Containers**

4.01.01 All Customs duties are exempt on durable imported Containers, provided the importer executes a bond binding himself to re-export the said Containers within 6 months and furnish documentary evidence thereof to the satisfaction of the said Deputy/Assistant Commissioner or else to pay the duty leviable thereon. The period of 6 months may, on sufficient cause being shown, be extended by the Deputy/Assistant Commissioner for 3 months and thereafter by the Commissioner of Customs for any further period as deemed fit.

[Notification No. 104/94-Cus, dated 14.3.1994]

#### **4.02 Furnishing Of Bond / Guarantee**

4.02.01 To effectively monitor the Containers, all work related to their movement and accountability should be centralised in a designated section generally named Container Cell or Container Movement Facilitation Cell (CMFC). Further, respective Custom Houses should lay down procedures, as per Board's guidelines with the objective of ensuring imported Containers are re-exported within the stipulated period or else Show Cause cum Duty Demand Notice for recovery of duty,

imposition of fine, penalty etc. is issued. For this purpose, the following procedure should be observed:

- (i) The Shipping Lines/Steamer Agents / Owners of Containers or **Non Vessel Owning Common Carrier (NVOCC)**, or their authorised representatives should execute a general continuity Guarantee / Bond (without Bank Guarantee/security) undertaking to re-export the imported Containers within stipulated period or else pay appropriate duty and penalty, if any.
- (ii) **The Bond amount should cover only the duty element on the imported Containers and not its cargo.** However, in case of default duty would be leviable on actual calculations based on the value of the Containers and rate of duty.
- (iii) **The validity period of the Bond should be for one year, extendable till further such period as required.**
- (iv) Deputy/Assistant Commissioner may extend the re-export period beyond 6 months for further 3 months for reasons to be recorded in writing.
- (v) Extension for re-export beyond 9 months should not be routinely granted, but may be allowed for period not exceeding 6 months at a time by the Commissioner of Customs in genuine cases for reasons to be recorded in writing.
- (vi) The clearance of Containers, whether empty or loaded, intended for temporary admission will be allowed without filing a separate Bill of Entry for each Container. The party concerned should intimate to the Customs, the number and identification particulars of the Containers to be moved outside the Customs area. The Bond for such movement could be either for a specific consignment of Containers or a general bond covering a larger number of Containers.

[F. No. 434/17/94-Cus IV, dated 14.5.1994, F. No. 450/11/88 Cus IV, dated 5.11.1998 and **Circular No. 31 /2005-Cus, dated 25.7. 2005**]

#### **4.03 Release of Containers Detained for Examination and Investigation**

4.03.01 If Containers are detained for the purpose of examination, investigation etc., the goods should be destuffed from them and stored in any warehouse and the empty Containers released so that Shipping Agents could fulfil the commitment of re-exporting them within 6 months of import.

**[Circular No. 83/98-Cus, dated 5.11.1998]**

#### **4.04 Movement of Containers and Containerised Goods**

4.04.01 FCL cargo meant for ICDs will be shown on separate sheet called Sub-manifest sheet in the main IGM. Further, the movement of Containerised import cargo to ICDs/CFS is actually transshipment that is allowed subject to observance of conditions prescribed in the Goods Imported (Conditions of Transshipment) Regulations, 1995. Such movement of loaded Containers is required to be under proper control of Customs. For ensuring security and to safeguard against tampering, the Containers should be sealed with tamperproof bottle seals and the cost of such seals recovered from the agents. However, tamperproof bottle seals are not required for import loaded Containers being moved within Docks. Further, when imported goods are moved under Bond, the amount of Bond guarantee should not exceed the Customs duty leviable on the goods.

[F. No. 434/17/94-Cus IV, dated 18.5.1994 and Circular No. 80/95-Cus IV, dated 4.7.1995]

*[Please also refer to Chapter "Transit and Transshipment" of this Manual].*

#### **4.05 Automated Movement of Containerised Cargo from Gateway Ports to Hinterland Ports**

4.05.01 Transshipment of Containerised cargo from a Port to an Inland Port/ICD/CFS where the Indian Customs EDI System (ICES) is operational is automated. This involves electronic exchange of messages amongst Customs, Port authorities, ICDs and Shipping Agents. In the automated Transshipment Module, the requirement of an application by the carrier is done away with and the SMTP (Sub manifest Transshipment Permit) portion of the IGM itself is treated as a request for transshipment. Carriers are not be required to separately file an application for this purpose, but will be required to indicate the code of the transporter undertaking the transshipment (e.g. CONCOR) in the IGM. The ICES system will allow transshipment of those Containers against whom the port of destination is indicated as ports other than the port of discharge.

4.05.02 The transshipment permit information will be sent to the carrier, the transporter undertaking the transshipment, Custodian of the gateway port, and the ICES system at the destination ICD. Transshipment permit can also be printed by in the Custom House.

4.05.03 The transshipment permit transmitted to the recipient port / ICD / CFS will automatically be converted into an IGM and the Shipping Lines will not be required to file any fresh IGM in respect of such Containers.

4.05.04 The transporter performing the transshipment will be required to electronically submit a Container arrival report to the ICES system at the destination ICD / CFS in a specified format. The Container arrival report will be matched with transshipment message received from the Gateway Port and a 'landing certificate

'message will be generated by the inland port / ICD / CFS which will be transmitted to the Gateway port for closure of IGM Lines.

[Circular No. 46/2005-Cus, dated 24.11.2005]

4.05.05 EDI system of Customs has a bond module for both Custodianship and transshipment, which will be fully utilized once 'message exchange facility' is operationalised between two ports. The bond module provides for discharge of the bond and its re-credit on production of certificate of transfer of goods at the destination through receipt of electronic message between Gateway port and destination port or between two Customs stations.

[Circular No.47/2005-Cus, dated 24.11.2005]

4.05.06 Movement of Containerised Import Cargo from the Port to CFS: For auto approval facility to move Containers from Port to CFS, CFS operators/Custodians are not required to make a separate application to the Deputy / Assistant Commissioner (Imp and Exp) and the movement request is part of IGM filing process. For this, the Importers / CHAs / Steamer Agents / Shipping Lines must ensure that the code of the destination CFS is clearly mentioned in the IGM, so that the auto approval is granted at the time of grant of "Entry Inward" in the ICES System. Further, CFS Operators/Custodians, Steamer Agents/Shipping lines and MLOs must ensure the following parameters are specified while submitting the IGM in ICES.

*In Message 1B - SACHI02*

*(a) at Sl.No.23 Nature of Cargo should be 'C' or 'CP'*

*(b) at Sl.No.25 Cargo Movement should be specified as 'LC'*

*(c) at Sl.No.37 Bond Registration No. should be specified*

*(d) at Sl.No.40 MLO code must be specified with the owner shipping agent code.*

Auto approval is applicable for the 'C' (Containerised) or 'CP' (Part of the consignment is Containerised and remaining is Packaged but not Containerised) nature of cargo only. Once auto approval is granted, the Shipping Agent/Port/Destination CFS will receive the messages in Message No.CHSAI26 regarding grant of permission for movement of Containers to Destination CFS.

**4.05.07** Amendment of CFS Movement Approval: There is provision to amend any Movement Request parameter before approval is granted if the Containers have not moved out of the Port/CFS area (Container exit information is available from the gate module). After the auto approval is given, amendments are permitted by the Deputy/ Assistant Commissioner / Superintendent / Appraiser only in the following cases:

- (a) En-block Movement to a different CFS: When Containers earmarked for a CFS are not cleared within stipulated time of 48 hours are to be moved en-block to a different CFS at the discretion of the Port.
- (b) Change of Destination CFS: When the Shipping Agent/ MLO / Importer / CHA requests for the amendment.
- (c) Cancellation of CFS Movement Request: When the party wants Direct Delivery from the Port itself.
- (d) Any change in the cargo/Container parameters: Changes in Container No., Type, Line Particulars etc.

To facilitate the amendments, the following procedures are to be followed:

- (a) Request for post-approval changes is filed with the designated officer (Deputy/ Assistant Commissioner / Superintendent / Appraiser). Applicant shall mention the CFS Movement No. and Date while requesting any amendment.

- (b) After verification of relevant details/records, the designated officer may approve the amendment. System will also internally run its own validation checks and will reject any invalid/inconsistent request.
- (c) After amendment request is approved, System carries out the following tasks:-
  - (i) Cancels the previous approval order and issues cancellation message in format CHSAI24.
  - (ii) Re-credits the bond already debited for original approval and debits new bond, if applicable.
  - (iii) Generates new approval order.
  - (iv) Amends the CFS code mentioned in the IGM.
- (d) For minor amendments like changing cargo / Container particulars, dropping a Container from an approved list etc. that do not require alteration of the bond value or any other major change, System will not cancel the existing approval order, but will make necessary changes and send amendment message CHSAI24. This facility excludes cases like change of destination CFS, including additional Containers etc.

4.05.08 Bond in respect of Container movement from Port to CFSs: Bond Module and authorisation forms in ICES (Imports) are used and the Bond Type is 'TR' (Transit Bond – a continuity Bond). Bond Type 'General Bond (GB)' is also allowed. There are 2 kinds of Bonds for Container movement to CFSs.

- (1) 1<sup>st</sup> Party Bond: Given by the applicant (MLO)
- (2) 3<sup>rd</sup> Party Bond: Given by destination CFS / Custodians [in this case necessary one-time authority has to be given by the CFS to the applicant (MLO)].

4.05.09 Bond value is calculated on the basis of the size of the Container. The Bond amount of Rs.3,00,000/- for 20 feet Container and of Rs.5,00,000/- for 40 feet Container is calculated by the System, which is picked up with reference to the ISO codes declared in the IGM. The option to calculate the Bond amount on the basis of

invoice value of cargo will not be available under this procedure as the invoice value is not available in the IGM. The bond amount will be debited in ICES System for movement of Containers to CFSs and for this MLOs and Custodians are required to register their Bonds in ICES Bond Module with the designated officer (Deputy/Assistant Commissioner /Superintendent/Appraiser) and obtain the TR/GB Bond No. Auto approval will not take place, if the Bond registration No. is not mentioned in the IGM.

4.05.10 Recrediting of Bonds: The re-credit facility (wherever transit Bond is applicable) is integrated in the Gate Module. After movement approval is given in the System and when the Containers pass through the Custodian (Port) gate, the Preventive Officer posted at the Port Gate shall verify/enter the Container particulars in the ICES System. When the Container physically arrives at the CFS gate, the Preventive Officer of Customs posted at CFS Gate will enter the details in the ICES System. Thereafter, the System automatically re-credits the transit bond (TR Bond), earlier debited.

4.05.11 For Direct Delivery Containers, for which the CFS code is mentioned during IGM filing, the bond will be automatically debited at the time of auto approval of Container movement. Likewise, in case code of CFS is wrongly mentioned as code of another CFS, the bond will be debited against the CFS mentioned in the IGM and the designated officer (Deputy/ Assistant Commissioner / Superintendent / Appraiser) will have to be approached with proof for re-crediting the bond amount debited at the time of auto approval.

4.05.12 The requirement of execution of bank guarantee for the purpose of transshipment for all carriers of Containerised cargo, who are handling more than 1000 TEUs as import Containers in a financial year is waived. The waiver would apply not only to shipping lines but also to ICDs/CFSs/other carriers and for carriage

in all modes of transshipment, irrespective of their movement by road, coastal shipping or rail. Further, in respect of carriers with annual transshipment volume below the limit of 1000 TEUs, but having good track record the exemption from bank guarantee can be considered by the jurisdictional Commissioners of Customs.

[Circular No. 45/2005-Cus, dated 24.11.2005]

#### **4.06 Empty Container Movement**

4.06.01 Empty Containers are to be compulsorily declared in the IGM and their movement processed in the same way as the cargo Containers moving to CFSs.

4.06.02 Empty Containers shall be cleared through the Empty Container Yards (ECY). Shipping Agent/MLO shall apply for such movement in the IGM itself, just like CFS cargo, but instead specify the ECY Code (Empty Container Yard Code) in the IGM.

4.06.03 All Empty Container yards will have common code <Port\_Code>A0 (separate codes for different ECY may be allotted to identify individual yard).

4.06.04 The Empty Container Bond shall be debited before approval of movement order is granted by ICES.

4.06.05 Approval order shall be similar to the approval of Container Movement to CFS. Same message in message format CHSAI26 for movement of Containers to CFS shall be sent for Empty Containers approval to the Port/Shipping Agents. Further, the CFS Gate Module at exit gate of the Port shall track these Containers.

4.06.06 The Bond value debited for Empty Container will be re-credited once the Container is re-exported and its proof submitted by MLO to the designated officer (Deputy/ Assistant Commissioner/ Superintendent/ Appraiser).

4.06.07 Processing for Empty Container Bond is a prerequisite for other processing linked to the time of grant of entry inwards i.e., unless this bond is debited, approvals like Transshipment approvals, approvals for movement to CFSs and regularization of prior Bill of Entries will not take place. The following are the salient features of this bond:

- (a) MLOs of the Shipping Lines should furnish a bond (type 'CO'), which would be in force till the Containers are re-exported within 6 months (for further extension permission has to be obtained separately). This will be a Continuous bond that can be used for multiple debits and re-credit till its value is exhausted. For loaded Containers, this bond will be in addition to the TP (Transshipment) or TR (CFS Movement) bonds.
- (b) MLOs of the Shipping lines are required to register only one Container Bond of large value so that it can be used for multiple debits. The ICES bond module will be used for registration and management of the bond. There is provision to enhance the bond value through additional credit.
- (c) Rate of bond value (given below) is specified on the basis of type of Container. System would maintain a directory of bond rates based on ISO code of the Container.

Type of Container	Bond Rate (in Rupees)
20 Feet Plain	30,000/-
40 Feet Plain	60,000/-
20 Feet Reefer	2,00,000/-
40 Feet Reefer	3,50,000/-
20 Feet Tanker	3,00,000/-
40 Feet Tanker	4,00,000/-

- (d) For empty Containers, the information should compulsorily be filed as part of IGM for debiting of bond and approval of movement of empty Containers. The MLO code may be specified mandatory for all Containerised lines in the IGM.
- (e) Processing of bond-debit is implicit in the System and no separate request is required. On grant of Entry Inwards, System will automatically carry out the required processing - which involves finding out valid registered bond, calculation of Bond amount and debiting the same.
- (f) The debited value for a Container will be re-credited to the bond once the Container is re-exported. Shipping Agents will have to apply for re-credit along with proof of export. The designated officer (Deputy/ Assistant Commissioner / Superintendent/ Appraiser) will approve the same on verification of proof of export within approved time limit.

[Chennai Custom House PN No. 48/2008, dated 22.4.2008]

#### **4.07 Tamper Proof Seals on Containerised Cargo**

4.07.01 Sealing of Containerised cargo ensures the security of the cargo contained therein. Hence, the seal used should provide total security, should not be broken or tampered with easily, and if tampered the same should be easily detectable by the Customs.

4.07.02 Export cargo transported through Containers or bonded closed trucks after following the Central Excise/Customs officer supervised sealing or self-sealing by manufacturer exporters, EOUs and Containers aggregated with LCL cargo in the CFSs/ICDs must be sealed with tamper proof one time bottle seal alone. This would ensure safety and security of sealing process and avoid re-examination and re-sealing at the point of export.

[Circulars No. 80/95-Cus, dated 4.7.1995 and

No. 1/2006-Cus, dated 2.1.2006]

#### **4.08 Movement of Containers Within Port and Outlying Areas and Clearance of Goods Contained Therein**

4.08.01 On arrival of a vessel in the port and after berthing, the Containers are unloaded under general supervision of the Customs Officers.

4.08.02 The Steamer Agent files IGM along with the list of Containers brought by the vessel in the Import Deptt, which forwards it to the Container Cell/CMFC where it is entered in the Shipping agent wise Container Register.

4.08.03 The Containers meant for clearance at the same port, are moved by the Port Trust through authorised transporters to the nominated areas earmarked, shipping agent wise, in the docks / outlying area of docks. The Preventive Officer posted at the Gate shall verify as to whether the seals are intact and then allow the Containers to move out of Docks to outlying areas of the docks. If the seal is broken / tampered with the matter shall be reported to the Deputy/ Assistant Commissioner (Docks) for necessary action.

4.08.04 On arrival of the Container the Preventive Officer posted at the storage yard shall check whether the seals are intact and enter the particulars in a prescribed register maintained at the Gate and allow the Container to enter inside the storage yard. Discrepancy, if noticed, should be brought to the notice of Deputy/ Assistant Commissioner (Docks) for necessary action.

4.08.05 In Container yards, as and when the importers / C.H.A. approach the Port Trust authorities and Customs with Bill of Entry, the Container shall be

destuffed, the goods examined and cleared on payment of duty or on execution of Bond for warehousing etc. as per usual procedures.

4.08.06 FCL Containers along with imported goods can also be permitted by the Container Cell to be taken to factory premises of the importers, after Customs examination and 'out of charge'.

4.08.07 The steamer agents / importers can store empty Containers in Private storage yards for which no permission from Customs is required to be obtained. Similarly empty Containers from private storage yards / Docks can be moved, without permission from Customs, by Steamer Agents to Exporters' premises for stuffing of Export cargo.

4.08.08 Importers should be allowed to clear the green channel Containers directly from the port without transhipping to the Customs Area.

[Circular No.16/2005-Cus, dated 11.3.2005]

4.08.09 FCL Containers with cargo like metal scrap may be given facility of house destuffing at the importers premises so that examination/verification of the goods imported can be done by jurisdictional Central Excise officers with least inconvenience and expense to importer. This is permitted subject to conditions on consideration of requests made on case by case basis.

4.08.10 Movement of imported cargo including unaccompanied baggage by Container/bonded truck from Airports /ACCs to ICDs/CFSS/ Airports/ACCs in hinterland by road are also permitted by Commissioner of Customs. For this purpose Commissioner of Customs will appoint the Airlines or their duly approved agents or

the Custodians of gateway Airport/ACCs or the Custodians of destination ICDs/CFSS/Airports/ACCs as the Custodian of all cargos to be transhipped under bonded cargo. The permit will be valid for one year from the date of issue initially and shall be renewed every three year subsequently.

[Circular No. 61/2000-Cus, dated 13.7.2000]

4.08.11 In case of specific intelligence about mis-declaration of goods in the IGM or availability of contrabands in the Container, it is clarified that the Containers meant for transshipment can be examined only when there is a specific intelligence about mis-declaration of goods in the IGM or availability of contrabands in the Container. However, even in such cases, before detaining any such Container at the gateway port, permission from Joint/Additional Commissioner shall be obtained in writing.

[Circular 46/2002-Cus, dated 29.7.2002]

4.08.12 Stuffing of Containers with export cargo at the exporters' premises shall be done under the supervision of Appraising staff (Customs) / Supdt. Central Excise, as the case may be, and thereafter duly sealed by them. However, stuffing of Containers with export cargo at the Customs Areas declared for this purpose in the Docks and other places, shall be done under the supervision of the Preventive Staff.

#### **4.09 Movement of Export Containers**

4.09.01 Preventive staff posted in the Docks are required to verify the seals of export cargo stuffed Containers received from ICDs, and allow shipment thereof if the seals are found intact.

4.09.02 Export cargo stuffed in the exporters premises / factories under supervision of Appraising staff (Customs) / Supdt. Central Excise, as the case may be, or on self sealing basis will have to go to the respective port/ Pre-stage area/ any CFS under the jurisdiction of the Commissionerate for verification of the seal, document and entry of examination report in the System. In the case of self sealed Containers the examination will be carried out as per instruction given by the System and report entered accordingly by the Appraiser for generation of Shipping Bill for granting LEO.

4.09.03 The Gate Officer posted at Dock shall verify seal is intact and note the time of entry. If the Container reaches dock after the prescribed time limit (if any time limit is mentioned in the Commissionerate's Public Notice) the same shall be brought to the notice of Deputy/Assistant Commissioner (Docks) for further action.

4.09.04 Movement of export cargo after its clearance at the originating port by rail to another port for export therefrom is allowed as per the procedure similar to that being followed for movement of export cargo from the ICDs to gateway ports. Thus, all Customs documentation and examination etc. will take place at the originating port and after clearance, cargo will be stuffed and sealed in Containers in the presence of Customs. Drawback and other import incentives are to be paid/ credited at the originating port. The documentation for movement of cargo from one port to another by rail will be same as is being undertaken in case of movement of cargo from ICDs/CFSSs to gateway ports.

[Circular No.75/2001-Cus, dated 5.12.2001]

**4.10 Procedure for Export of Container Cargo  
from ICDs/CFSSs to Bangladesh and Nepal through  
LCSs**

4.10.01 Exporters are required to bring export goods to ICD/CFS and file six copies of Shipping Bills (including two transference copies) alongwith documents like GR Form, AR Form, certificates issued by Export Promotion Councils, etc. The Shipping Bill will be assessed as usual, goods examined and samples drawn, if required. After assessment, the original and duplicate copies of Shipping Bill alongwith two more copies (transference copies) and original GR Form are to be retained at the ICD. The original GR form is to be forwarded to the concerned branch of Reserve Bank of India.

4.10.02 Examination order will be given on duplicate and transference copies of the Shipping Bill and examination report recorded thereon. The duplicate copy shall be retained in the ICD/CFS and both transference copies forwarded to the LCS through the carrier in a sealed cover along-with a copy of invoice, packing list and other documents. After examination, the goods shall be stuffed and the Container sealed with tamper proof bottle seal. The seal no. shall be recorded in the copies of Shipping Bill and AR form. The copies of Shipping Bill and AR form shall be endorsed with the examination and loading report with the Container no. etc. and this shall be jointly signed by the Customs, Carrier and exporter's representative.

4.10.03 Carrier shall then transport the Containers by road or/and rail upto the LCS. At the LCS, both transference copies of Shipping Bill shall be submitted to the proper officer of Customs who shall inspect the Container seal and tally the seal nos. with the Shipping Bill and record the same in the transference copies of the Shipping Bill and the AR 4 form (as given below).

*“Inspected and seals found intact, Seal Nos. found to tally with the shipping bill and AR 4 form.*

*Name, signature and date”*

4.10.04 In case the Customs seal on the Container is found broken or tampered with or some discrepancy found in the seal nos., the matter shall be brought to the notice of the Deputy/Assistant Commissioner of Customs and such

Container shall be subjected to 100% examination.

4.10.05 In case the seal is found intact and the documents are in order, the Proper Officer at the LCS shall endorse the transference copies of Shipping Bill with “export allowed”. He may also endorse that the Container has been duly identified by him and has crossed the border into Nepal/Bangladesh on both copies of Shipping Bill and AR form at the time of actual export. One copy of the Shipping Bill may be retained at the LCS and the other transference copy returned to originating ICD/CFS.

4.10.06 On receipt of transference copy of the Shipping Bill, the Customs at originating ICD/CFS shall match it with duplicate copy of Shipping Bill to ensure the goods have been exported. If the copy is not received within 90 days, the Deputy/Assistant Commissioner of Customs at the originating ICD/CFS may raise a demand on the Custodian equal to the export duty/Drawback in addition to any other action that may be taken against the exporter. He may also intimate the DGFT and RBI accordingly. The matter shall also be reported to the jurisdictional Commissioner of Central Excise for recovery of Excise duties on the goods.

4.10.07 To ensure safety and security of goods during transit to LCS, the Custodians of the ICD shall furnish a bond with security as being done for movement of cargo from ICDs/CFSs to the gateway port. The bond shall be debited for the value of the goods every time a Container is given to carrier for transport and re-credited once the proof of export is received.

4.10.08 The facility for movement of export cargo from ICDs/CFSs to Nepal and Bangladesh mentioned shall be available only if cargo is moved through LCSs at Petrapole and Gede in Indo-Bangladesh border and Raxual in Indo-Nepal border.

[Circular No.18/2002-Cus, dated 13.3.2002]

#### **4.11 International Transshipment of LCL Containers at Indian Ports**

4.11.01 Following factors may be considered by the Commissioner for identification of the premises for international transshipment of LCL Containers:

- (a) Location of the premises.
- (b) Availability of infrastructure - modern handling equipment for loading, unloading of Containers from rail flats, chassis, their stacking, movement, cargo handling, stuffing/de-stuffing, refrigerated storage facility for perishable cargo etc.
- (c) Availability of sufficient secured area for segregation/consolidation of cargo and for its safe handling.
- (d) EDI connectivity with Custom House to handle the transshipment in ICES.
- (e) Experience of Custodian in handling import export matters and working knowledge of Customs Act, rules and regulations.
- (f) Logistics arrangements including constraints, if any, in movement of Containers between approved place/premises and port.

4.11.02 Application for international transshipment of FCL cargo can be made by master of the vessel or his authorized agent, Non-Vessel Operating Common Carrier (NVOCC) or any other person duly authorized in this behalf by the foreign supplier.

4.11.03 No goods for international transshipment should be unloaded from the vessel until permission is given by the AC/DC authorized, on the basis of manifested details in IGM.

4.11.04 ITP Container details such as Container Number, broad description of goods etc. shall be mentioned in the IGM. For cargo movement, three codes, given below, need to be filled correctly with proper port of destination.

- (a) 'LC' - Local Cargo: This is the port code where cargo is delivered. It is the same as the port of arrival.
- (b) 'TC' - Transshipment Cargo: This refers to international cargo and

the port of destination shall be the port code where transshipment cargo is destined to or delivered.

- (c) 'TI' - Transshipment to ICD: This is the local cargo where the cargo is meant for transshipment to hinterland port i.e. ICD (port of destination is the port code of the ICD).

4.11.05 In the electronic manifest message, a field 'Container Status' specifies whether the cargo is FCL or LCL or Empty. The line and the sub-line numbers provide the inter-linkage between the cargo details and the Container details. Therefore, the EDI System in ICES can be used for Customs documentation and processing.

4.11.06 Unloading of ITP Containers at gateway port would be in presence of Customs Officers and the Containers taken to approved place/premises under Customs escort. Custodians would provide a segregated secure space for ITP Containers.

4.11.07 Customs Officers shall examine the seal of the ITP Containers. In case of seal tampering, such Container should be immediately resealed with the Customs Seal in the presence of the Custodian/Shipping agent and same should be recorded. Such Containers will be examined 100% by the Customs Officers and put up to the AC/DC for further action.

4.11.08 LCL Cargo meant for a foreign port would be de-stuffed in the presence of Customs Officer and stored in a secured area provided by Custodian. LCL Cargo may contain consignments meant for transshipment to any port outside India or for home consumption or for transshipment to ICD. This would necessitate segregation of the cargo at the time of de-stuffing and moving them to respective storage areas under customs escort. Till such time, sufficient precaution should be taken to avoid duplication/mixing up or manipulation of cargo meant for Transshipment/Home consumption.

4.11.09 Whenever the LCL cargo are required to be exported to foreign

destination the re-stuffing along with the export cargo would be done under the supervision of a Customs officer and Container sealed in his presence. Also, the details of LCL Cargo would be entered in EGM.

4.11.10 Custodian would maintain the record of ITP LCL Cargo, both loaded and unloaded, and submit a monthly summary to Customs. He shall execute a general bond for an amount equal to the approximate value of goods expected to be imported in 30 days for the purpose of international transshipment. In such bond, Custodian should undertake to export transshipment cargo within 30 days or within extended period as Commissioner may allow.

4.11.11 Custodian would be responsible for safe handling of the LCL cargo and ensure that there is no intermixing of ITP LCL cargo with other cargo lying with the Custodian.

4.11.12 International transshipment of cargo should be done within 30 days of Entry Inward of the ship. Permission for transshipment would not be given to cargo having arms, ammunition, explosives and other cargo constituting a threat to the security/safety and integrity of the country and goods prohibited under Section 11 of the Customs Act, 1962. However, goods 'restricted' as per the Foreign Trade Policy may be permitted for transshipment. Further, transshipment shall not be allowed to any port/destination, in respect of which any order or prohibition is in force for the time being. Commissioners may also prescribe additional safeguard for securing safe transshipment. The provisions of Section 48 relating to the procedure in case of goods not transshipped within 30 days after unloading shall apply to these goods.

[Circular No.14/2007-Cus, dated 14.3.2007]

#### **4.12 Carriage of Coastal Cargo in Containers From One Indian Port To Another Port in Foreign Going Vessels**

4.12.01 Indian flag foreign going vessels operating in routes covering more than one Indian port to a port outside India and *vice versa* are allowed to carry coastal Containers along with imported/export cargo between two Indian ports. The provisions of the Customs Act, 1962 relating to coastal cargo as also other statutory provisions, guidelines and instructions in this regard shall apply to such Containers and the procedure in this regard shall be as follows:

- (a) The consignor of any coastal goods in Container shall submit to the proper officer the Bill of Coastal Goods in the prescribed form (in four copies). Such Bill shall contain all the relevant particulars and the consignor shall subscribe to a declaration regarding the correctness of the contents thereof. The proper officer may, if satisfied with the declaration, order such examination as may be considered necessary by him to satisfy that the declaration is correct and then pass the Bill for Coastal Goods and return three copies to the consignor.
- (b) The Container containing such coastal goods shall be clearly painted with the words "*For Coastal Carriage Only*" on all sides. After examination of the goods is completed, the Container shall be sealed with tamperproof one time bottle seal and then the same can be loaded on to the vessel.
- (c) The Master of the vessel shall not permit the loading of such coastal cargo Containers unless the Bill of Coastal Goods duly passed along with the permission of the proper officer to load the Container is received by him. On receipt of the documents, the Master shall prepare a Coastal Manifest in triplicate. A separate set of manifest shall be prepared for each coastal port for which the vessel is carrying coastal cargo. The proper officer may, after making necessary checks, make an endorsement on the manifest, retaining one copy of the manifest and return the other two copies to the Master of the vessel. The Master shall retain one copy as carrier's record and submit the other to the proper officer at the destination port along with the Bill(s) of Coastal Goods relating to the goods meant for that port.
- (d) Before any coastal Container is permitted to be loaded, the consignor or the Master of the vessel/his agent shall execute a bond in such form with such surety as the proper officer may decide, binding himself for an amount equal to the value of the goods. The same shall be enforced if the coastal cargo is not landed in India and is taken to a foreign port after the last Indian port of

- call.
- (e) The Customs officer supervising the loading shall ensure that the particulars of the goods are entered in the Advice Book to be carried by the Master of the vessel in respect of such coastal cargo. The Master shall also carry one copy of the Bill of Coastal goods with him and shall deliver the same along with the Coastal Manifest to the Customs officer at the port of destination.
  - (f) The Customs officer at the destination port may verify that the coastal Container is unloaded at the intended port and make a remark to this effect in the Advice Book.
  - (g) The Master of the vessel may not be given permission for the departure of the vessel unless it is established that the coastal cargo intended for that port has been discharged and the seals of the Container are intact. In case the seals are not found to be intact, the Customs officer may cause the Container to be opened and permit the vessel to leave only if there is no discrepancy between the contents of the Container and the Bills of Coastal Goods delivered by the Master of the vessel. The proper officer may, however, permit the vessel to leave if the Master or his Agent submits a bond with such surety or security as he may consider necessary in respect of the Containers where the seals are found to be tampered with.
  - (h) The reconciliation of coastal Containers delivered with the Coastal Manifest and the entries in the Advice Book shall be completed at the last Indian port of call before the vessel leaves for foreign port. It shall be ensured that all charges and penalties due in respect of that vessel have been paid or the payment is secured by such guarantee or deposit of such amount as the proper officer at the port of loading may direct.
  - (i) In case of any tampering of seals or any discrepancy, the matter shall be reported to the Deputy/Assistant Commissioner, who may adjudicate the matter after issue of show cause notice. The procedures as applicable for non-coastal cargo will apply *mutatis mutandis* to deal with such situation. A quarterly report of such discrepancies shall be sent to the Board by the concerned Commissioner.

[Notification No. 424/76-Cus.,(NT) dated 23.10.1976 and Circular No.15/2002-Cus, dated 25.1.2002]

**4.13 Proof of Export of Containers**

4.13.01 As proof of export of the Containers, the Steamer Agents have to submit a list of Containers shipped under one Port Clearance, to the Container Cell/CMFC. The number of Containers so exported under one Port Clearance is to be co-related to their imports under various IGMs by the various Steamer Agents. Since this scrutiny of one Port Clearance with reference to several IGMs and verification thereof Container wise involves time and effort, the Steamer Agents are required to prepare and submit monthly statement of Containers exported Port Clearance IGM wise, in the following proforma:

*Statement regarding export of Containers during month of . . . . .*

Particulars of total numbers of Containers (both loaded and empty) imported by Vessel . . . . . VOY . . . . . IGM . . . . .  
 . dated . . . . . and exported.

Sl. No.	Container Number	Size	Exported by Vessel*	P. C. No. and date.

Total number of Containers imported . . . . .

Total number of Containers exported till end of (month). . . . .

Balance . . . . .

Bond file No.

## Steamer Agents

(\*Attach copy of EGM and list of empty Containers duly certified by Section Officer/Boarding Officer).

(ii) For empty Containers that do not figure in the EGM, the Customs Officers shall certify the tally sheets of the Stevedores for the loading of empty Containers as a proof of export. These will then be submitted to the Export Department with the respective EGMs as proof of re-export.

### **4.14 Duties of the Preventive Staff Posted in Container Cell/CMFC**

4.14.01 Monitoring of import and subsequent export of the Containers is done by the Container Cell/CMFC, which normally consists of Ministerial staff and Preventive Officers, supervised by a Superintendent (Preventive).

4.14.02 Duties of Superintendent (P):

- (i) Processing of Bond documents for import of Containers
- (ii) Attending to correspondence with Steamer Agents
- (iii) Scrutiny of applications received for permission for taking Containers out of Docks limit.
- (iv) Scrutiny of applications for Transhipment permissions and endorsing TP permits and IGM/SMTP copies.
- (v) Attending to grievances of representatives of Steamer Agents regarding difficulties in filing particulars of non re-exported Containers.
- (vi) Preparation of Show Cause Notices and adjudication records.
- (vii) Overall supervision of the staff and work in the Container Cell.
- (viii) Domestic clearance of Containers on payment of duty

4.14.03 **Duties of Preventive Officer:**

- (i) Maintaining IGM-wise and Steamer Agents-wise register for import of Containers.
- (ii) Posting of Port Clearance particulars of re-exported Containers in IGM register.
- (iii) Taking out fresh balance of non-re-exported Containers for issuing reminders/demand notices.
- (iv) Issuing reminders to Steamer Agents for accounting balance of imported but non-re exported Containers.
- (v) Issuing Duty Demand Notices to Steamer Agents.
- (vi) Attending to correspondence with Steamer Agents.



## **5. INLAND CONTAINER DEPOTS (ICDs) AND CONTAINER FREIGHT STATIONS (CFSs)**

Government has extended the facility of clearance of import / export goods at the door step of importer/exporter by notifying Inland Container Depots (ICDs) and Container Freight Stations (CFSs). These places are Customs Stations having a requisite contingent of staff from Customs, Custodians, Security, etc., to effect the clearances of import / export goods. Imported goods are brought into the ICDs / CFSs, usually in containers, after the same have been duly allowed Transshipment at the port/airport of Import, under Customs seal / escort and are received by the Custodians. Similarly, the export goods are received into ICDs / CFSs by the Custodians for clearances by the Customs.

### **5.01 Definition, Functioning and Benefits of ICDs and CFSs**

5.01.01 **Definition of ICD / CFS:** An Inland Container Depot/Container Freight Station is defined as a common user facility with public authority status equipped with fixed installations and offering services for handling and temporary storage of import/export laden and empty containers carried under customs transit by any applicable mode of transport placed under customs control and with customs and other agencies competent to clear goods for home use, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export.

5.01.02 **Distinction between ICD & CFS:** An ICD is a place where containers are aggregated for onward movement to or from the ports whereas CFS is a place where containers are packed and unpacked and aggregation / segregation of cargo takes place. An ICD may have CFS attached to it. ICDs are located outside the port towns whereas no site restriction applies to CFS. ICDs are meant to provide facility of port / airport at interim part of the country or closer to the importer/exporter as possible. The CFSs are meant to remove the congestion at port / airport / ICDs/ ICDs are sanctioned by the Central Government and sanction for CFS is accorded

by the Jurisdictional Commissioner of Customs depending on the need considering the work load and infrastructure facilities provided.

**5.01.03. Function of ICDs/CFSs:**

- (a) Receipt and despatch of containerised cargo.
- (b) Truck operations.
- (c) Loading / Unloading of containers to and from trains.
- (d) Stuffing / destuffing, aggregation/de-aggregation of containers.
- (e) Customs clearance.
- (f) Gate checks and security.
- (g) Storage of cargo and containers.
- (h) Information flow and Communication.
- (i) Record keeping and data storage.
- (j) Billing and cash collection.

5.01.04 The operational centres of ICDs/CFSs (listed below) are those that relate to the critical activities of handling and storage of import and export goods and Containers. The ICDs / CFSs are permitted to outsource / sublet /transfer of operations to facilitate importers/exporters.

- (a) Siding: The place where containers are loaded and unloaded. Arrival and despatch of trains etc. also takes place here.
- (b) Container Yard: The place where loaded and empty containers are stacked prior to despatch by specified mode of transport or prior to delivery to the customer.
- (c) Container Freight Station: The area where containers are packed and unpacked and aggregation / segregation of cargo takes place.
- (d) Customs examination bay: The designated place where the containers are placed for examination by Customs, separately for import and exports.

[F.No. 450/105/2008.Cus IV, dated 25.5.2008]

**5.01.05 Benefits of ICDs/CFSs:**

- (a) Increased trade flows.
- (b) Lower door-to-door freight rates.
- (c) Safety of cargo.
- (d) Avoidance of clearing and forwarding agent's fees at seaports.
- (e) Avoidance of storage, demurrage and late documentation fees.
- (f) Possible avoidance of the need to extend the period of marine insurance.
- (g) Optimal use of road and rail transport and better utilisation of capacity.
- (h) Benefits to seaports.
- (i) Inventory savings.
- (j) Improved communications, etc.
- (k) LCL export cargo can be aggregated / consolidated and carried to a hub for repacking (carrier wise) in separate container for speedy clearance and making transportation cost effective to smaller players. Also, same container can be used to bring back consolidated LCL imports to ICDs/ CFSs.
- (l) Inter-CFS movement of containers/ trucks with LCL cargo under same jurisdictional Commissioner allows optimum utilization of space in a containers/truck.

[Circulars No.55/2000, dated 30.6.2000 and No.22/2001, dated 15.4.2001 and F.No. 450/66/2005.Cus IV, dated 24.11.2005]

## **5.02. Guidelines for setting up ICDs / CFS**

5.02.01 Format of Application for permission to set up an ICD/CFS:

1. Name of the Organisation proposing to set up ICD/CFS:
2. Status of the applicant Organisation
3. Place where the ICD / CFS is proposed and precise reasons for selection of the site.

## 4. Location of the site with distance from

- a) Nearest Highway
- b) Nearest Railhead
- c) Nearest Port
- d) Nearest ICD/CFS

(Enclose a map showing location and modal links to ports)

## 5. Whether land for the setting up of ICD/CFS already acquired? If so,

- a) Areas of land (in sq. mtr.)
- b) Whether owned / hired / on lease;
- c) If not, how the land is proposed to be acquired.

## 6. Name of jurisdictional Customs Commissionerate

7. Traffic Projections:

	<u>Commodity</u>	<u>Tonnes</u>	<u>TEUs</u>
Export (existing / projected)			
Import (existing / projected)			

NOTE: Party-wise expected traffic of export / import containers (TEUs) separately to be attached to the extent possible.

## 8. Names of the shipping lines, shipping agents, freight forwarders operating/willing to operate

## 9. Lay-out plan of the proposed ICD/CFS:

- a) Details of rail terminal facilities for receiving Container trains, loading/unloading, stacking space for containers.
- b) Covered areas separately for export / import / shut out / disputed / hazardous cargo, office block, etc.
- c) Open area for Containers Circulation / Yard: paved / unpaved
- d) Gatehouse and security features (detailed lay out plan to be enclosed)

## 10. Infrastructural facilities (area in sq. meters) proposed to be provided:

- a) Office accommodation for applicants staff;
- b) Accommodation for custom staff;
- c) Accommodation for shipping lines / agents.
- d) Accommodation for bank;
- e) Canteen
- f) Computer
- g) Weighing facilities.
- h) Telephone / telex / FAX
- i) Flood light / high mast towers for security; and
- j) Public and staff conveniences / amenities like toilets, drinking water etc.
- k) Fire fighting
- l) Drainage / Sewerage;
- m) Strong room for valuable cargo
- n) Reefer plug points
- o) Parking area for Lorries outside the facility.

11. Equipment (forklift, crane, trailer etc. to handle the containers and cargoes).

12. Estimated cost of the proposed project.

13. Experience / capability of the applicant in running the ICD / CFS, staff to be employed with their experience and qualifications, responsibilities.

14. Financial status of the applicant organisation.

15. Movement logistics of containers between the proposed ICD / CFS and Gateway port: Complete details to be provided.

16. Costing and proposed tariff.

15. Scope and plans for future expansion.

NOTE: Customs Notification for the ICD / CFS will be issued only after infrastructure and security arrangements are completed and necessary bond with bank guarantee is provided.

5.02.02 Reduction in transport cost must outweigh any increase in handling cost. Thus, a survey / feasibility study must precede setting up of ICDs / CFSs and copy of the report should invariably accompany the application. Data for carrying out analysis could be from secondary sources and field observations, structured over time and space, the latter is more realistic. Views of exporters, shipping lines, freight forwarders, port authorities, Commissioners of Customs / Excise etc., must be fully reflected.

5.02.03 Traffic flow must be analyzed with reference to (i) commodities, (ii) directional-split (imports / exports), (iii) proportions of LCL and FCL, (iv) modes of transport available, and (v) possible reduction in tonnes per kilometers or Box per kilometers costs.

5.02.04 The facility must be economically viable and attractive to users, railways and other transport operations; seaports; shipping lines; freight forwarders etc. on basis of certain minimum amount of traffic. Suggested minimum TEU figures for approval are 6,000 TEUs per year (two way) for ICDs and 1,000 TEUs per year (two way).

5.02.05 The design and lay out should ensure smooth flow of containers, cargo and vehicles through the ICD/CFS. It should take into account initial volume of business, estimated volume in 5/10 years horizon and the type of facilities exporters would require. Broadly the design should encompass (rail) siding, container yard, gate house, security features, boundary wall (fencing), roads, pavements, office building and public amenities. The track length and number of tracks should be adequate to handle rakes and for stabling trains where relevant. The perimeter fencing and lighting must meet the standards required by Customs authorities. The gate being the focal point of site security should be properly planned. The administration building is the focal point of production and processing and processing of all documentation relating to handling of cargo and containers. While

its size will be determined by the needs of potential occupants, the main core of building may be open space capable of being partitioned into different sized offices. Fixed provisions can be made for sanitation and possibly a food service. Finally, a good communication system is a must.

5.02.06 A host of handling equipment of different kind and capacity is available for loading, unloading of containers from rail flats, chassis, their stacking, movement, cargo handling, stuffing destuffing and so on. The choice of equipment for the facility will have a major impact on the overall design and effective working of the ICD/CFS and should be carefully considered. Availability of adequate and – proper equipment (owned, hired, leased) at the facility is an essential requirement.

5.02.07 Detailed tariff structure and costing should be worked out in advance and information provided with the application.

5.02.08 The main function of an ICD/CFS being receipt, despatch and clearance of containerised cargo, the need for an up-to-date inventory control and tracking system to locate containers/cargo is paramount. Each functional unit of the facility (e.g. siding, container yard, gate stuffing/destuffing area etc.) should have up-to-date, and where possible on-line, real-time information about all the containers etc. to meet the requirements of customers, administration, railways etc. This could be through computers etc.

### **5.03 Procedure for approval of ICD/CFS**

5.03.01 Proposals for setting up ICD / CFS will be considered and cleared, on merits, by an Inter-Ministerial Committee, which consists of officials of the Ministries of Commerce, Finance (Customs), Railways and Surface Transport. The proposals will be examined keeping in view guidelines and norms mentioned above.

5.03.02 Application (eight copies) in enclosed form accompanied by copies of feasibility reports mentioned in the guidelines should be submitted to the Joint Director (Infrastructure Division) in the Department of Commerce.

5.03.03 On acceptance of a proposal, a letter of intent will be issued to the applicant who will enable it to initiate steps to create infrastructure.

5.03.04 After the applicant has put up required infrastructure, met the security standards of the Commissioner of Customs and provided a bond backed by bank guarantee to the Customs, final clearance and Customs notification will be issued. The bond would be for a value equivalent to the value of cargo to be handled. Bank guarantee would be for 20% of the value of bond.

5.03.05 The approval will be subject to cancellation in the event of abuse or violation of the conditions of approval.

5.03.06 The working of the ICD/CFS will be open to review by the Inter-Ministerial Committee and Customs Department.

[F. No. 434/12/92-Cus-IV, dated 5.6.1992]

#### **5.04 Setting up CFSs**

5.04.01 A CFS may handle exclusively export cargo or import cargo or both. Generally, CFS is taken to be an extended arm of the Port / ICD / ACC. Depending upon its importance and volume of work it handles, it functions like a full-fledged Customs station wherein the admission, processing and completion of all customs procedures are done. Alternatively, the processing of the Customs clearance documents is done in the Custom House and the CFS functions like 'Docks' where the examination and sealing of export cargo or examination and customs clearance of import cargo is done. Thus, depending upon the location, workload and other related factors; Commissioners of Customs can devise the Customs work in such CFS.

5.04.02 Commissioners of Customs are authorised to notify a CFS as a Customs area under Section 8 of the Customs Act in any place declared by the Central Government as a Customs station under section 7 of the Customs Act.

However, before declaring a CFS, the Commissioners may assess the requirements of such facility in each Port / ICD / ACC for creation of such additional Customs area (CFS). If need be, the Commissioners may discuss such feasibility in the Regional Advisory Committee Meetings or meetings with the Trade. Commissioners are advised, however before notifying any new CFS as Customs area in a Customs Station, they should call for the proposals by wide publicity and grant such facility only after fully satisfying themselves on the need, security, credibility of the persons concerned, suitability of the condition and other details of the applicant.

5.04.03 Proposals for CFS are processed in the Ministry of Commerce when applicants make proposals to the Ministry. As and when such proposals are cleared and communicated to the Board, Commissioners are required to notify it under Section 8 of the Customs Act, as early as possible, after ensuring suitability and other criteria for such declaration.

5.04.04 A CFS may be notified as a Customs Area in the Public/Joint/Private Sector. However, before notifying such Customs area, the following guidelines may be noted.

- (a) There should be judicious mix of Public and Private Sector undertakings to provide an element of healthy competition leading to greater efficiency and cost effectiveness in management and operation of such ICDs / CFSs.
- (b) If at any station PSU has already been appointed as a Custodian to operate a CFS / ICD, the next facility may be given to a joint sector / Private Sector and vice versa.
- (c) Financial standing and antecedents of the organisation should be verified.
- (d) The selection of custodians to operate CFS / ICD may be made by the Commissioners stationed at the city in consultation with Regional office of DRI, and by constituting a committee of officers from the Commissionerate and or from the trade and other interests.
- (e) To project an image of fairness, the Commissioner may invite request for opening CFS / ICD through a Public Notice.
- (f) The Commissioner may dispose of the case of Public Sector Undertakings themselves and the cases of Private Sector after confirmation by a Committee to be constituted as indicated above.

## **5.05 Guidelines on Undertaking to be Given by Custodians**

5.05.01 The Custodian shall undertake to provide necessary infrastructure facilities, ensure safety and security of the cargo at the ICD/CFS, provide facilities for Customs staff etc. as given below:

(a) Custodian shall provide safe, secure and spacious premises for loading /unloading/ sorting of the cargo. The infrastructure for loading/unloading/storage operations should be designed to handle a minimum traffic of at least 10 TEU per day (two-way). The premises should be so designed that there should be provision for expansion of storage space, office accommodation, handling space, etc. for a period of 10 years.

(b) Custodian shall provide sufficient modern handling equipment in operational condition for handling the containers and cargo in the area;

(c) No alteration of the plan in the accommodation, boundary wall and building, etc. shall be made without the concurrence of the Commissioner of Customs;

(d) Insurance of all goods held in the ICD/CFS shall be made by the Custodian;

(e) Custodian shall abide by all the rules and regulations under the Customs Act;

(f) For proper discharge of the duties, the Custodian shall execute a bond equal to the average duty involved on the goods likely to be stored in the premises for a period of 30 days, supported by bank guarantee or a Government bond or cash deposit equivalent to 10% of such duty. However, all Central Government and State Government Undertaking shall be exempt from the requirement of furnishing bank guarantee or cash deposit.

(g) Custodian shall bear the duty on the goods lost or pilfered from the CFS / ICD;

- (h) Custodian shall give separate bond with sufficient bank guarantee of the value of the bond towards the duty element of the Export goods transported from the customs area to the gateway port/any other customs area for export;/ transshipment. Custodian would also be held responsible for the duty and for other penalties leviable for the goods lost during transshipment from the said customs area to the gateway port/other customs area;
- (i) Security of the premises shall be the responsibility of the Custodian subject to the prior approval of the Commissioner of Customs of the arrangements. The cost for the security has to be borne by the custodian;
- (j) Custodian shall bear the cost of the Customs staff, posted for the ICD / CFS / EPZ. The Commissioner of customs shall decide the number of staff which is required to be posted in the facility considering the workload in the station. (The financial sanction for creation of requisite number of cost recovery posts should precede the notification of ICDs / CFSs by the Commissioner).
- (k) Custodian shall provide free furnished office space for the Customs Department;
- (l) Residential accommodation for the customs staff posted in the area shall be provided for by the custodian, wherever requisitioned by the Commissioner of Customs;
- (m) Free suitable transport from the nearest railway-head or suitable point shall be provided for the customs staff by the custodian;
- (n) In the ICD / CFS the Custodian shall make adequate arrangements for sanitary facilities, water supply and other allied facilities, including canteen facility, for the officers working in the area;
- (o) Custodian shall not charge any rent/demurrage on the goods detained by Customs Department under the Customs Act or any other Act for the time being in force. However, the Customs Department shall pay the rent to the Custodian after

the ownership of the goods vests in the Government after confiscation. The rate of rent for such goods shall be fixed by the Commissioner in consultation with CPWD or local Revenue or Rent Control authorities;

(p) In case the Custodian wants to sublet any of the functions inside the customs area or connected with the customs area, the same should be done with prior approval of the Commissioner of Customs and the Custodian shall remain responsible for the omissions and commissions of the said agency;

(q) Duration of the appointment shall initially be for 5 years subject to the satisfaction of the Commissioner of Customs who shall have the right to terminate the right to terminate the appointment at any time after assigning specific reasons and giving an opportunity for the Custodian to explain his case. The appointment shall be reviewed every 5 years.

(r) The Custodian should provide adequate infrastructure for their computerization and link with Customs EDI at such ICDs / CFSs.

[Circulars No. 128/95, dated 14.12.1995, No. 34/2003-Cus, dated 24.4.2003 and No. 37/2003-Cus, dated 28.4.2003]

## **5.06 Grant of Custom House Agents Licence to Multi-modal Transport Operators**

5.06.01 Multi-modal Transportation of Goods Act, 1993 governs carriage of goods from India to any place abroad by more than one mode of transport i.e. basically it is concerned with the operations concerning export of goods from India. Any person appointed by the Ministry of Surface Transport or any other agency under it as a Multi-modal Transport Operator is only for the purposes of the said Act and any such appointment does not confer any rights for his appointment as a Custom House Agent or Steamer Agent for the purpose of Customs Act, 1962.

5.06.02 Permission for de-stuffing or stuffing of containers to Multi-modal Transport Operator is to be granted only by the Custodians i.e. Port Trust or IAAI or others. For this purpose the normal practice of the Custodian is to take security clearance from Customs for the person(s) to whom they issue passes and the Custom House needs to verify whether the person has come to adverse notice, which is detrimental to allowing handling of cargo. Otherwise, Customs have no status to deal with such kind of operators. Further, handling cargo would not entitle him to any of the privileges to become a CHA or a Steamer Agent unless otherwise qualified in terms of the Customs House Agents Regulations or other provisions of the Customs Act, 1962. The role of a CHA is to be distinguished from the role of a container handling agent or a Multi-modal Transport Operator or a cargo agent dealing with Import cargo.

[Circular No. 72/95-Cus, dated 22.6.1995]

### **5.07 Declaration of ICDs and CFSs**

5.07.01 Notification No. 15/95-Cus (NT), dated 10.3.95 is a consolidated notification listing places appointed by the Central Government as ICDs under Section 7(aa) of the Customs Act, 1962. However, appropriate notification as per Section 8 of the Customs Act, 1962, may be issued specifying the exact location and purpose of the ICD or of the CFS attached to the said ICD.

5.07.02 Movement of cargo cleared by Customs at the ICD for export may be either by road or by rail at the discretion of the Custodian. For this purpose, the Custodian will be required to execute a bond with Deputy/Assistant Collector of Customs in charge of the ICD which will act as revenue safeguard should the goods be lost in transit.

5.07.03 When the ICDs/ports are serviced by CFSs, the movement of export cargo to the ICD may be by road or rail as per option of Custodian of the CFS. The Custodian would be required to execute a suitable bond with the Deputy/ Assistant Commissioner of Customs in charge of the ICD, which will act as a revenue safeguard should goods be lost in transit.

[Circular No. 77/95-Cus, dated 30.6.1995]

## **5.08 Working of Customs Staff in ICDs / CFSs**

5.08.01 ICDs /CFSs are enclosed and guarded places notified under Section 7 of the Customs Act, 1962, as Customs Stations. Accordingly, requisite staff comprising of Appraisers, Examiners, Superintendents Customs / Central Excise, Inspectors of Central Excise, Preventive Officers, Group D Staff, Ministerial Staff, etc., from the jurisdictional Commissionerate of Customs and Central Excise are posted here to attend to the work of clearance of imported/export goods. The deployment and duties of the Customs Staff are akin to those prevalent in Docks or Air Cargo Complexes.

5.08.02 Import cargo, in containers or otherwise, are applied for to be transhipped to ICD/CFS, at the Port/Airport of import by the Shipping Agents/Importers and then carried to the ICD/CFS by rail/road/air and received there by the Custodians. Usually All the obligations/controls under provisions of the Customs Act, 1962 are applicable to such ICD/CFS and goods handled therein. Bill of Entry and other documents are filed with the jurisdictional Commissionerate of Customs and Central Excise and clearance procedure is similar to that of goods imported at the Port / Airport.

5.08.03 On the Export side, the goods are entered in ICD/CFS for the purpose of examination/Inspection and clearance by the Customs. Shipping Bill and other related documents are filed and processed in the jurisdictional Commissionerate of Customs and Central Excise and thereafter the export goods are carted into the ICD/CFS. After usual inspection/examination, like in Docks/Air Cargo Complex, of goods by the Customs, the same are cleared for export. So passed export goods are then either stuffed into containers under Customs supervision or directly moved to the point of export under Customs escort/seal where these are loaded on the vessel/aircraft/vehicle for onward carriage to the port of destination. Duties and functions of the Customs staff on the export side of ICD/CFS are similar to those of such staff posted at Docks/Air Cargo Complex. Further, It shall be duty of the gate

officer posted at ICD/CFS to ensure that container move into or out the CFS / ICD only under seal.

[Note: For clearance procedures at ICDs/CFSS with EDI facility please refer to Chapter 'Electronic Data Interchange' of this Manual].

## **5.09 Handling of Cargo in Customs Areas Regulations**

5.09.01 Handling of Cargo in Customs Areas Regulations, 2009 deals with the matter of handling import/export and transshipment cargo in a Customs area. Thus, cargo can be handled in a Customs Area only by persons recognized as Customs Cargo Service Provider (CCSP) for which they must obtain a valid Letter of Approval given by the Inter-Ministerial Committee of the Ministry of Commerce or any other Government Body set up for this purpose. The application for the same is to be made in the form below. Existing Custodians dealing with import/export goods are also required to make an application in the said form.

<b>Form</b>	—	<b>A</b>
[see	regulation	9 (1)]

To

The Commissioner of Customs,

..... (Address)

Subject: Application Form for approval / renewal of Customs cargo service provider

under the Handling of Cargo in Customs Areas Regulations, 2009 issued under Section 141(2) of the Customs Act, 1962 (52 of 1962).

\*\*\*

Sir / Madam,

I/we, the undersigned hereby submit the following details for approval as a Customs cargo service provider under the Handling of Cargo in Customs Areas Regulations, 2009:

1. Name and address of the Applicant in full (Block Letters) :-

(a) Name of the Applicant \_\_\_\_\_

(b) Full Address (Registered Office, in case of limited Companies & Head Office for others) \_\_\_\_\_

(c) Tel. No. \_\_\_\_\_

(d) Fax No. \_\_\_\_\_

(e) Permanent E-Mail Address \_\_\_\_\_

(f) Name and address of each of the Directors/Partners/ Promoters, as the case may be \_\_\_\_\_

2. Nature of the applicant Firm or Company:

(a) Public Limited Company

(b) Private Limited Company

(c) Proprietorship

(d) Partnership

(e) Others (please specify)

Note:- Copy of certificate of incorporation along with Article of Association and Memorandum in case of companies and partnership deed in case of partnership firms may please be attached.

3. Extent of the proposed premises, giving details of area allocated for unloading / loading, operational and stacking area, storage area, delivery, Customs Automated System, Customs office premises, service centre, other user agencies etc. (Map to be provided).

4. Whether the applicant holds a valid Letter of Approval given by the Inter-Ministerial Committee of the Ministry of Commerce or any other Government Body for setting up of Customs cargo service facility at the premises applied for? If so, provide details thereof.

5. Projected capacity of the cargo / container proposed to be handled in the proposed premises.

6. Details of infrastructure and equipment put in place for handling of cargo in the proposed premises. (Details to be given separately for loading / unloading, stacking, storage and delivery).

7. Details of security system installed for entry / exit of cargo and other safety and security measures.

8. Details of electronic weigh bridge, other weighing, measuring devices.
  
9. Details of the computerized system put in place for location of cargo / container, processing of documents.
  
10. Whether any exemption from payment of cost recovery charges for posting of Customs officers is claimed. If so, furnish the details of the order issued in this regard by the Ministry of Finance.
  
11. Whether the applicant is already functioning as Customs cargo service provider. If so, details of the premises along with the respective jurisdiction of the Commissioner of Customs.
  
12. Whether the applicant had earlier applied for approval to act as Customs cargo service provider and whether such application was approved / rejected:-
  - (i) within the jurisdiction of the Commissioner of Customs to whom application has been made;
  
  - (ii) outside the jurisdiction of Commissioner of Customs referred at (i) above.
  
13. Whether the applicant has been penalized, convicted or prosecuted under any of the provisions of the Customs Act, 1962 (52 of 1962) or any other law for the time being in force. (If so, the details thereof).

14. If the application is for renewal, details of original approval granted under regulation 9, along with the date of its expiration or the date of last renewal of such approval.

15. List of documents furnished along with this application.

16. Declaration:

I am / we are authorized to make the following declarations:

I / We declare that all particulars given herein are true and correct.

I/We hereby affirm that I/we have read the Handling of Cargo in Customs Areas Regulations, 2009 and agree to abide by them.

I/We hereby undertake to intimate any change in respect of the information provided in the aforesaid application within a period of 30 days.

Date:

Signature and name of the applicant(s)

or authorised signatory

Place:

5.09.02 An applicant interested in being recognized as a CCSP must fulfill certain requirements and provide certain facilities that include the following to the satisfaction of the Commissioner of Customs:

(i) Infrastructure, equipment and adequate manpower for loading, unloading, stacking, handling, stuffing and de-stuffing of containers, storage, dispatch and delivery of containers and cargo etc., including:

(a) standard pavement for heavy duty equipment for use in the operational and stacking area;

(b) building for Customs office, Customs EDI Service Centre and user agencies with basic amenities\_and facilities;

(c) storage facility, separately for imported, export and transshipment goods;

(d) gate complex with separate entry and exit;

(e) adequate parking space for vehicles;

(f) boundary wall;

(g) internal service roads;

(h) electronic weigh-bridge and other weighing and measuring devices;

(i) computerized system for location and accountal of goods, and processing of documents;

(j) adequate air-conditioned space and power back up, hardware, networking and other equipment for secure connectivity with the Customs Automated system; and for exchange of information between Customs Community partners;

(k) facilities for auction, including by e-auction, for disposal of uncleared, unclaimed or abandoned cargo;

(l) facilities for installation of scanning equipment;

(m) security and access control to prohibit unauthorized access into the premises, and

(ii) Safe, secure and spacious premises for loading, unloading, handling and storing of the cargo for the projected capacity and for the examination and other operations as may be required in compliance with any law for the time being in force;

(iii) Insurance for an amount equal to the average value of goods likely to be stored in the customs area based on the projected capacity, and for an amount as the Commissioner of Customs may specify having regard to the goods which have already been insured by the importers or exporters.

5.09.03 The applicant shall undertake to bear the cost of the Customs officers posted, at such Customs area, on cost recovery basis, and make due payments, unless specifically exempted by the Government;

5.09.04 The applicant other than ports notified under the Major Ports Act, 1962 or the Central Government or State Governments or their undertakings shall execute a bond equal to the average amount of duty involved on the imported goods and 10% of value of export goods likely to be stored in the customs area during a period of 30 days and furnish a bank guarantee or cash deposit equivalent to 10% of such duty:

5.09.05 The applicant shall execute a separate bond for an amount equal to 10% of value of export goods with a bank guarantee for an amount equal to 10% of the value of the bond, towards the export goods transported from the Customs area to any other Customs area for export or transshipment;

## **5.10 Responsibilities of Customs Cargo Service Provider (CCSP)**

5.10.01 CCSP is responsible for the safety of the imported/exported goods in his charge and for this purpose is required to undertake the following activities (unless specifically exempted):

- (a) Keep record of imported/export/transshipment goods and also of each activity or action taken in relation to their movement or handling and produce the same to the proper officer as and when required;
- (b) Display or make available information of process or movement or handling of imported/ export/ transshipment goods;
- (c) Demarcate areas for loading/unloading of export/imported goods, for their storage with respect to the category of exporters/importers, nature of goods, destination, mode of transportation etc. as the Commissioner of Customs may specify;
- (d) Not permit goods to be removed from the Customs area, or otherwise dealt with, except with the written permission of the proper officer;
- (e) Not permit export cargo to enter the Customs area without a Shipping Bill or a Bill of Export having been filed;
- (f) Not permit import cargo to enter the Customs area or be unloaded therein without the import report or IGM having been filed;
- (g) Be responsible for safety and security of imported/export goods and be liable to pay duty on goods pilfered after entry;
- (h) Be responsible for secure transit of the goods to any other Customs area in accordance with the permission granted by the proper officer;
- (i) Subject to any other law in force not charge rent or demurrage on the goods seized or detained or confiscated by the proper officer;

- (j) Dispose off in the manner specified and within a time limit of 90 days (or period extended by Commissioner of Customs), the imported or export goods lying unclaimed, uncleared or abandoned:
- (k) Not alter the entry or exit points or boundary wall without the permission of the Commissioner of Customs;
- (l) Bear the cost of the Customs officers posted on cost recovery basis unless exempted by the Ministry;
- (m) Observe the Central Government holidays as followed by the jurisdictional Customs formations and in case of any variation in the working days, intimate the same to Commissioner of Customs and the trade, at least 7 days in advance, and
- (n) Publish and display the schedule of charges for the various services provided in relation to the imported goods or export goods.
- (o) Not lease, gift, sell or sublet or in any manner transfer any of the premises in a Customs area; or sub contract or outsource functions permitted or required to be carried out by him to any other person, without the written permission of the Commissioner of Customs.

## **5.11 Approval of a CCSP and Commencement of Operations**

5.11.01 Where the Commissioner of Customs is satisfied that the applicant has fulfilled the prescribed conditions he may approve the applicant as a CCSP for a period of two years. Existing Custodians are deemed to be approved as CCSPs for five years from the date of compliance with the regulations.

5.11.02 The CCSP's approval shall be reviewed by the Commissioner of Customs before the expiry of two years or five years, as the case may be, and he may be extend such approval for further five years at a time.

5.11.03 The CCSP shall not commence any operations for the first time unless the Commissioner of Customs grants permission by a written order. Further, the Commissioner of Customs may regulate the entry of goods in a Customs area for efficient handling of goods.

5.11.04 The Commissioner of Customs may on application made by the CCSP before the expiry of the validity of the appointment, renew the approval for a further period of 5 years if the performance is found to be satisfactory.

## **5.12 Suspension or revocation of approval for appointment of a CCSP**

5.12.01 The Commissioner of Customs may suspend or revoke the approval granted to the CCSP and order for forfeiture of security, if any, for failure to comply with any of the provisions of the Act and the rules, regulations, notifications and orders. For this purpose he shall issue a written notice to the CCSP stating the grounds on which it is proposed to suspend or revoke the approval.

5.12.02 The CCSP shall submit within 30 days or extended period its defense to the nominated Deputy/Assistant Commissioner of Customs who shall decide the matter on basis of available evidence including personal hearing, if required, and prepare a report recording his findings.

5.12.03 The Commissioner of Customs shall furnish to the CCCSP a copy of the Deputy/Assistant Commissioner of Customs report and require it to submit within 30 (or more days) any representation against the findings before passing suitable orders.

5.12.04 Penalty on a CCSP contravening or abetting or failing to comply with any provision of the regulations shall extend to Rs.50,000/-.

[Notification No. 26/2009-Cus (NT), dated 15.3.2009]

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## CHAPTER – SIX

### 6. IMPORT CLEARANCE PROCEDURES

#### 6.1. PRELIMINARY:

The provisions relating to Customs clearance of imported goods and Export goods have been outlined in Chapter VII of the Customs Act, 1962. However, the provisions of that chapter do not apply to the baggage and goods Imported / Exported by post, as special provisions therefor has been made under the Customs Act.

The provisions regulating the Arrivals / Departures of the conveyances carrying Imported / Export goods and unloading / loading of the same have been discussed in the previous Chapters of this Manual.

This Chapter of the Manual deals with the provisions for clearance of Imported goods. Section 45(1) of the Customs Act, 1962, prescribes that all imported goods shall remain in the custody of the person approved by the Commissioner of Customs for this purpose, until they are cleared for home consumption, warehousing or transshipment. Sub-section (2) of the Section 45 of the Act mandates that, the custodian of the goods shall keep an account of the goods received by them and shall furnish a copy thereof to the proper officer. Also, the custodians shall not remove or deliver the said imported goods unless the proper officer has issued a written order to that effect.

Section 45 (3) of the Customs Act, 1962, outlines an important provision that if any imported goods are pilfered after unloading thereof in a customs area while in the custody of the person referred to in Section 45(1) of the Act, that person shall be liable to pay appropriate duty on such goods.

Once the unloading of the Imported goods is complete, the same are taken charge of and remain in the custody of the Port / Airport authorities pending examination and clearance by the Customs authorities. Similarly, the Export goods are also kept in or near the Port / Airport premises for Customs clearance before export.

The procedures involved in the clearance of Imported goods for home consumption or other wise, and of Export goods, is of vital importance as this entails the process of collection of revenue and implementation of Customs laws- especially the assessment of goods and collection of Customs duty, verification of importability / exportability of goods and procedures prescribed therefor as per the Export / Import policy in force.

## **6.2. IMPORTED GOODS**

As per the definition in Section 2(25) the Customs Act, 1962, imported goods means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption. So, any goods which are brought into India (including the territorial waters of India) become imported goods and on which duties of Customs are leviable.

The imported goods usually fall into four broad categories-

- a ) those which are intended for home consumption i.e. to be used within the country either for sale or for manufacture of other goods, and,
- b ) those intended for warehousing.
- c) those intended for Transshipment to any foreign port or other Indian ports, and
- d) which remain on board for transit to other stations in the same conveyance.

## **6.3. IMPORT CLEARANCE**

In these paragraphs, the clearance of imported goods for home consumption have been discussed. The subject of clearance of goods imported for warehousing, goods in transit or transshipment has been dealt with in the respective Chapters of this Manual.

The broad procedure for clearance of imported goods through Customs is outlined below :-

#### **6.4. Broad procedure for clearance of Imported Goods**

After the imported goods have been unloaded and taken charge of by Port / Airport authorities- acting as custodians, the Steamer Agents or Freight Agents intimate the consignees of the arrival of their goods. A Bill of Lading / Delivery Order is issued by them to the consignees after collecting requisite dues.

The importer of the goods, on receipt of the intimation & the required documents from the Steamer Agents / Freight Agents, present a Bill of Entry, either himself or through authorised Custom House Agents, to the Import department of the Custom House. The receiving clerk in the Import department assigns a running serial no. with date to the Bill of Entry and then passes it on to the Noting clerk. The Noting clerk compares the particulars declared in the Bill of Entry with the corresponding details in the Import Manifest and verifies the required licences, if any, as produced. He then enters the importer's details against the corresponding entry in the Import Manifest and Import Manifest No. & other details in the Bill of Entry.

Thereafter, the importer presents the Bill of Entry to the concerned Group of the Appraising Department in the Custom House for assessment. The Appraising Groups in the Custom House are formed on the basis of commodities as described in different Chapters of the Import Tariff of the Customs Tariff Act, 1975.

In the Appraising Group, the concerned Appraiser scrutinizes the Bill of Entry in relation to statistical requirements, classification of goods, rate of duty applicable, correctness of value and quantity declared, etc., vis-à-vis invoices and other documents submitted along with the Bill of Entry and gives an order on the Bill of Entry to the field staff for any physical examination or drawing of any samples for the purpose of assessment.

There are two kinds of orders for physical examination of goods etc. which can be -

- a ) before payment of duty, called First Check procedure, and,
- b ) after the payment of duty, called Second Check procedure.

**a ) First check –** In this method, the Group Appraiser, after scrutiny of the Bill of Entry and other related documents, passes an order on the Bill of Entry for physical inspection / examination, weighment, drawing of samples, etc., of goods, in order to determine the classification, value, etc., of the same. The Bill of Entry is then taken

to the Shed Appraiser, where the imported goods have been stored, who, in compliance of the order, examines the goods with the help of Examiners. The Shed Appraiser puts his examination report on the Bill of Entry and it is referred back to the concerned Group in the Custom House. The Group Appraiser, in the light of the report of the Shed Appraiser, completes the assessment and the Bill of Entry is handed over to the importer for payment of duty in the Cash Department. After the duty is paid and other requirements are met an “out of charge” order is endorsed on the Bill of Entry by the concerned Group Appraiser. Thereafter, the Bill of Entry with ‘out of charge’ order is submitted to the Port / Airport authorities who give the delivery of the goods to the importer or his agent and the goods are removed out of Port / Airport premises through approved Gates.

**b) Second check** – In second check procedure, the Group Appraiser, after scrutinising the B/E and other documents assesses the goods and determines the duty payable, on the basis of declarations made and the importer is allowed to pay the duty so assessed. The Group Appraisers then forward the B/E to the Shed Appraiser with an order for physical examination / inspection of the goods, etc., thereon.

The Shed Appraiser thereafter, examines / inspects the subject goods in accordance with the orders endorsed by the Group Appraiser and gives his report on the Bill of Entry. If no discrepancy is found, the Shed Appraiser gives an ‘Out of Charge’ order on the Bill of Entry and then the goods are removed from Port / Airport premises.

If any discrepancy is found in the particulars of the goods in relation to the declarations made, the Bill of Entry is referred back to the concerned Group, alongwith Shed Appraiser’s report, for further action.

More often than not, the Clearance of imported Goods is resorted to the Second check method in order to avoid delay.

Now a days in most of the Custom Houses, the records of details mentioned in the Bill of Entry and various other endorsements made on it are recorded and maintained electronically in various sections of Custom House.

Further, almost all the Custom Houses have now been equipped with the necessary infrastructure to process the Bill of Entry and other documents/procedures

electronically, for the clearance of imported goods. The same has been discussed in the Chapter “ Electronic Data Interchange “ of this Manual.

### **6.5. The Bill of Entry**

As discussed in the earlier paras, the Bill of Entry is the most important document in the process of clearance of imported goods from the admission stage till final clearance stage.

The Bill of Entry is the single document that initiates the procedure for clearance of Imported goods and passes through various sections of the Custom House and the Docks, in the process. It contains not only the declarations, made by the importer but also various observations, notings, reports, etc., on it made in different sections of the Custom House and Docks.

Section 46 of the Customs Act, 1962, makes it mandatory for the importer of any goods, other than goods in transit or for transshipment to file a Bill of Entry for clearance of goods for home consumption or warehousing.

The other provisions envisaged in this Section are –

- (i) A Bill of Entry under this Section may be presented at any time after the delivery of the Import Manifest or Import Report.
- (ii) The Commissioner of Customs is empowered to permit in special circumstances the presentation of a Bill of Entry even before the delivery of the Import Manifest. This may facilitate quick clearance of goods even if the vessel's Agent has been negligent in not presenting the Manifest promptly.
- (iii) The particulars to be mentioned in a Bill of Entry have not been specified in the clause but will be prescribed in the Regulations.
- (iv) Except where the proper officer so permits, a Bill of Entry shall be for all the goods included in the relevant Bill of Lading. Since an importer is required to make a true declaration, he cannot at the same time be asked to make a declaration which corresponds with what is contained in the Import Manifest, over which he has no control.
- (v) As per amendment brought by Section 8 of Finance Act of 1995 in sub-section (3) of Section 46 of the Customs Act, 1962, the Bill of Entry can now be noted 30 days in advance before the delivery of Import General Manifest. The period has been increased from 7 days to 30 days considering the

development of EDI and new liberalisation policy. This amendment has been brought in order to decrease the port congestion and to facilitate quick clearance on arrival of the goods.

- (vi) Sub-clause (4) of the Section 46 requires the importer to produce the invoice, if any, in support of the particulars furnished by him in the Bill of Entry.
- (vii) Sub-clause (5) permits the proper officer of Customs to allow substitution or supplementation of the Import Manifest if the interest of revenue is not prejudicially affected and if there was no fraudulent intention.
- (viii) This section along with Section 15 quantifies the liability for payment of duty on imported goods. The crucial date for this purpose is the date on which the Bill of Entry is presented.

The assessment under the Customs Act is governed by Section 12 which is the charging Section for the Customs Duties on goods Imported into or Exported from India. The valuation of the goods is accepted in terms of Section 14. Hence, Section 46 is a procedural Section requiring filing of Bill of Entry for assessment. The duty on such Bill of Entry is calculated in terms of Section 15. Therefore, Section 15(1) (a) links with Section 46 for date of determination of rate of duty and tariff valuation of imported goods. Reading the two Sections together, the rate and date of determination of duty on goods entered for home consumption is decided which is the date on which a Bill of Entry is filed under Section 46. Further the exchange rate for the purpose of calculation of CIF value is taken on the date of filing Bill of Entry under section 46.

#### **6.6. Advance Notice of Bill of Entry before delivery of I.G.M.**

Kindly refer to the amended provisions of Sec. 46(3) of the Customs Act, 1962 which provide that Bill of Entry may be presented even before the delivery of Import Manifest, if the Vessel or Aircraft by which the goods have been shipped for importation, is expected to arrive within 30 days from the date of such presentation.

2. The Custom Houses were not clear about the procedure to be followed in case of advance Bill of Entry. The matter was examined in Board in consultation with Commissioners in Conference and representatives of Federation of Freight Forwarders Association, Mumbai Custom House Agents Association and Air Cargo

Agents Association. Board had decided that the following procedures may be followed in this regard.

3. The importers desirous of availing the above facility should submit application alongwith the advance Bill of Entry (five copies) to the Import Department. The 5th copy (additional copy) will be called Advance Noting copy. Alongwith Advance Bill of Entry the importer/CHA will produce copy of Bill of lading/AWB and invoice issued by the supplier and other documents required for assessment. They will affix following declaration with the original Bill of Entry.

“We wish to clear the goods on arrival of the vessel. We request that our Bill of Entry be processed without waiting for the manifest. The vessel is due on ..... We shall formally present the Bill of Entry for noting as soon as the Import Manifest is filed. In case the Steamer Agent fails to deliver the IGM to the Import Department within 30 days from the date of advance noting of Bill of Entry, or the goods in question are not found to be listed in the import manifest we shall surrender advance noted Bill of Entry to the Import Department for cancellation and shall present fresh Bill of Entry under Sec. 46 of the Customs Act, 1962 after the delivery of Import Manifest in the Custom House”.

“Signature of the authorised person”

4. Copy of Bill of Lading/Air Way Bill & Invoice may be accepted provided the same are certified as correct by the importers.

5. The Office Superintendent in Import Department will verify if all the documents are in order and the dealing clerk will put ‘Advance Noting’ stamp on all copies of Bill of Entry indicating running serial no. of Advance Noting Register. Thereafter he shall enter the relevant date on the systems and generate the Thoka number and data for the subject Bill of Entry. He shall put the Thoka Number and date on all the copies of the Bill of Entry.

6. After the Thoka Number has been assigned, the Bill of Entry shall be forwarded to the Appraising Group for assessment. After the completion of assessment by Group Appraiser, the Bill of Entry shall be audited by the concurrent Audit Section and all other formalities including counter signature by Assistant Commissioner wherever required, will be completed. The Group Appraiser shall also make assessment on the 5<sup>th</sup> copy of the Bill of Entry, which will be forwarded by group to Import Department.

7. After delivery of the IGM by the Shipping Agent in the Import Department, the Bill of Entry shall again be presented to the Import Department alongwith all documents in original, which were not given with the advance copy of Bill of Entry for entering IGM No., Date of entry Inwards, Line No. etc. Then the Advance Bill of Entry shall be noted in the IGM by the Import Department, they will also make proper endorsement on the 5<sup>th</sup> copy of the Bill of Entry. The other copies of the Bill of Entry shall thereafter be forwarded to the Concurrent Audit Section for endorsement that there is no change in the rate of duty. However, if there is any change in the rates of duty, the concurrent Audit Section shall return such Bill of Entry to the dealing group Appraiser for re-assessment.

8. If the final entry of IGM is not made within 30 days from the date of presentation of Bill of Entry, the Bill of Entry will have to be surrendered to the Import Department for cancellation. After cancellation, necessary endorsement to this effect will be made in the corresponding entry of 'Advance Noting Registers'.

9. It shall be ensured that all Bills of Entry noted in advance in anticipation of IGM, are again presented either for noting against the IGM or for cancellation, in case the IGM of the vessel is not delivered within 30 days or the goods are not covered by the manifest. It will be the responsibility of the Office Superintendent of the Import Department to see that every Bill of Entry noted under this facility is properly accounted for.

10. The above facility will also be available in case of Bill of Entry for warehousing, 100% EOU, Duty Exemption Schemes, etc.

#### **6.7. Noting on the basis of IGM of mother vessel**

Now a day a large number of containers are transhipped at intermediate ports by the mother vessel to feeder vessels. Such feeder vessels move quite frequently between intermediate port & Indian ports. The name of feeder vessels is not known to the importer in India till last moment. In such cases the advance noting of Bill of Entry will be allowed on the basis of master Bill of Lading of mother vessel. On arrival of feeder vessel, amended Bill of Entry shall contain the name of master vessel as well as feeder vessel. The computer software may be modified suitably to accommodate both the names.

#### **6.8. Levy of interest on duty amount**

In terms of Section 47 (2) of the Customs Act, 1962 the importer is liable to pay interest on duty amount in case they fail to pay the import duty within **five** days from the date on which Bill of Entry is returned to them for payment of duty.

In case of Bill of Entry filed under Advance Noting, the interest liability will start on completion of five days from the date on which Bill of Entry is returned for payment of duty to importer/CHA after no change in duty is endorsed by Concurrent Audit Section.

### **6.9 Production of documents**

Wherever the goods have been imported against L/C, the importers would provide bank-attested invoice before clearance of goods.

**6.10. Rate of exchange** In terms of proviso clause to section 14, the price is calculated with reference to rate of exchange as in force on the date on which Bill of Entry is presented under section 46. The legal position in this regard remains unchanged.

The Rate of Exchange applicable is as in force on the date of 1<sup>st</sup> presentation of Bill of Entry whether on final entry basis or prior entry basis or advance noting.

### **6.11. Substitution of Bill of Entry**

Some of the Custom Houses are not allowing substitution of advance Bill of Entry for home consumption to Bill of Entry for warehousing in case of advance noting of Bill of Entry. In terms of section 46 (5) of Customs Act, 1962 substitution of Bill of Entry for home consumption or Bill of Entry for warehousing or vice-versa is allowed provided the interests of revenue are not prejudicially affected. The substitution of Bill of Entry may be dealt as per the above-mentioned provision in case of advance noting Bill of Entry also.

**[ Board's Circular No. 22 / 97- Cus. dated 4 / 7 / 1997 ]**

### **6.12. Types of Bill of Entry**

There are following four types of Bills of Entry for different class of imported goods. The colour of the Bill of Entry mentioned refers to the colour of the paper on which the same is printed: -

- (i) For goods imported for Home Consumption – White Bill of Entry.
- (ii) For goods imported for Bonding (warehousing) or manufacturing in Bond – Yellow Bill of Entry.
- (iii) For Ex-bond clearance of the imported goods – Green Bill of Entry.

(iv) For goods imported for Defence and for Government Stores – Pink Bill of Entry.

The importer is required to file the Bill of Entry in five copies. Each copy has a different colour coding for printing of the contents, as below-

- (i) Original copy of Bill of Entry, which is printed in Black letters and is retained by Customs after Duty is paid on the goods.
- (ii) Duplicate copy of Bill of Entry which is printed in Blue letters and is collected at the time of delivery of the goods at the gate of Port / Warehouse / Air Cargo Complex either by Customs or by Port / Airport authorities and subsequently dispatched to Custom House.
- (iii) Triplicate copy of Bill of Entry which is printed in Purple letters. This copy is importer's copy on which Modvat endorsement is made.
- (iv) Quadruplicate copy of Bill of Entry which is printed in Green letters and is meant for verification of Foreign Exchange remittance by the RBI or for Export promotion.
- (v) Fifth copy of Bill of Entry which is printed in Pink letters and is used by Port / Airport authorities to make endorsement for forwarding of goods for examination and for collecting port charges.

### **6.13. Electronic Bill of Entry**

With the advancement of computer technology, many Custom Houses have been furnished with elaborate network of computers and servers. With the help of these, it has now become possible to process Electronic Bills of Entry. The data pertaining to the details of Bill of Entry and related documents is stored electronically in the EDI server of the Custom House/CBEC. As and when required, the information can be transmitted to the designated EDI Centres in the Ports / Warehouses / ICDs / Air Cargo Complexes etc., after processing. At the places of storage of the imported goods, the Bill of Entry can be generated and printed with the help of data furnished by the importers in relation to goods imported by them. This system provides faster and easier clearance of Imported goods. Further, this type of electronic generation of Bill of Entry has eliminated the use of various types of coloured combined bills of entry.

The procedures related to processing Electronic Bills of Entry and clearance of Imported goods through them have been described below.

**The procedure given below is a general picture of processing in EDI system.**

- The importer /CHA has to submit dully filled in **Annexure-1** (given below after this) for clearance of import goods.
- On receiving, the Annexure, the Service Centre will feed the details in the System and generate the Checklist (C/L) for Importer/CHA verification. On verification if the Importer/CHA is satisfied with the correctness of data he can sign the C/L and gives it back to the Service Centre for final submission. Service centre then will generate the Number for the Bill of Entry and B/E will be put into Assessment queue.
- After generating the number for the B/E, System will also allocate documents to various appraising groups basing on the declaration given in the annexure.
- The B/E will then be available to Appraising Officer (A.O) on first come first serve basis.
- The Assessment of B/E will be done on screen by the A.O. with no physical verification of documents. The A.O. will give directions to the Examining Staff in the form of an open order. Whenever the appraising group requires to see some vital document in order to extend notification benefit or accept the classification and valuation in the declaration, queries are raised to the importer/CHA.
- The importer/CHA can find the location/status of his B/E by looking at the status display counter at the Service Centre and also first floor corridor. If the status shows "query raised " then he has to rush to the Service Centre and collect the query memo. After studying the query detailed reply can be given at the Service Centre reply counter. In case any documents are to be shown the same may be physically presented before the appraising group.
- On Assessment by the A.O. the B/E will be marked to the Internal Audit A.O. who will verify the correctness of assessment.
- After Audit the B/Es with values above one lakh will be marked to Asst.

Commissioner/Dy. Commissioner (Group) for Assessment. All other B/Es will be marked to the Bank for payment of duty.

- If any amendment is warranted to the B/E the same may be got approved by the Asst.Commissioner/Dy.Commissioner (Group) after which it has to be submitted to the service centre. The amendment so entered in the system will then figure on the screen of the Appraiser who may accept or reject the amendment. The amendment thereupon is put to AC/DC group screen who will finally decide the amendment. After every amendment of a bill of entry the B/E is put for reassessment.
- After Assessment is over by A.O/A.C. the System will generate one (customs) copy of B/E and three copies of T.R.6 Challans for payment of duty and the documents will be handed over to the Importer at Service Centre.

The Importer will have to pay the duty in the Bank stationed in the premises of

- Custom House by DD/Cash.
- After payment of duty the B/E will move to Goods registration section in Examination Area,
- After registration of goods by Systems Examining Officer, the B/E will move to the screen of Examining Officer (Physical Examination). Along with the B/E, the importer/CHA shall present documents, as per list below (the documents should preferably be arranged in a file cover in the following order)
  - a. Duty paid Challan in original.
  - b. Copy of delivery order.
  - c. Copy of B/L.
  - d. Invoice in original.
  - e. Packing list in original.
  - f. Certificate of Origin in original.

g. Exemption Certificate in original, if the notification so requires.

h. Copy of the bond or undertaking executed, if any.

i. GATT declaration duty signed by the importer.

j. Technical literature, catalogue etc.

k. Copy of the request for Green Channel clearance, if any.

l. Clearance of ADC or any other agency/authority, where required.

m. Any other documents required.

- The Examiner will then examine the goods as per directions given by the A.O/A.C (Assessment) and enters the Examination Report in the System.
- The B/E will then move to A.O.(Examination) Screen for out of charge permission. On verification of the Examination Report given by the Examiner, the A.O.(Examination will grant Out of Charge Order on the screen.
- Here System generates two (Importer, Bankers) copies of B/E, three (Customs, Importer & Custodians) copies of Out of Charge (O/C) Order, one copy of Examination Report.
- A.O.(Examination) will retain Customs copy of B/E, Customs copy of O/C Order, Examination Order and all original documents viz. Invoice, P/L etc.

The Importer will then approach the custodian for delivery of the goods by using the O/C (Custodian copy) granted by Customs

**DECLARATION FORM FOR FILING A BILL OF ENTRY.**

1. Importer Exporter Code (IEC) Number:
2. CHA Code Number:
3. Port of Shipment:
4. Country of Origin:
5. Country of Consignment:
6. IGM No. & Date:
7. Master B/L No. & Date:
8. House B/L No. & Date, if any:
9. Marks & Numbers:
10. Container Number:
11. Container Seal Number:
12. Container size:
13. No. of Packages:
14. Gross Weight:
15. Type of Bills of Entry:
  - a) Home Consumption/Into Bond/Ex-Bond
  - b) Advance/Prior Entry/Post Arrival
  - c) High Seas Sale/Defence/Books

16. Category of Importer: Government/Public Sector/Private

17. a) Whether first Check is required? Y/N

b) If yes, reasons therefor:

18. Whether Green Channel Clearance is required? Y/N

19. INVOICE DETAILS:

i. Number:

ii. Date:

iii. Value:

iv. Currency

v. Terms of invoice: FOB/CIF/CICF

vi. Freight Charges:

vii. Insurance:

viii. Other Charges:

ix. SVB LOADING: (Y/N)

If yes, furnish the following details:-

a. Reference Number:

b. Date:

c. Custom House:

d. Loading On: A/D/B

e. Percentage of Loading:

f. Provisional or Final: P/F

20. CLAIM OF ASSESSMENT (PART I)

S.No.	General Description including List No. where applicable	Unit Price	Net Quantity	Accounting Unit	DGCI&S ITC (HS) CODE	CTH	Customs Notfn No./Yr, S. No.

CLAIM OF ASSESSMENT (PART II)

S.No.	Notfn No.forSCD	CETH	CE Notfn No./ Yr, S. No.	Notfn for SAD	Other Notfn No., if any	CESS No. if	DGFT ITC (HS) Code/ Policy para/ Licence Details	Item-wise loading, if any

21. WHETHER UNDER SECTION 48: Y/N

**If yes, reason for delay:**

22. NATURE OF TRANSACTION:  
SALE/CONSIGNMENT/HIRE/GIFT/OTHERS
23. TERMS OF PAYMENT: LC/FOC/DP/SD/OTHERS
24. CONDITIONS ATTACHED WITH SALES, IF ANY:
25. ARE BUYER AND SELLER RELATED: Y/N

**IF YES**

- i. NATURE OF RELATIONSHIP:
- ii. BASIS OF DECLARED VALUE:
- iii. VALUATION RULE(S) APPLICABLE:
26. PARTICULARS OF PACKAGES AGAINST EACH ITEM OF INVOICE:

DECLARATION

I enclose copies of the following documents: -

- i. INVOICES
- ii. PACKING LIST

I certify that the declaration above, the documents and the information contained therein are true and correct.

Signature of the CHA/Importer

(Authorised Signatory only):

Name:

Date:

NOTE: Where the invoice contains more than one item, in units or by

description unit price of each item shall be indicated.

## **6.14. IMPORT PROCEDURE**

### **6.14.1. FILING OF IMPORT GENERAL MANIFEST:-**

A declaration which is to be filed by the person-in-charge of the conveyance or his agent under the provision of section 30 of the Customs Act, 1962, within 24 hours after arrival at the customs port is termed as import report or import general Manifest. Goods imported in a vessel/aircraft attract customs duty and unless these are not meant for customs clearance at the port/airport of arrival by particular vessel/aircraft and are intended for transit by the same vessel/aircraft or transshipment to another customs station or to any place outside India, detailed customs clearance formalities of the landed goods have to be followed by the importers. In regard to the transit goods, so long as these are mentioned in import report/IGM for transit to any place outside India, Customs allows transit without payment of duty. Similarly for goods brought in by particular vessel/aircraft for transshipment to another customs station detailed customs clearance formalities at the port/airport of landing are not prescribed and simple transshipment procedure has to be followed by the carrier and the concerned agencies.

This declaration of Import General Manifest is filed prior to the arrival of the vessel or aircraft or vehicle in the customs station. Notification 111/2003-Cus dated 19.12.2003 issued under section 30 provides that a person who is competent to issue delivery orders to the importers may also file the manifest. Section 112 of the Finance Act, 2003 has amended section 30 so as to require filing of IGM in respect of vessels and aircrafts prior to the arrival. But, in case of vehicle arriving at land

customs station, import report may be filed within twelve hours of the arrival of the vehicle at the land customs station.

A person filing declaration under the section has to declare the truthfulness of contents. This declaration has legal consequences, which bind the carrier {Section 30(2)}. Any mis-declaration in filing IGM will attract the penal provisions of Section 111(f) and Section 112 of the Customs Act, 1962. Under section 116 of the Act, a carrier is liable to penalty not exceeding twice the duty leviable on the goods which are manifested but are not landed.

After taking the local IGM number the shipping lines shall submit the IGMs through Service Centre of the Customs Station. Entry inwards is granted only after final submission of IGM to EDI System. A check list would then be generated by the Service Centre which would be verified by the authorized representative of the Shipping Line who will verify the correctness of the particulars and submit the same at the Service Centre, after putting his signature. The IGM's to be submitted electronically would have the complete details.

For amendment in import general Manifest, the Shipping line would be required to submit a written request to the Asstt. Commissioner (Import), seeking amendment of IGM particulars giving the reasons therefore. After getting the approval, the shipping line may approach the Service Centre for amendment in the System. For this purpose the errors in filing the IGMs is divided into two category i.e. Major errors and Minor errors.

#### **6.14.2. MAJOR AMENDMENTS:**

(i) Addition of extra entries (Line numbers in the IGM)

- (ii) Amendment in the quantity of goods already declared;
- (iii) Changing the date of the Bill of Lading mentioned in the IGM;
- (iv) Changing the Importer's/consignee name;
- (v) Commodity description.
- (vi) Conversion of general description of goods from cargo to un-accompanied baggage and vice-versa.

**6.14.3. MINOR AMENDMENTS:**

- (i) Changing the Importers address only;
- (ii) Correcting any spelling mistakes;
- (iii) Conversion from one unit of measurement to another;
- (iv) Change in the container number (only alphabetic prefix and the last 10<sup>th</sup> test numerical);
- (v) Change/addition of marks and numbers.
- (vi) Conversion from local to T.P./SMTP and vice-versa;
- (vii) Port of Loading;
- (viii) Size of Containers (provided there is no change in the weight of the consignment)
- (ix) Port of discharge;
- (x) Type of Packages
- (xi) No. of Packages (provided there is no change in the weight)
- (xii) Seal Number. (F.No.450/118/2004-CUS-IV CIRCULAR NO. 13/2005-Cus 11th March, 2005)

No penalty should be imposed if the import manifest/ import report is corrected before the deadline for filing the import manifest/ import report as provided in law, ends. Minor amendments as listed above could be carried out by Shipping Lines/ Agents with the permission of proper officer but without any adjudication. The major amendments can be made with the prior permission of proper officer. If there is incomplete or incorrect filing of import report or import manifest by the person who is required to file the import manifest or import report as per the provision of sub section (1) of section 30 of the Customs Act, 1962, penalty should be administered if the same is not corrected within permissible time limit, as per the legal provisions. The said section (sub-section 3) provides that if the proper officer is satisfied that the import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented. Hence the need for adjudication will arise only in cases where there are major amendments involving fraudulent intention or **substantial** revenue implication arising from the amendments. Further it is possible that in certain special situations such as mother/daughter vessel operation for lighterage on account shortage of draft, congestion of port, natural calamity, the final quantity of goods covered by the IGM would be known only after completion of such lighterage operation, requiring amendment in quantity originally declared at the time of filing IGM. These exceptional situations need to be taken care so that penal action is not initiated mechanically in such situations.

**(CIRCULAR                      NO.                      44/2005-Cus**  
**F.No.450/66/2004-CUS-IV November 24th, 2005)**

## **6.15. RATE OF DUTY FOR IMPORTED GOODS**

Section 46 of the Customs Act, 1962 provides the procedural law for entry of imported goods. All importers have to file a bill of entry of imported goods. All importers have to file a bill of entry for clearance of goods, except in respect of goods meant for transit or transshipment of transshipment. Section 15 lays down the guideline for determining the rate of duty applicable to imported goods.

Generally, rate of duty in force in force on the date on which a bill of entry is presented under Section 46 will apply. If the bill of entry is presented prior to the arrival of vessel or aircraft, the rate of duty in force on the date on which 'Entry Inward' is granted by the Customs house will apply. If the goods are cleared from the warehouse, the rate of duty applicable will be as on the date of presentation of the bill of entry for home consumption. Lastly, in any other case, the rate of duty in force, on the date of actual payment of duty, will apply.

For warehoused goods, the rate of duty is based on the date of filing of bill of entry for home consumption. This is with effect from 14.05.03 when an amendment in Section 15(1)(b) has been made vide Section 106 of the Finance Act, 2003.

## **6.16. FILING OF A BILL OF ENTRY**

Under the EDI system, the importer is required to submit declarations in electronic format containing all the relevant information to the Service Centre. A signed paper copy of the declaration is taken by the service centre operator for non-reputability of the declaration. Once the IGMs are file in the Customs in the Customs Computer System, whenever a Bill of entry pertaining to any line in the said IGM is filed, the system will cross verify the details of IGM Nos., the Bill of Lading, Container No., SMPT No., Gross Weight, total number of packages and the Bill of entry would be accepted only if the relevant particulars match with the IGM. If any Bill of Entry is

not accepted by the System, the Importer/CHAs should verify that the IGM mentioned has been filed in the System by the Shipping Line; and that the IGM No., the Bill of lading No. and other details of local IGM, have been correctly furnished in the check list/Annexure submitted by them. A checklist is generated for verification of data by the importer/CHA. After verification, the data is submitted to the system by the Service Centre Operator and system then generates a B/E Number, which is endorsed on the printed checklist and returned to the importer/CHA. No original documents are taken by the operator at the Service Centre at this stage. Original documents are taken at the time of examination. The importer/CHA also needs to sign on the final document after Customs clearance.

After noting/registration of the Bill of entry, it is forwarded manually or electronically to the concerned Appraising Group in the Custom House dealing with the commodity sought to be cleared. Appraising Wing of the Custom House has a number of Groups dealing with earmarked commodities falling under different Chapter Headings of the Customs Tariff and they take up further scrutiny for assessment, import permissibility etc. angle.

#### **6.17. PROCEDURE IN THE CASE OF FIRST APPRAISEMENT**

Users of ICES/I(Indian Customs EDI System/Import) would be able to make a request for first check examination electronically, if it is necessary to do so, before the assessment of the duty and where the complete information, is otherwise available for filing the Bill of Entry. In the case of first check, at the data entry stage the Declaration Form should be filled up accordingly and the reasons for the request for the first check should also be duly entered.

A print-out of the un-assessed copy of the Bill of Entry, with first check examination order and other instructions would be generated at the Service Centre and shall be given to the CHA / Importer. The CHA / Importer shall put his signature on this Bill of Entry copy, declaring truth of the contents thereof and shall present the Bill of Entry, along with all original import documents, technical literature etc. at the shed for examination of the goods. After carrying out the examination order, the shed Inspector shall endorse the examination report on the Bill of Entry, as well as in the System and attest all the documents submitted with the Bill of Entry and catalogue found with the consignment. The importer shall present this hard copy of the Bill of Entry to the Assessing Appraiser, for completing the assessment in the System. Till it is received by the Assessing Officer, processing of Bill of Entry will remain suspended. After assessment, the hard copy shall be returned to the CHA. Three copies of the Bill of Entry (i.e. Customs copy, Importers copy, exchange control copy) shall be printed at the Enquiry Counter of the Service Centre. Three copies of the TR-6 Challan shall also be printed along with the Bill of Entry. Amendments will not be allowed in case of Bill of Entry under first check appraisalment.

#### **6.18. PROCEDURE FOR SECOND APPRAISEMENT**

After noting/registration of the Bill of entry, it is forwarded manually or electronically to the concerned Appraising Group in the Custom House dealing with the commodity sought to be cleared. Appraising Wing of the Custom House has a number of Groups dealing with earmarked commodities falling under different Chapter Headings of the Customs Tariff and they take up further scrutiny for assessment, import permissibility etc. angle.

#### **6.19. DUTIES OF THE ASSESSING OFFICER**

The basic function of the assessing officer in the appraising groups is to determine the duty liability taking due note of any exemptions or benefits claimed

under different export promotion schemes. They have also to check whether there are any restrictions or prohibitions on the goods imported and if they require any permission/license/permit etc. and if so whether these are forthcoming. Assessment of duty essentially involves proper classification of the goods imported in the customs tariff having due regard to the rules of interpretations, chapter and sections notes etc., and determining the duty liability. It also involves correct determination of value where the goods are assessable on ad valorem basis. The assessing officer has to take note of the invoice and other declarations submitted along with the bill of entry to support the valuation claim, and adjudge whether the transaction value method and the invoice value claimed for the basis of assessment is acceptable, or value needs to be re-determined having due regard to the provisions of Section 14 and the valuation rules issued there under, the case law and various instructions on the subject. He also takes note of the contemporaneous values and other information on valuation available with the Custom House.

## **6.20. Appraising**

- AO has no choice in selection of BE
- The first BE in the queue will be put for appraisal automatically
- The Appraiser who logs in first will get the first BE on screen for a particular group.
- Alert messages against the BE are flashed on screen
- AO can raise a Query to the Importer / CHA after approval by the concerned Assistant Commissioner.
- Approval of Amendment of BE
- First Check may be ordered subject to approval by Asstt. Commissioner and BE forwarded to Shed Appraiser for examination.

- AO can change CTH, CETH, Notification NO, enter penalty, fine, load at invoice level, item level, BE level by changing unit price.
- Select standard examination order, record Examination Order if the standardized orders are to be modified, enter Instructions and Departmental comments
- AO may seek the advice of AC online by forwarding the BE with comments.
- Be after appraisal is forwarded to Auditor for audit of BE. Where the AV exceeds Rs. 1,00,000/- the BE will have to be passed by the Assistant Commissioner.
- AO can order for execution of Bond by marking the assessment provisional, pending test, production of documents, Valuation details etc
- The BEs returned from Shed after first check have to be retrieved by choosing the option in the Appraiser's Main Menu.
- BEs can be de-activated or activated.

#### **6.21. Green Channel Processing**

- Importer has to make a request for Green Channel clearance (GC).

- The concerned Assistant Commissioner may consider the request or may not consider depending on norms set in this regard.
  
- All BEs with request for GC clearance are marked automatically to AC for approval.
  
- AC (Docks/shed) may accept or reject the green channel approval granted by AC (ACL).
  
- Green Channel Bills after payment of duty, if any, can be submitted to AO for OOC directly.

#### **6.22. First Check Processing**

- First Check can be requested by the Importer or can be given AO subject to approval of the same by the concerned AC.
  
- All first check BEs are marked to AC irrespective of their Assessable Value. AC may accept or reject the AO'S decision for first Check.
  
- BE will be marked to shed and marked back to AO (Assessment) after the First Check is entered.

### **6.23. Prior Entry BE**

- A Prior Entry B/E may be filed 30 days before the arrival of the conveyance.
- The prior B/E may be filed in the usual method of filing a BE.
- The B/E shall be marked Prior in the Status Field of the BE.
- After appraisal one copy of the BE shall be generated along with three copies of Challan for duty payment.
- On filing of IGM the BE shall be regularized in the System.
- If there is any change in rate of duty after filing of BE as on date of Entry inwards the BE and shall be put up to the Appraiser for re-appraisal and further normal procedure adopted.

### **6.24. PROCESSING OF BILL OF ENTRY**

The assessing officer processes the cargo declaration on screen with regard to all the parameters as given above for manual process. However in EDI system, all the calculations are done by the system itself. In addition, the system also supplies useful information for calculation of duty, for example, when a particular exemption notification is accepted, the system itself gives the extent of exemption under that notification and calculates the duty accordingly. Similarly, it automatically applies relevant rate of exchange in force while calculating. If assessing officer needs any clarification from the importer, he may raise a query. The query is printed at the service centre and the party replies to the query through the service centre. After

getting a satisfactory reply from the Importer/representative the said Bill of Entry will be assessed. After assessment, a copy of the assessed bill of entry is printed in the service centre. Under EDI, documents are normally examined at the time of examination of the goods. Final bill of entry is printed after 'out of charge' is given by the Custom Officer.

#### **6.25. EXAMINATION OF THE IMPORTED GOODS**

The bill of entry, after assessment by the group or first appraisement, as the case may be, needs to be presented at the counter for registration for examination in the import shed. A declaration for correctness of entries and genuineness of the original documents needs to be made at this stage. After registration, the B/E is passed on to the shed Appraiser for examination of the goods. Along-with the B/E, the CHA is to present all the necessary documents. After completing examination of the goods, the Shed Appraiser enters the report in System and transfers first appraisement B/E to the group and gives 'out of charge' in case of already assessed Bs/E. Thereupon, the system prints Bill of Entry and order of clearance (in triplicate). All these copies carry the examination report, order of clearance number and name of Shed Appraiser. The two copies each of B/E and the order are to be returned to the CHA/Importer, after the Appraiser signs them. One copy of the order is attached to the Customs copy of B/E and retained by the Shed Appraiser.

#### **6.26. GREEN CHANNEL FACILITY**

Some major importers have been given the green channel clearance facility. It means clearance of goods is done without routine examination of the goods. They have to make a declaration in the declaration form at the time of filing of bill of entry. The appraisement is done as per normal procedure except that there would be no physical examination of the goods. Only marks and number are to be checked in such cases. However, in rare cases, if there are specific doubts regarding description or quantity of the goods, physical examination may be ordered by the senior officers/investigation wing like SIIB.

#### **6.27. EXECUTION OF BONDS:**

Wherever necessary, for availing duty free assessment or concessional assessment under different schemes and notifications, execution of various type of bond depends upon the type of assessment and Scheme claimed for assessment, bonds with Bank Guarantee or other surety is required to be furnished. These have to be executed in prescribed forms before the assessing Appraiser.

#### **6.28. PAYMENT OF DUTY**

The duty can be paid in the designated banks or through TR-6 Challans. Different Custom Houses have authorized different banks for payment of duty. It is necessary to check the name of the bank and the branch before depositing the duty. Bank endorses the payment particulars in Challan which is submitted to the Customs.

#### **6.29. INTEREST LIABILITY ON THE ASSESSED DUTY**

The interest liability arise under Section 47(2) of the Act for failure to pay duty within five days from the date of assessment of bill of entry.

#### **6.30. PRIOR ENTRY FOR BILL OF ENTRY**

For faster clearance of the goods, provision has been made in section 46 of the Act, to allow filing of bill of entry prior to arrival of goods. This bill of entry is valid if vessel/aircraft carrying the goods arrive within 30 days from the date of presentation of bill of entry. The importer has to declare that the vessel/aircraft is due within 30 days and they have to present the bill of entry for final noting as soon as the IGM is filed. Advance noting is available to all imports except for into bond bill of entry and also during the special period.

#### **6.31. BILL OF ENTRY FOR BOND/WAREHOUSING:**

A separate form of bill of entry is used for clearance of goods for warehousing. All documents as required to be attached with a Bill of Entry for home consumption are also required to be filed with bill of entry for warehousing. The bill of

entry is assessed in the same manner and duty payable is determined. However, since duty is not required to be paid at the time of warehousing of the goods, the purpose of assessing the goods at this stage is to secure the duty in case the goods do not reach the warehouse. The duty is paid at the time of ex-bond clearance of goods for which an ex-bond bill of entry is filed. The rate of duty applicable to imported goods cleared from a warehouse is the rate in-force on the date on which ex-bond bill of entry is filed for home consumption.

After group assessment, audit and duty computation, the CHA or importer will present a double duty bond under Section 59 of the Act. The AC- bond will present a double duty bond under Section 59 of the Act. The AC – bond will accept the bond and assign a number and have it entered in the computer installed in Bond section.

Regular Importers have continuity bond facility and they may get the bond value of consignment debited. The data entry operator/STA will capture the data and endorse on the B/E 'entered in computer'.

The bond section grants clearance. Original B/E is kept in the bond section. The duplicate will be produced before the Superintendent in charge of warehouse who will endorse the same as a token of the goods having been warehoused. This stamped duplicate copy of the B/E will be sent to AC-Bonds by the Superintendent.

## **6.32. IMPORT CLEARANCE AGAINST DEPB**

### Registration of DEPB

The designated officer will enter the particulars of the DEPB in the System. The DEPB holder has to verify the particulars of entry in a check list generated and given to him. After return of check list, the designated officer will register the DEPB. DEPB will not be registered unless the DGFT has electronically transmitted the IEC number and PAN number to the Customs data base. Registration number will be endorsed on the face of DEPB. Partly utilised DEPBs will be registered for the balance credit available. Changes in data of DEPB can be done only through the AC/DC of Group VII.

### Issue of TRA

Application for issue of TRA should be made to the designated officer, if import has to be made at a port other than the port of registration. TRA number is given manually. The TRA will have a serial number, date, DEPB number Customs station to which issued, IEC number, amount of credit transferred, corresponding FOB export amount transferred. After the TRA check list is verified by the applicant and returned to the designated officer, TRA is issued in three copies, one for port of issue, one for port of clearance and the last copy for the importer.

Unutilized portion of TRA can be re-credited with the authority of AC/Dc of Group VII.

#### Receiving transfer advices

TRAs received from other Customs stations will be registered in the same manner as DEPBs . A TRA registration number is generated and is endorsed on the importer's copy of TRA.

#### Claim of DEPB exemption

Claim of DEPB exemption must be made in the data sheet filed in lieu of Bill of Entry in the EDI system (SI NO. 20, part III). If this benefit is coupled with any other exemption such EPCG, that also must be indicated. The option to pay additional duty of Customs either by cash or through DEPB must also be indicated in the same declaration. Claim of exemption from SAD must also be indicated with specific reference to notification and serial number in the table of that notification.

#### Bill of Entry

A check list of bill of entry is prepared for verification by importer or the CHA. They have to ensure that debit against DEPB is made against that particular licence which is intended to be used. After submission of verified check list, an unassessed bill of entry is printed.

#### Assesment

All DEPB bills of entry are routed for assessment at Group VII. Unassessed Bill of Entry, with original import documents and DEPB original scrip will be presented to the designated appraiser. The appraiser will retrieve the bill of entry on

screen and assess the same. The screen copy will move to concurrent audit for verification. Thereafter, it will move to the designated AC / DC who has to assess the goods based on CTH. After assessment, assessed copy of bill of entry will be printed along with TR 6 challan if any duty component is remaining. Duty has to be paid in the designated bank in cash or by DD.

### **6.33. IMPORT CLEARANCE AGAINST DFIA/ADVANCE AUTHORISATION**

The import of goods is made under schemes like DFIA/Advance Authorization, EPCG or EOU etc. The importer in such cases is required to execute bonds with the Customs authorities for fulfilment of conditions of respective notifications. The bond shall be executed by an authorized signatory, having the power of attorney on behalf of the importer. If the importer fails to fulfil the conditions, he has to pay the duty leviable on those goods. The amount of bond would be equal to the amount of duty leviable on the imported goods. The bank guarantee is also required along with the bond. However, the amount of bank guarantee depends upon the status of the importer like Super Star Trading House/Trading House etc. In all the schemes which were based on Licences issued by the Appropriate Licencing authority, first, the said licence is to be registered at the port of registration. There after, import is permitted as per the conditions of the licence. In all such cases movement of Bill of entry is as usual along with the debit of the licence by the concerned Assessing Officer. At the time assessment of such bill of entries, Assessing Officer should take care of policy provisions and various notifications under which the said licence were issued. Assessing Officer should also care for the nexus between import items and the goods exported or to be exported under the said licence for fulfillment of export obligation vis a vis the definition of raw materials in the notification.

### **6.34. FLOW CHART FOR THE BILL OF ENTRY PROCESS**

CHA / IMPORTER → SERVICE CENTRE → CHECK LIST  
 →  
 ERROR / ERROR REMOVAL → SUBMISSION → APPRASING OFFICER  
 →

AUDIT → VALUE > 1 LAKH → ASSTT. COMMISSIONER → BANK →  
 GREEN CHANNEL / IF NO → SHED APPRAISER → INSPECTOR →  
 SHED APPRAISER → OUT OF CHARGE.

### 6.35. FLOW CHART FOR FIRST CHECK BILL OF ENTRY

AO → ACL → SHED → AO → AUDIT → AC  
 → BANK → OUT OF CHARGE

### 6.36. GREEN CHANNEL CLEARANCE

AO → AUDIT → AC (SHED) → AO OUT – OF – CHARGE

### 6.37. SYSTEM APPRAISED

SUBMISSION → BANK → AC SHED ( IF GREEN CHANNEL )  
 → AO (SHED) → SHED AUDIT → AO OUT- OF-CHARGE

**6.38. QUERY**

AO → AC → IMPORTER → AC → AO → AUDIT

AC → BANK → AC → BANK → EXAMINATION → OUT-OF- CHARGE

**6.39. SECTION 48**

AC (IF APPROVED)→ AO→ AUDIT→ AC→

BANK → EXAMINATION → OUT – OF – CHARGE

**6.40. SECTION 46**

AC SHED → EXAMINATION → SC → AO → AUDIT

→ AC → BANK → EXAMINATION → OUT-OF-CHARGE

**6.41. BONDS**

AO → BOND REGISTRATION → AC (FOR ACCEPTANCE) → BOND SECTION → BANK ( IF DUTY PAYABLE ) → EXAMINATION → OUT-OF-CHARGE

#### **6.42. TIME LIMIT FOR FILING A BILL OF ENTRY**

There is no time limit provided in the Customs Act, 1962 for filing a bill of entry. Section 46 of the Act does not prescribe any time limit for filing of bill of entry. And, Section 48 authorizes the custodian to take steps to dispose of the goods if the same are not cleared within 30 days.

#### **6.43. Import of Packaged Commodities – Conditions**

The DGFT has issued Notification No. 44 (RE – 2000) / 1997-2002, dated 24.11.2000, 2000 (122) E. L. T. E63, directing that all packaged products imported and covered by the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 should be in compliance of all the provisions of the said rules when imported into India. The Customs authorities are directed to ensure compliance of this condition before the commodities are cleared by them for home consumption. The details to be included are as follows :

- A. Name and address of the importer,
- B. Generic or common name of the commodity packed,
- C. Net quantity in terms of standard unit of weights and measures,
- D. Month and year of packing,
- E. Maximum retail price at which goods are sold to ultimate consumer.

#### **6.44. Importation after Implementation of Risk Management System (RMS) :**

The Central Board of Excise and Customs (CBEC) has issued two Circulars Nos. 42/2005 and 43/2005 - Cus both dated 24/11/2005, for operational sing the Risk Management System (RMS). The detailed procedure for clearance of Bills of Entry on implementation of RMS under the Indian Customs EDI System (ICES) is given below. Certain guidelines to the officers posted in the SIIB for managing the RMS are also given.

**6.45. The RMS Process:** Bills of Entry and the Import General Manifest (IGM) filed electronically in the ICES either through the Service Centre or through ICEGATE mode will be forwarded to the RMS. The RMS process the Bill of Entry and the IGM through a series of steps and generate an electronic output for the ICES. This output determine whether the Bill of Entry is be taken-up for action (appraisement or examination or both) or be given Out of Charge directly. RMS output will provide specific instructions for the Appraising Officer, Examining Officer or the Out-of-Charge Officer. The output containing instructions communicated by the RMS on the need for assessment and/or examination shall be followed by officers processing the BE. The purpose of RMS is facilitation of a large number of Bills of Entry, which are perceived to be compliant with the Customs Laws and regulations. Such compliant B/Es which are self assessed by the Importers are processed by the RMS and goods will be ready for out of charge on the basis of the acceptance of importer's declaration and without any assessment /examination by the officers. Thus, when Bills of Entry are filed through ICEGATE or Service Centre, importers would be able to obtain the assessed copies of their Bills of Entry and Challan, within a short span of time. After payment of duty, goods can be cleared on presentation of required documents to the examination staff at the shed concerned.

Some Bills of Entry are, however, be taken up for assessment and/or examination based on determination by the Risk Management System regarding the perceived risk in the Bill if any, based on the intelligence built in RMS. Similarly bills may get selected for action based on specific intelligence available. Whenever a specific pattern of non-compliance is noticed, the RMS may also select such bills of entry for Assessment and/or Examination. All such Bills which are selected for action are processed in the ICES as per the treatment and instructions communicated by

the RMS. After clearance of goods, the details of all such BEs which have been given "Out of Charge" (OOC) for the day are to be sent to the RMS by the ICES for the purpose of selection of Bills for post clearance audit. The list of selected BEs sent to the ICES. Post clearance audit is conducted in the ICES only on the basis of selections made by the RMS.

**6.46. Accredited Clients Programme (ACP):** As a part of the R.M.S., an Accredited Clients Programme (ACP) is also implemented. The details of this program are set out in the CBEC circular No 42/2005 - Cus dated 24/11/2005. As a matter of course, accredited clients are granted self appraisal based on the declarations contained in their bills of entry and the system will generate the Bill of entry Number and print a copy of the Bill of Entry with the TR6 challan for duty payment. The Importer/CHA has to make the duty payment (if any) before proceeding to take delivery of the goods. Though self assessment facility and examination waiver are given to the accredited clients, the compulsory compliance requirements (CCRs) applicable to the imported goods must be fulfilled by the importer/CHA before seeking out of charge. The importers/CHAs have been advised (vide Public Notice NO. /O6 dated 17.03.2006) to keep ready all certificates, permits, licenses or any other documents which are essential for clearance of goods or for availing any duty exemption. CHAs/Importers have also been advised to submit all such details of certificates in the annexure filed for a B/E at the ICEGATE/Service centre; Soon after goods registration is done in system and the marks and numbers (seal number and integrity of the seal in the case of FCL) are verified, Appraising officer/ Superintendent will give out of charge in the system, after collecting all necessary documents (listed below) and after verifying that compulsory compliance requirements are fulfilled. If any BE is required to be sent back by OOC officer for assessment on account of any shortcomings in such ACP BE, the permission of the Commissioner of Customs, shall be sought on file before sending it for Investigation or assessment. The details of such permission obtained, should be entered as "Departmental comments" in the EDI system. In respect of the consignments of ACP importers, officer giving out of charge should verify that the importer is in fact an ACP client and also verify identity of authorized person who signs the checklist while taking out of charge. A small number of ACP bills may be selected on random basis

for action. Similarly bills may be targeted for action by RMS. In all such cases the procedure for processing the non-ACP bills of entry in ICES as given below shall be followed.

#### **6.47. Assessment of RMS selected bills of entry in ICES:**

The RMS has not altered the existing process and movement of Bills of entry in ICES but for abolition of concurrent audit and changes in Bond management. When RMS selected Bs/E are directed for assessment by system, officers concerned are required to perform appraising as per normal procedure under ICES. RMS will generate assessment instructions for each selected Bill of entry depending on the perceived risk. The instructions appear in the "RMS instructions" portion of the bill of entry in the ICES screen of the Officers and can be accessed using "F2 -> View -> RMS instructions" keys. Instructions are based on risk perception in each Bill of entry and the items declared, the Importer, CHA, Supplier or any other data available in the BE. Officers assessing the B/E shall carefully read each instruction and arrive at a decision to tackle the risk. These instructions form an assist and are intended to guide the officers in assessment. In addition to the Appraising instructions the RMS will send targeting and Intervention related Instructions, in case there are any target/intervention hits on a B/E corresponding to the idea behind such targets or Interventions in the RMS. Officers are expected to study all the instructions on the screen carefully and assess the B/E. It needs to be noted that the officer need not limit his scrutiny to the strict confines of RMS instructions. The officer has the freedom to go beyond the instructions and scrutinize other sensitive aspects of the B/E which are not referred to in instructions. Whenever the Officer assessing BE feels that any specific RMS instruction is not in tune with the declaration in the B/E. he/she should enter a detailed comment in the departmental comments and proceed to take decision as per law. The Risk Management System will also provide to the officers a category of instructions termed Compulsory Compliance Requirements (CCRs). This term refers to compliance requirements that have to be mandatorily fulfilled such as clearance from the Other Governmental Departments (OGDs) like Drug Control authorities, Animal Husbandry authorities, BIS certifications, Plant and Quarantine Authorities etc. Similar instructions would also be provided by the System where any bonds, undertakings certifications etc., are required to be furnished for the purpose of claiming any exemption notifications. It may be noted

that while all efforts have been made to make the RMS database containing these instructions as comprehensive as possible, certain requirements might have escaped notice. The officers, therefore, should bear in mind that these are mandatory requirements under the Allied Acts or under the exemption notifications and must be fulfilled before allowing clearance.

#### **6.48. DUTIES OF ASSESSING OFFICER:**

The assessing/examining officers are also required to focus on the 'data quality' of the B/E declarations. The assessing officer should check the description of the item, besides the correctness of classification, valuation, notification benefit(s) claimed, if any, and also ensure compliance with mandatory requirements prescribed under Foreign Trade Policy and/or allied enactments. They are required to check all critical aspects of description like brand, model, make, number, specification, grade, purity, configuration, capacity, denier etc. which may have a direct bearing on valuation, classification or extension of exemption benefit. They shall make sure that all mandatory fields in the bill of entry are properly filled. While discharging their functions, they would be required to follow all the existing instructions /Standing Orders on the subject. The assessing officers in the Group will subject the Bs/E to all the required checks in respect of valuation, classification, requirements of the Allied Acts, etc. and in doing this, the officers should also take the assistance of other support systems provided such as NIDB, Alerts, Valuation Bulletin, etc. Additional information, wherever required may be sought from the importers. However, frivolous and piece-meal queries should be avoided and the query should be detailed and covering all aspects. The Additional/Joint Commissioners in-charge of the Groups shall monitor the queries closely. When a B/E comes for assessment, the Appraising Officer after completion of his scrutiny of RMS instructions and B/E declaration shall write a self contained order for examination so as to cover all the critical parameters of examination.

#### **6.49. EXAMINATION OF IMPORTED GOODS:**

All RMS selected bills examination of goods shall be carried out as per the assessing officer's examination order and the instructions communicated by the RMS. Certain bills of entry may be directly routed by the RMS for examination without any assessment by officers. In such cases, the RMS instructions for

examination should be treated as examination orders. The officers shall bear in mind all existing standing orders and circulars issued by the department, while performing their work. The examining officers must ensure that the goods under examination tally with the declared description, including critical parameters like brand, model, make, number, specification, grade, purity, configuration, capacity, denier etc., which may have a direct bearing on valuation, classification or extension of exemption benefit. The examination of the goods and out of charge (OOC) shall be completed by the officers, only after ensuring that the compulsory compliance requirements (CCRs) mentioned in the examination order column are duly complied with. Whenever the Officers examining the cargo feel that the CCRs figuring on their screen as well as printed on the BE are not applicable to any specific BE, they must enter a departmental comment in the BE in the EDI specifying the reasons thereof before giving clearance. It is also clarified that officers in the shed may examine a consignment even if it is directly selected for out-of-charge by the RMS, if they have a valid reason for doing so. However, such examination should be done only after bringing the case to the notice of the Additional/Joint Commissioner of Customs (Shed). In case of Accredited Clients, it would require written approval of the Commissioner.

#### **6.50. Out of Charge:**

Even though in many cases the R.M.S. decides to give appraisal and examination waiver, the out-of-charge function would not be dispensed with and customs clearance in terms of Section 47 will continue to be given by the proper officer to each and every BE. It must be understood that the OOC officer will have a very important responsibility after introduction of RMS, since he will exercise the last check before the goods are given out of charge. Therefore the OOC officer should scrutinize those documents where "No assessment & examination" was prescribed by RMS and if he has strong reasons to believe that the importer has mis-declared the description or value of the goods, he should send the B/E back to the appraising group, for assessment but only with the approval of the Addl/Joint Commissioner in charge of examination. In many cases, BE containing one or many items in the invoice declared as on Free of charge basis, or of no commercial value or value is declared for Customs purposes only. In such cases, if the OOC officer finds that the importer did not seek first check, or the payment terms have not been declared

correctly in the invoice, he should send such Bill of entry to the appraising group concerned for correct determination of value and duty. It may be noted that some compliance requirements may not figure in the CCR related instructions provided by the RMS. Such requirements would be those which are very general in nature or are applicable to a very wide range of imports. The list below cites illustrative instances of such requirements. The Officer giving the out of charge shall also ensure that the consignment complies with such requirements, besides the CCRs printed in the B/E and appearing in the examination instructions column, before clearance:

- a) As per the CBEC cir. no. 39/04 dated 3/6/04 read with the Plant Quarantine (Regulation of Import into India) 2003, phyto sanitary certificate is essential for packaging material used in imported goods. This circular is applicable to all goods covering every CTH imported with packaging made of material of agricultural origin.
- b) DGFT notification no. RE -44 dated 24/11/2000 on labelling and marking rules for imports stipulates that MRP, generic name of the product, month and year of entry into trade channel, name of the importer and address and quantity in standard units must be carried prominently on the "principle display panel" of the packages. This requirement must be met before customs clearance.
- c) Import of beef in any form and any product containing beef in any form is prohibited as per Note 3 of General Note to the Import Policy. A declaration is also required to that effect from the importer as per Note 4 General Note to the Import Policy.
- d) Import of all edibles/ food products, (domestic sale and manufacture of which are governed by PFA Act, 1954) should have a valid shelf life of not less than 60% of its original shelf life, as per provision of General Note 13 to the Import policy (Vol.3).
- e) Import of Meat and Poultry product is allowed only on fulfillment of condition laid down in note 7 of the General notes to the Import Policy.

- f) Import of Jute Bags, Jute products and packaged bales containing raw Jute is allowed only if the Jute batching oil content in the Jute is not more than 3% as per CBEC circular no 21/2002 dated 04/04/2002 issued from F.No.526/76/2001-Cus (TU).

In case of any discrepancy in the declarations with respect to the issues discussed above the OOC officer can send the BE back for assessment with the written permission of the Addl/Joint Commissioner in charge of Examination.

#### **6.51. Collection of Documents:**

While discharging the Out of Charge responsibility, the following documents should be collected from the importer by the officer giving out of charge after affixing his signature on the important documents at serial numbers b), c), d), e) and J) listed below, and any other crucial document decided by the OOC officer.

- a) Duty paid challan
- b) First check copy of the Bill of Entry assessed under first check assessment scheme
- c) Finally assessed Bill of Entry
- d) Invoice / packing list. Fax / E-mail copies of Invoice and other documents duly certified by the Importers may also be accepted for clearance of consignments in view of CBEC Circular No. 40/98-Cus, dated 11.06.98 issued from F.No.450/81/98-Cus.IV.
- e) Certificate of origin, wherever required
- f) Exemption Certificate where required, when concession in duty has been claimed, based on any condition under any exemption notification
- g) Bill of Entry declaration with GATT declaration, duly signed by the importer and CHA declaration
- h) Copy of Delivery Order
- i) Master Bill of Lading

- j) House Bill of Lading
- k) Technical literature etc., wherever required
- l) ADC clearance, wherever required
- m) Other documents specified in the Compulsory compliance instructions generated by the RMS
- n) Any other documents submitted by the Importer/CHA.

All these documents should be neatly kept in a docket, which will have a check list on the top, containing the documents listed supra. The Check list shall be signed by the OOC officer and the representative of the CHA/Importer. While signing the documents, the OOC officer shall put his name stamp under his signature.

#### **6.52. CHANGE IN BOND MANAGEMENT:**

For B/Es filed in Groups other than Export Promotion Groups (Group VII), the importer/CHA has to specify the running EDI bond number, if any, at the time of filing a BE for all bills which require submission of Bond to Customs before clearance. Bond debits will be system driven. The existing system of approval of quantum of bond debit during assessment by Appraising officer in the Group will be dispensed with. In all those cases where running bonds are not available at the time of filing B/E, the importer/CHA will come to the Bond Clerk in the Appraising Group soon after the BE is submitted in ICES for bond registration and debits. If the BE is selected for assessment by officers, the necessary debits can also be made by the concerned officers in the groups. No Bill of entry can be registered for examination unless all necessary bonds are debited. At the time of filing a BE the CHA/Importer can submit in the annexure filed for the BE with data regarding the following:

- i. Details of double duty bond if any for Warehouse Bills of entry.
- ii. Details of Undertaking, if any.
- iii. Details of End-use Bonds, if any.
- iv. Details of Re export Bond, if any.

v. Details of Miscellaneous Bond data for example certificates required to avail certain SL Nos of Notification 021/2002.

vi. Details of Central Excise bond, if any, under Customs (Import of Goods at Concessional Rate of Duty for Manufacturing of Excisable Goods) Rules 1996.

#### **6.53. OUT OF CHARGE OF ALL FACILITATED BILLS:**

Even if a bill of entry is neither picked up for Appraising nor for Examination, all documents required to be submitted along with bill of entry shall be collected invariably by the Officer before giving Out of Charge (OOC). Marks and Numbers should be checked by the Out of charge officers for all the facilitated Bills of entry. In case of Full Container Load Cargo covered by facilitated bills, the out of charge should check the Container No and verify whether the Container Seal is intact or not before clearance. The officer shall ensure that all Compulsory Compliance requirements are fulfilled before clearance. It is also clarified that whenever the decision of the OOC officer is at variance with the CCRs printed in respect of a particular BE; he should record the reasons for his view in the EDI.

#### **6.54. DEBIT OF CUSTOMS DUTY EXEMPTION CERTIFICATES ETC:**

If the BE is selected for assessment and/or examination, the officers shall verify these details in the system before clearance. For all Facilitated Bills of entry the Out of Charge officer will be responsible to verify the entry in the system. If bond related details are not correct or if any critical document is not available, BE can be referred to assessment group with the permission of the Additional/Joint Commissioner in charge of the Shed. It is further stated that the EDI system will take care of debits in respect of all existing running bonds and where the importer specifies the bond number by system-driven debits. The trade will approach the Bond Clerk in the Appraising Group and AC/DC in-charge of the Group for Bond or UT acceptance. Further, activities like defacing/manual debiting of certificates issued by various authorities like Central Excise, AEPC, TEXPOCIL etc, which were hitherto being handled by the Appraising Group will now have to be discharged by OOC officers, in all such cases where the bill of entry has not been marked to Groups by RMS. Please note that the CHA/Importer can give all the relevant details of the Undertaking/Duty exemption certificate/Central excise certificate etc in his annexure

to the BE. In all such cases the BE is allowed to go for goods registration. However the OOC officer is expected to verify all the relevant documents as well as the details given in the ICES and allow clearance only after defacing/debiting the documents manually, if already not done by the assessment officers.

**6.55. CONCURRENT AUDIT/Post clearance Audit:**

Consequent to introduction of RMS, concurrent audit has been abolished and replaced by Post Clearance Compliance Verification (Audit). The objective of Post Clearance Verification Programme is to monitor, maintain and enhance compliance levels, while reducing dwell time of cargo. The selection of Bs/E for Post Clearance Audit will be done by the RMS and communicated to the ICES which will populate the selected Bs/E onto the Auditors screens. The Auditors would be required to audit the Bs/E after referring to the documents submitted in the Shed at the time of out-of-charge vis-à-vis the declarations made in the BE. For this purpose, the Shed would be provided with a list of Bs/E selected by the RMS and shed would be required to forward the documents in respect of this Bs/E to the Audit Branch for distribution to the Auditors concerned in Audit Branch. The endeavour should be to complete audit of all BEs selected by RMS, within 48 hours of Out of charge. After the audit is over, these documents may be forwarded to CRA as per the normal procedure. The documents in respect of Bs/E which are not selected for audit will continue to be sent to CRA as per present procedure.

**6.56. PCA Process in the ICES:** All BEs which are given out-of-charge on a particular day in ICES are sent to RMS at the end of the day. RMS will select BEs from this lot, on a daily basis depending upon the criteria entered in the system. A PCA module has been developed by NIC. The full feature module has many features. The module will facilitate raising of queries to the importer; issue of show cause notices with system computation of differential duty, capturing details upto the first stage of adjudication etc., however, the full feature PCA module is likely to be available only after some time. Pending release of the full feature PCA module, an abridged version has been released by NIC and the same has to be followed till further instructions are issued. The work flow of documents in PCA module is given below:

The selected BEs are processed in the following manner:

(i) BEs are pooled before Audit Officer (AO/ Superintendent) who has to pick BEs for audit, from the pool, in the manner dictated inter alias by availability of customs docket for the said BE. The Auditor's screen in ICES will be very similar to the appraiser's interface, currently available. A limited facility for changing duty related aspects of the BE has been provided in auditor's screen. The Auditor can change rate of duty, deny a notification and differential duty will automatically be computed by system. The auditor is also given specific audit instructions by the RMS. These audit instructions have been made available in the F2 View RMS instructions" menu. These instructions form an assist and are intended to guide officers in conducting audit. It needs to be noted that auditors need not limit their scrutiny to the strict confines of these audit instructions. The auditor has freedom to go beyond audit instructions and scrutinize aspects of the BE which may not have been referred to in the instructions.

(ii) During the course of audit, the auditor may find it necessary to elicit additional information from importer or seek clarifications from him. It needs to be realized that the ease of eliciting such information from the importer will be considerably diluted, during PCA stage as compared to the promptness with which replies to queries raised during live processing of Bills are received. Thus queries during the audit process have to be limited to the minimum and should be resorted only where there is a real information gap. The abridged version of PCA does not have a facility for raising queries through ICES. This feature will be present in the full version. Pending introduction of the feature, queries have to be raised, manually by the auditor, from audit files, after obtaining approval of AC / DC (Audit). The queries have to be despatched by post to the CHA / Importer and may also be sent by email. (iii) After receipt of reply from CHA / Importer, if the audit officer decides that there is no audit point apparent in the BE, then he will mark the BE to AC/DC (Audit). If AC/DC (Audit) concurs then the BE will be sent to history after generation of an EOD message to the RMS. If the AC/DC (Audit) finds it necessary to revisit the bill of entry, he may send it back to Audit Officer with his comments. (iv) On the contrary if the Audit Officer detects an audit point he will be in a position to alter the parameters like value, quantity, notification claimed, item description etc., (in very much the same manner as is currently done by the appraiser during assessment of a live BE) by

himself, or mark the BE to the AC/DC (Audit) for confirmation and issue of a consultative letter or demand note. The CL or a demand note will be issued only if the same is further approved by ADC/ JC (Audit). In the abridged version, the facility of changing the parameters is restricted to duty linked parameters like notifications, rates of duty etc., Value linked parameters like loading (item level/invoice level), quantity, enhancement of unit price, are not currently available. These will be provided in the full version. Thus if the consultative letter/ SCN requires a change in the parameters that are currently not available on the system, then the duty computation has to be done offline in the file. However such details should be entered in the departmental comments field in the ICES. It is reiterated that issue of a consultative letter / SCN will happen only with the prior approval of Additional/Joint Commissioner (Audit). The abridged version also does not currently have the provision for system generated issue of consultative letter / SCN with duty quantification. (v) The PCA workflow in the ICES also envisages generation and issue of advisories to the importer. Monitoring and improving the data quality of declarations by the importer is one of the important functions of the Audit in the post-audit regime. Audit officers can issue advisories to the importer with a view to improving data quality of declarations. An advisory will work in a manner similar to a query and will be issued only after approval by AC/DC (Audit). The key difference between a query and an advisory is that while a query is a request for information/documents from the importer, and holds up the BE from further processing until a reply is received, no reply is envisaged for an advisory. Advisories should be resorted to in cases not involving revenue implications. The facility for issue of advisories through the ICES will be enabled in the full version. Pending the same, the advisories can be issued manually from the audit files.

(vi) If the Audit Officer decides to raise an audit point which has revenue implications he can propose one of the following options to the AC/DC (Audit) for approval I

1. Issue of a consultative letter (Compliance advisory)
2. Issue of a demand note

A consultative letter is a mechanism to promote the culture of voluntary compliance by importers in the audit process. It is a tool to operationalise the benefits to the importer by paying up the duty/ interest indicated in the consultative letter. The

consultative letter has to be approved by AC/DC (Audit) and further by ADC/JC (Audit) before it gets issued to the importer. On receipt of the Consultative Letter the importer is expected to comply with the same within 30 days of issue. If he agrees to pay the amount indicated in the consultative letter, then the ICES will generate a challan for the differential duty with interest, and provides for capture of payment details also. After the payment details are captured, a message will be sent to the RMS and the BE will move to history in the ICES. If the importer does not agree with the consultative letter, or simply refuses to respond within the stipulated period, the Audit Officer can propose issue of a demand note, which may be issued after consideration and approval by AC/DC (Audit) and ADC/JC (Audit). These activities have to be done manually at present pending the introduction of the full feature module.

The Audit Officer can, instead of proposing issue of a consultative letter upon detection of short levy or non-levy or short payment or non-payment, propose immediate and direct issue of a demand note. This may be necessary in cases where willful misdeclaration, fraud, suppression clauses have to be invoked and where a consultative letter may not be the right course of action and a demand note could be issued directly. The demand note will have to be issued manually at present. After the introduction of the full module, the ICES will issue the demand note (SCN) after the auditors enter the basic information. (vii) Upon issue of a demand note, the adjudication takes place offline and the net result of first adjudication will also be captured on the ICES. The details of demand confirmed/dropped, penalties and fines imposed will be captured in the ICES and sent to the RMS. These features will also be available in the full version. After sending the details to the ICES the BE will move into history.

#### **6.57. Ensuring Availability of dockets for PCA:**

As is apparent from the above, effective working of PCA depends critically on availability of dockets with the audit officers. The designated officer in the audit section will generate a report of daily list of BE selected for PCA, using the report made available on the LRM for this purpose. Copies of this report should be sent to AC/DC shed. AC/DC should nominate an officer under his charge and entrust him

with the responsibility of segregating dockets as per the list circulated by audit. The dockets (with the checklists) selected for PCA should be aggregated and sent to Audit section with a covering note giving the list of BEs being sent. The receipts of the dockets will be acknowledged by audit section by an officer designated for this purpose by the AC/DC (audit). The rest of the dockets should be sent to the CRA with a forwarding memo listing the BE No's as per existing practice.

**6.58. Ensuring un-interrupted messaging between the ICES and RMS:**

The ICES System Manager will designate officers in the EDI section for monitoring flow of EOD messages from the ICES to the RMS and also the reverse flow of PCA messages from RMS to ICES. Any interruption in the same should be brought to the notice of the LRM or the Addl / Joint Commissioner of Audit as the case may be. The system manager will ensure that all the B/Es which have been given out of charge, are submitted to the RMS in the EOD files. If BEs are not selected for PCA by the RMS, such BEs will be sent to history. Only the selected BEs will be queued by the ICES to the audit officers for PCA. ICES will send to history all BEs for which no PCA message is received.

**6.59. Provisional Assessment:**

Whenever there is a relationship between the importer and the supplier, as defined in the Customs valuation rules, the importer/ CHA may indicate this requirement in the relevant SVB columns in the Annexure filed at the service centre /through ICEGATE. The ICES will assess the BE provisionally based on this indication. The LRM should designate officers under his charge to monitor SVB issues. Such officer should analyze and track all such Importers Bills which do not have necessary SVB declaration. Similarly whenever any BE is selected for assessment or Examination the officers processing all such bills should ensure that the declaration if any regarding SVB aspect is properly declared It may be noted that goods registration cannot be done without proper debit of bonds. For expeditious clearance of goods the importer /CHA has been advised to equip himself to comply with all the bond - related requirements before filing the BE.

**6.60. Administration of Risk Management System locally:**

The RMS machine installed in the Custom houses is known as Local Risk Management (LRM) system. This system is in the same Local Area Network as the ICES. The National Risk Management (NRM) system is in the ICENET and hence connected to the LRM. The Additional/Joint Commissioner in charge of SIIB is designated as the System Administrator of LRM. A detailed user manual for LRM is provided to all the officers working in the LRM. The DC/AC and the nominated officers working in SIIB will be given user IDs and passwords in the LRM by the Systems Administrator. The users must change their assigned passwords in LRM by immediately logging and changing passwords at regular intervals. In addition to handling the Targeting and Intervention activities assigned to them, all LRM users should be vigilant about all such bills of entry which are getting facilitated and are being sent for clearance without any assessment or examination. Discrepancy if any found in respect of such bills should be immediately brought to the notice of the LRM for further action.

#### **6.61. Charging of interest on Customs Duty**

Further, Section 47 of the Customs among other things stipulates that if the proper officer is satisfied that the goods entered for home consumption are not prohibited goods and the importer has paid duty and other dues chargeable, the proper officer may make an order permitting clearance of the goods, for home consumption.

The Section also stipulates that if the importer fails to pay import duty within 5 days from the date on which the B/E has returned to him for payment of duty, he shall pay interest at the rate fixed by the Board, on such duty till the date of payment of the said duty.

However, Section 49 of Customs Act, 1962, empowers Asstt. Commissioner of Customs, to permit the goods entered for home consumption to be stored in a public or private warehouse pending clearance if he is satisfied that the goods cannot be cleared within a reasonable time. However, such goods shall not be deemed to be warehoused goods for the purpose of the Customs Act.

#### **6.62. UNCLEARED / UNCLAIMED IMPORTED CARGO**

Many a times it is observed that the imported goods landed at a customs station are either not cleared within stipulated time or are relinquished title thereof, by the importer. Section 48 contains the provision to deal with such goods. The Section stipulates that such goods may be sold by (the custodians) after notice to the importer and with the permission of the proper officer, if such goods are not cleared for home consumption or warehoused or transshipped within 30 days from the date of unloading thereof or within such further time as the proper officer may allow.

The Section further prescribes that perishable goods & hazardous goods may be sold at any time and also that arms & ammunition may be sold at such time and place and in the manner directed by the Central government.

## CHAPTER –SEVEN

### 7. EXPORT CLEARANCE PROCEDURES

#### 7.1. EXPORT GOODS

As defined in Section 2(19) of the Customs Act, 1962, Export goods means any goods, subject to the provisions of Section 11 of the Customs Act, 1962, which are to be taken out of India to a place out of India.

#### 7.2. EXPORT CLEARANCE

Export of goods produced in a country also plays an important role in the economy of a country as it not only generates new opportunities for the Trade but also helps in building Foreign Exchange Reserve of the country.

Our country has many items on its Export list which are either manufactured indigenously or are available naturally. The Exports from our country expand to many countries all over the world.

Though exporting goods from India entails many procedures to be completed with Departments like Director General of Foreign Trade, Reserve Bank of India, Export Promotion Councils, Banks, etc., clearance of goods for Export is also an important aspect of Customs work. Over the period of time, the Govt. has introduced many schemes for promotion of Export from India and has simplified procedures thereof. The Customs Department has to enforce statutes of other Departments, in addition to the Customs Laws, applicable to the Export of goods

#### 7.3. Broad procedure for Clearance of Export Goods

The broad procedure for clearance of goods for Export may be described briefly as follows :

The Exporter of goods presents a Shipping Bill or Bill of Export in the Export Department of the Custom House and the same is given a running serial No. with date. Thereafter, it is submitted to the Appraiser in the Export Department along with required documents , licences, samples, etc., if any.

After scrutiny of particulars declared in the Shipping Bill / Bill of Export and after verification of appended documents, the group Appraiser then makes an order on the reverse of the Shipping Bill / Bill of Export for any examination/ inspection of cargo. The Export goods are then carted to the Docks/Cargo Complex and presentation to the Appraising staff for examination/inspection along with processed

Shipping Bill / Bill of Export. The Shed Appraiser /Superintendent (P), in the light of this order, examines the cargo and if everything is in order, gives a “let export” order whereby permitting the clearance and loading of the goods for Exportation. Thereafter, the so passed Export goods are loaded on the vessel/aircraft/vehicle under the supervision of the Preventive Staff and received on board by the Master / Agent. Copies of the Shipping Bills / Bills of Export pertaining to all the cargo loaded on the vessel/aircraft/vehicle are then attached with the Export Manifest and submitted to the Export Deptt of the Custom House by the Agents.

With the commencement of EDI Service Centres in many Custom Houses, the Shipping Bills and other Export Procedures are being processed electronically.

#### **7.4. Categories of Shipments**

The following are the various categories of shipments: -

- a. Shipment of “Free” goods to Customs Ports.
- b. Shipment of “Free” good to Foreign ports.
- c. Shipment of dutiable and / or cessable goods
- d. Shipment of bonded goods.
- e. Shipment under claim for “Drawback”.
- f. Transshipment
- g. Reshipment and
- h. Shipment of goods under claim for rebate of Central Excise Duties, Railway Freight and Sales Tax, under Export Promotion Schemes and under various procedures introduced by the Government from time to time.

#### **7.5. Shipment of goods without Shipping Bills**

1. The following classes of goods may be shipped without production of a Shipping Bill.
  - a. Passenger’s Baggage
  - b. Mail
  - c. Ballast urgently required for the safety of the vessel.
  - d. Ice
  - e. Parcels of samples of no value.
  - f. Live stock

- g. Fresh provisions required for the immediate use of a vessel in harbour Daily Bazar i.e. fresh vegetable, fruits, chicken, mutton, fish in reasonable quantity.
  - h. Goods shipped to vessels in the Defence Services of the Government of India.
2. The production of Shipping Bills may be dispensed with in the case of (1) ballast. (2) coal when shipped as cargo or for Bunder / harbour use. If in large quantity, Shipping Bill should be filed within 48 hours after shipment is completed on the strength of the guarantee to be executed by the shippers.
  3. Supply of new materials on board the vessel for repair, removal etc. shipment of articles each as nuts, bolts, etc. which are taken on board the vessel for the purpose of repairs, removal alteration and which do not figure in the Export General Manifest or the store list of the vessel, shall be allowed on the strength of application filed in duplicate by the party. No export licence shall be required for shipment of the type of articles enumerated above.

#### **7.6. The Shipping Bill**

The first step towards procedure for Export of any goods is that of filing a Shipping Bill by the Exporter of the goods. Section 50 of the Customs Act, 1962, stipulates that Exporter of any goods shall make an entry thereof by presenting a Shipping Bill in the case of goods to be Exported in a vessel or aircraft, and a Bill of Export in case of goods to be Exported by land. This Section also makes it mandatory for the Exporter to enclose at the foot of the Shipping Bill / Bill of Export, a declaration as to the truth of the contents of the same.

The Shipping Bill is the most important document for the purpose of Customs Clearance of Export goods. It contains the details about the Exporter, the goods to be Exported, Exporter's code no., port of destination, value of goods etc. The Shipping Bill is the document which is required to be presented by the Exporter right from the stage of noting to the actual shipment of goods and also for processing of post-export formalities.

#### **7.7. Types of Shipping Bill**

There are seven types of Shipping Bills which are used for Export of various categories of the goods. They are briefly described below. The colour of the Shipping Bill referred to is the colour of the paper on which the same are printed : -

- (a) Shipping Bill for free goods:** All the Export goods whereon no duty or cess is levied on the export thereof or where no Duty Draw-back is being claimed or the goods are not exported under the D.E.E.C. Scheme or the goods are not being exported under Bond, then in case of all such goods, the Shipping Bill for Export of such goods is called the 'free Shipping Bill'. It is white in colour.
- (b) Shipping Bill for Dutiable goods :** Where the Export goods are liable to either duty or cess, then the Shipping Bill for export of such goods is called the 'dutiable Shipping Bill'. It is yellow in colour.
- (c) Shipping Bill under Duty Draw-back:** Where the Export goods are under claim for Duty Draw-back, the Shipping Bill for export in such case is called a 'Draw-back Shipping Bill'. It is green in colour.
- (d) D.E.E.C. Shipping Bill:** Where Export goods are shipped as fulfillment of conditions against duty free imports or as advance export for duty free entitlement, the document for export is called 'DEEC Shipping Bill'. It is white in colour if no draw back is claimed, and green if Draw-back is claimed.
- (e) Shipping Bill for Bonded goods:** When goods manufactured in bonded premises, using Imported goods on which no duty has been paid, are to be exported, then an 'ex-bond Shipping Bill' is used. It is green in colour.
- (f) 100% EOU Shipping Bill :** 100% EOUs are required to file 'pink Shipping Bill' for Export of their consignments .
- (g) Duty Entitlement Pass Book Scheme (DEPB) Shipping Bill:** The Shipping Bill introduced under Duty Entitlement Passbook scheme is of blue colour.

### **7.8. Electronic Shipping Bill**

With the introduction of computerisation, many Custom Houses are now having a full fledged centralised Electronic Data Interchange Centres, which receive, store and transmit various data to different formations as and when required.

Briefly stated the Electronic Shipping Bills are Shipping Bills generated as computer print outs in prescribed formats at the places of examination / shipment of cargo with the help of information / data furnished by the Exporters in respect of their Export goods and compiled & processed at EDI Centre in the Custom House. The information is then transmitted to the designated EDI Centres in the Docks/Cargo Complexes and other places to facilitate the examination/inspection and subsequent shipment of the Export cargo.

The details regarding the Electronic Shipping Bill and related procedures for clearance of Export goods through them are discussed in the Chapter “ Electronic Data Interchange” of this Manual.

### **7.9. Requirement of documents to be filed along with Shipping Bill**

In order to effect Export , various types of Shipping Bill are used according to the nature and category of the goods. Along with the respective Shipping Bill, the Exporter or his agent has to submit the following documents:

1. Export invoice.
2. Packing list.
3. G. R. Form/SDF.
4. Certificates from other agencies.
5. Other compulsory certificates/licences under allied Acts if any.
6. Other documents like AR 4 forms, etc.

### **7.10. Validity of Shipping Bill**

Shipping Bills are valid for 90 days from the date of noting. However for air-cargo Shipping Bills the validity is for 30 days from noting of the Shipping Bill. Before the expiry of the Shipping Bill, the same can be re-validated by a validation application and on payment of amendment charges. After the expiry of the Shipping Bill the same has to be canceled and fresh Shipping Bill is required to be noted. The re-validation can be done only once. Thereafter a new Shipping Bill has to be filed.

### **7.11. Shipping Bill and Bill of Export (Form) Regulations, 1991**

In exercise of the powers conferred by section 157, read with sections 50 and 69, of the Customs Act, 1962 (52 of 1962), and in supersession of the Shipping Bill and Bill of Export (Form) Regulations, 1976, except as respect things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby makes the following regulations, namely: -

**1. Short title and Commencement.** (1) These regulations may be called the **Shipping Bill and Bill of Export (Form) Regulations, 1991.**

(2) They shall come into force on the 1<sup>st</sup> day of October 1991.

**2. Shipping Bill.** A shipping bill to be presented by an exporter of goods shall be in the form specified in Annexure I, Annexure II, Annexure III or Annexure IV, as the case may be, appended to these regulations.

**3. Bill of Export.** A bill of export to be presented by an exporter of goods be in the form specified in Annexure V, Annexure VI, Annexure VII or Annexure VIII, as the case may be, appended to these regulations.

**4. Specifications of Shipping Bill and Bill of Export (Form).** The Shipping Bill and Bill of Export forms specified in Annexures I to VIII or Annexure VIII shall be in accordance with the following specifications, namely: -

(a) the forms shall be printed on foolscap size of paper measuring 34.5 cms by 21.5 cms and shall have the following margins namely:-

- |                       |                       |
|-----------------------|-----------------------|
| (i) top – 1.5 cms,    | (ii) bottom – 1.5 cms |
| (iii) left – 1.8 cms, | (iv) right – 0.5 cms. |

The layout of the forms and the sizes of the boxes shall be as per the layout and boxes shown in the Annexures;

(b) the forms shall be printed on paper of grammage 70 to 85 grams per square metre; the paper should be stable in conditions of 50 to 60 per cent relative humidity;

(c) the captions inside the boxes of the forms should be printed in 6 pt. Mono sans-serif and should be located as near as possible to the top left of the boxes;

(d) the forms shall be filled in by using a typewriter only.

## ANNEXURE – I

### Shipping Bill For Export Of Goods Under Claim For Duty Drawback

Exporter	Invoice No. and Date	SB No. and Date
	AR4/AR4A No. and Date	
Consignee	Q/Cert No. and Date	Import–Export Code No.
		RBI Code No.
Customs House No. Agent	LIC Export Trade Control	If export under: Deferred Credit [ ]

			Joint Venture [ ] Rupee Credit..... [ ] Others ..... [ ] RBI's Approval/Cir. No. and Date
Pre-Carriage by	Place of Receipt by Pre-Carrier	Nature of Contract: CIF [ ] /FOB [ ] / CFR [ ] / Others (specify) Exchange Rate Currency of U/S 14 of CA Invoice	Type of shipment Outright Sale [ ] Consignment Export [ ] Others (Specify) [ ]
Vessel/Flight No.	Rotation No. Port of Loading		
S. Marks & Nos. Value FOB No.	No. and kind of Pkgs. Container Nos.	Statistical Code/and Description of Goods	Quantity
Net Weight			
Gross Weight			
Total FOB Value in words			
<u>Analysis of Export Value</u> <u>Amount</u> FOB ..... Freight .....		<u>Currency</u> Value	Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods.

Insurance ..... Commission .....Rate..... Discount ..... Other ..... Deductions .....			Currency ..... Amount .....					
Sl. No.	Export Tariff No.	Assessable Value under Sec. 14 of CA	DUTY		CESS		Total Duty and Cess	Duty payment particulars
			Rate	Amount	Rate	Amount		
Total Duty/Cess Amount in words: Rupees								Collection Stamp

**Declaration:**

I/We Declare that all particulars given herein are true and correct.

I/We also attach the declaration(s) under clause No.(s) .....

Public Notice No. ....dated ..... Signature and Date

I/We claim drawback of Rs..... under Sec. 74/75 of Customs Act, 1962 and Customs and Central Excise Duty Drawback Rules, 1971. I/We certify that the export goods are new/used for.....I/We certify that I/We have complied with the conditions laid down in the said Rules 1971 and the conditions subject to which Drawback Rates are applicable.	<b>DOCUMENTS SUBMITTED</b> 1. Invoice [ ] 2. Packing List [ ] 3. GR Form [ ]
---	--



Total Amount in words Rupees ..... ..... Signature of Exporter/CHA		
FOR DEPARTMENT OFFICER Verified that the amount of Rs..... DBK as claimed above is ad- Missible subject to description Found correct on the basis of Physical examination/test etc.  Signature of A.O. Stamp CHA	Calculation  Checked  Comptist	PRE-RECEIPT FORM Received the sum of as drawback.  REVENUE STAMP  Signature of Exporter /
'LET EXPORT'  Signature of Officer of Customs	'ALLOWED FOR SHIPMENT'  Signature of Officer of Customs	
Vessel's name may be altered after check with original Fee Rs. Entry for Fresh one may be granted to ..... for the portion shutout or not shipped Received  Handed over to C.H.A./Party Asstt. Commissioner Cashier		

Contents Received on Board	Date of Shipment
Date Vessel	Signature of Master of Signature of Officer of Customs
<b><u>Examination Order and Report</u></b>	

Verified Mate's Receipt No. .... of ..... Issued by..... For  
.....

Cases/Bales/Packages/Containers..... Shipped per..... Which  
sailed on.....

From..... Under Preventive Supervision

Signature of Officer of Customs

OR

Shipment declared on this Shipping Bill has been air freighted on Flight  
No..... Dated.....

AWB No..... EGM No. .... Under  
Preventive Supervision in full/part (Specify quantity airfreighted).

Signature of Officer of Customs

**ANNEXURE – II****Shipping Bill For Export Of Dutiable Goods**

Exporter	Invoice No. and Date	SB No. and Date
	AR4/AR4A No. and Date	
Consignee	Q/Cert No. and Date	Import-Export Code No.

Customs House No. Agent		LIC	Export Trade Control	RBI Code No. If export under: Deferred Credit [ ] Joint Venture [ ] Rupee Credit..... [ ] Others .....
Pre-Carriage by	Place of Receipt by Pre-Carrier	Nature of Contract: CIF [ ] /FOB [ ] / CFR [ ] / Others (specify)		Type of shipment Outright Sale [ ] Consignment Export [ ] Others (Specify) [ ]
Vessel/Flight No.	Rotation No. Port of Loading	Exchange Rate Currency of U/S 14 of CA Invoice _____	Port of Discharge _____	Country
S. Marks & Nos. Value FOB No. Net Weight Gross Weight	No. and kind of Pkgs. Container Nos.	Statistical Code/and Description of Goods	Quantity	

Total FOB Value in words								
<u>Analysis of Export Value</u>			<u>Currency</u>		Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods.			
<u>Amount</u>			Value					
FOB .....					Currency .....			
Freight .....								Amount .....
Insurance .....					Currency .....			
Commission .....Rate.....								Amount .....
Discount .....					Currency .....			
Other .....								Amount .....
Deductions .....					Currency .....			
.....								Amount .....
Sl. No.	Export Tariff No.	Assessable Value under Sec. 14 of CA	DUTY		CESS		Total Duty and Cess	
			Rate	Amount	Rate	Amount		

Total Duty/Cess Amount in words: Rupees	Collection Stamp
---	------------------

Declaration:

I/We Declare that all particulars given herein are true and correct.

I/We also attach the declaration(s) under clause No.(s) .....

Public Notice No. ....dated ..... Signature and Date

	<p><b>DOCUMENTS SUBMITTED</b></p> <p>1. Invoice [ ]</p> <p>2. Packing List [ ]</p> <p>3. GR Form [ ]</p> <p>4. AR-4/AR-4A Form [ ]</p> <p>5. ETC Licence [ ]</p> <p>6. Indent [ ]</p> <p>7. Acceptance of Contract [ ]</p> <p>8. Letter of Credit [ ]</p> <p>9. QC Certificate</p>
--	--

	<input type="checkbox"/> [ ] 10. Port Trust Document <input type="checkbox"/> [ ] 11. Any other (Specify) <input type="checkbox"/> [ ]
'LET EXPORT'     Signature of Officer of Customs	'ALLOWED FOR SHIPMENT'     Signature of Officer of Customs
Vessel's name may be altered after check with original <span style="float: right;">Fee</span> Rs. Entry for  Fresh one may be granted to ..... for the portion shutout or not shipped Received  Handed over to C.H.A./Party <span style="float: right;">Asstt. Commissioner</span> Cashier	

<p>Contents Received on Board</p>  <p>Date _____ Signature of Master of Vessel _____</p>	<p>Date of Shipment _____</p>  <p>Signature of Officer of Customs _____</p>
<p><b><u>Examination Order and Report</u></b></p>   	
<p>Verified Mate's Receipt No. .... of ..... Issued by..... For .....</p> <p>Cases/Bales/Packages/Containers..... Shipped per..... Which sailed on..... From..... Under Preventive Supervision</p> <p style="text-align: right;">Signature of Officer of Customs</p> <p>OR</p> <p>Shipment declared on this Shipping Bill has been air freighted on Flight No..... Dated.....AWB No..... EGM No. .... Under Preventive Supervision in full/part (Specify quantity airfreighted).</p> <p style="text-align: right;">Signature of Officer of Customs</p>	

**ANNEXURE – III**

**Shipping Bill For Export Of Duty Free Goods**

Exporter		Invoice No. and Date	SB No. and Date
		AR4/AR4A No. and Date	
Consignee		Q/Cert No. and Date	Import-Export Code No.
			RBI Code No.
Customs House No. Agent	LIC	Export Trade Control	If export under: Deferred Credit [ ] Joint Venture [ ] Rupee Credit..... [ ] Others ..... [ ] RBI's Approval/Cir. No. and Date
Pre-Carriage by	Place of Receipt by Pre-Carrier	Nature of Contract: CIF [ ] / FOB [ ] / CFR [ ] / Others (specify)	Type of shipment
Vessel/Flight No.	Rotation No.	Exchange Rate of U/S 14 of CA Invoice	Outright Sale [ ] Consignment Export [ ] Others (Specify) [ ]
	Port of Loading	Port of Discharge Country of Destination	



No.	Port Tariff No.	Assessable Value under Sec. 14 of CA	Rate	Amount	Rate	Amount	Duty and Cess	Remarks particulars
Total Duty/Cess Amount in words: Rupees								Collection Stamp

**Declaration:**

I/We Declare that all particulars given herein are true and correct.

I/We also attach the declaration(s) under clause No.(s) .....

Public Notice No. ....dated ..... Signature and Date

	<b>DOCUMENTS</b>	
	<b>SUBMITTED</b>	
	1.	Invoice
	[ ]	
2.	Packing List	
[ ]		

	<p>3. GR Form [ ]</p> <p>4. AR-4/AR-4A Form [ ]</p> <p>5. ETC Licence [ ]</p> <p>6. Indent [ ]</p> <p>7. Acceptance of Contract [ ]</p> <p>8. Letter of Credit [ ]</p> <p>9. QC Certificate [ ]</p> <p>10. Port Trust Document [ ]</p> <p>11. Any other (Specify) [ ]</p>
<p>'LET EXPORT'</p> <p>Signature of Officer of Customs</p>	<p>'ALLOWED FOR SHIPMENT'</p> <p>Signature of Officer of Customs</p>

Vessel's name may be altered after check with original Rs. entry for Fresh one may be granted to ..... for the portion shutout or not shipped Received Handed over to C.H.A./Party Cashier		Fee       Asstt. Commissioner
Contents Received on Board   Date of Vessel Signature of Master of	Date of Shipment   Signature of Officer of Customs	
<p><b><u>Examination Order and Report</u></b></p>          		

Verified Mate's Receipt No. .... of ..... Issued by..... For ..... Cases/Bales/Packages/Containers..... Shipped per..... Which sailed on..... From..... Under Preventive Supervision
--

Signature of Officer of Customs
OR
Shipment declared on this Shipping Bill has been air freighted on Flight No..... Dated.....
AWB No..... EGM No. .... Under Preventive Supervision in full/part (Specify quantity airfreighted).
Signature of Officer of Customs
Customs

**ANNEXURE – I V****Shipping Bill For Export Of Duty Free Goods Under Ex-Bond**

Exporter	Invoice No. and Date	SB No. and Date
	AR4/AR4A No. and Date	
Consignee	Q/Cert No. and Date	Import–Export Code No.
		RBI Code No.
Customs House No. Agent	LIC	Export Trade Control
		If export under:
		Deferred Credit
		[ ]
		Joint Venture
		[ ]
		Rupee Credit.....
		[ ]
		Others .....
		[ ]
		RBI's Approval/Cir. No. and Date

Pre-Carriage by	Place of Receipt by Pre-Carrier	Nature of Contract: CIF [ ] / FOB [ ] / CFR [ ] / Others (specify)	Type of shipment Outright Sale [ ] Consignment Export [ ]
Vessel/Flight No.	Rotation No. Port of Loading	Exchange Rate Currency U/S 14 of CA of Invoice <hr/> Port of Country of Discharge Destination	Others (Specify) [ ]
S. Marks & Nos. Value FOB	No. and kind of Pkgs.	Statistical Code/and	Quantity
No.	Container Nos.	Description of Goods	
Net Weight			
Gross Weight			
Total FOB Value in words			
<u>Analysis of Export Value</u> <u>Amount</u>		<u>Currency</u>	Full export value OR where not ascertainable, the value which exporter expects to receive on the sale of goods.  Currency .....
FOB .....		Value	
Freight .....			
Insurance			

<p>.....</p> <p>Commission</p> <p>.....Rate.....</p> <p>Discount</p> <p>.....</p> <p>Other</p> <p>.....</p> <p>Deductions</p> <p>.....</p>	<p>Amount .....</p>			
<p><u>Import particulars of Bonded Goods</u></p>				
<p>Bill of Entry of Bonded No. &amp; Date Warehouse</p>	<p>Vessel's Name and Rotation No.</p>	<p>No. of Packages</p>	<p>Bond No. &amp; Date</p>	<p>Name &amp; Date</p>

Declaration:

I/We Declare that all particulars given herein are true and correct.

I/We also attach the declaration(s) under clause No.(s) .....

Public Notice No. ....dated .....

Signature and

Date

	<p>DOCUMENTS SUBMITTED</p> <p>1. Invoice</p>
--	--

	<input type="checkbox"/> [ ] 2. Packing List <input type="checkbox"/> [ ] 3. GR Form <input type="checkbox"/> [ ] 4. AR-4/AR-4A Form <input type="checkbox"/> [ ] 5. ETC Licence <input type="checkbox"/> [ ] 6. Indent <input type="checkbox"/> [ ] 7. Acceptance of Contract <input type="checkbox"/> [ ] 8. Letter of Credit <input type="checkbox"/> [ ] 9. QC Certificate <input type="checkbox"/> [ ] 10. Port Trust Document <input type="checkbox"/> [ ] 11. Any other (Specify) <input type="checkbox"/> [ ]
<p>'LET EXPORT'</p>  <p>Signature of Officer of Customs</p>	<p>'ALLOWED FOR SHIPMENT'</p>  <p>Signature of Officer of Customs</p>

Vessel's name may be altered after check with original Rs. _____ Fee _____ entry for _____  Fresh one may be granted to ..... for the portion shutout or not shipped Received _____	
Handed over to C.H.A./Party _____ Asstt. Commissioner Cashier _____	
Contents Received on Board   Date _____ Signature of Master of Vessel _____	Date of Shipment   _____
<p><b><u>Examination Order and Report</u></b></p>          	

Verified Mate's Receipt No. .... of ..... Issued by..... For ..... Cases/Bales/Packages/Containers..... Shipped per..... Which sailed on.....
--

From..... Under Preventive Supervision

Signature of Officer of Customs

OR

Shipment declared on this Shipping Bill has been air freighted on Flight No..... Dated.....

AWB No..... EGM No. .... Under Preventive Supervision in full/part (Specify quantity airfreighted).

Signature of Officer of Customs

## 7.12. DECLARATION TO BE FILED IN CASE OF EXPORT OF GOODS UNDER CLAIM FOR DRAWBACK

I / We ..... (name of the exporter)..... do hereby declare as follows: -

- (a) that the quantity and specifications of the goods as stated in this Shipping Bill are in accordance with the terms of the export contract entered into with the buyer / consignee in pursuance of which the goods are being exported;
- (b) that the duties of Customs and Central Excise have been paid in respect of the containers, packing materials and other materials used in the manufacture of the export goods on which drawback is being claimed and that in respect of such containers, packing materials or other materials, no separate claim for rebate of duty under Rule 12A or Rule 191A of the Central Excise Rules, 1944 has been made or will be made to the Central Excise authorities;
- (c) that there is no change in the manufacturing formula and in the quantum per unit of the imported materials or components if any, utilised in the

manufacture of export goods; and that the materials or components, which have been stated in the application under Rule 6 or Rule 7 to have been imported, continue to be so imported and are not being obtained from indigenous sources;

- (d) that the present market value of the goods is as follows: -
- (e) that the goods are not manufactured and / or exported in discharge of export obligation against an advance licence issued under the Duty Exemption Scheme *vide* relevant import and export policy in force;
- (f) that the goods are not manufactured and / or exported by a unit licenced as a 100% export oriented unit in terms of the import and export policy in force;
- (g) that the goods are not manufactured and / or exported by a unit situated in any Free Trade Zone/Export Processing Zone or any such other Zone;
- (h) that the goods are not manufactured partly or wholly in bonds under Sec. 65 of the Customs Act, 1962;
- (i) that the goods are not manufactured partly or wholly in bond under Rule 191 B of the Central Excise Rules, 1944;
- (j) that the export value of each of the goods covered by this shipping bill is not less than the total value of all imported materials used in the manufacture of such goods.

[Note: *Strike out the declaration whichever is not applicable*]

Name and Signature of the exporter. ....

**ANNEXURE – II**

**7.13. DECLARATION TO BE FILED IN THE CASE OF EXPORT OF GOODS UNDER THE D.E.E.C. SCHEME**

I / We .....(Name of the Exporter).....do hereby declare as follows: -

That the goods to be exported under this Shipping Bill are the products corresponding to the export products specified against Sl. No. . . . . . in part (e) of the DEEC No. . . . . . dated . . . . . issued by the Joint / Deputy Chief Controller of Imports and Exports . . . . . (Name of the office).....

(a) That the following raw materials / components / consumables have been used for the manufacture of good covered under this shipment, namely: -

Sl. No.	Description	Quantity	Technical Characteristics	Quantity	Whether Imported/ Indigenous

(b) that I / We are not availing the benefit of the provisions of Rule 191 A or Rule 191 B of the Central Excise Rules, 1944,

OR

that I / We are availing the benefit of the provisions of Rule 191 A or Rule 191 B of the Central Excise Rules, 1944 in respect of . . . . . (name of the item).....

[Note: *Strike out the declaration whichever is not applicable*]

Name and Signature of the exporter . . . . .

(for use by the Customs authorities)

Shipping Bill No. and Date . . . . .

Name and Signature of the Customs Officer . . . . .

**ANNEXURE – III**

**7.14. DECLARATION TO BE FILED IN THE CASE OF EXPORT OF GOODS IN ANTICIPATION OF ISSUE OF AN ADVANCE LICENCE / DEEC**

I / We . . . . . (Name of the exporter) do hereby declare as follows: -

(a) that the shipment is in pursuance of discharge of the export obligation against export order No. . . . . dated . . . . . and

(b) I / We request for registration of the shipping bill in anticipation of the grant of an Advance Licence / DEEC for which we have already applied to the Licensing Authority, namely

Vide our application No. . . . . dated . . . . . and for which I / We have obtained the letter of permit / receipt No. . . . . dated . . . . . from the said Licensing Authority.

(c) that the following raw materials / components / consumables have been used for the manufacture of goods covered under this shipment, namely: -

Sl. No.	Description	Quality	Technical Characteristics	Quantity	Whether Imported/Indigenou s

(d) that I / We are not availing the benefit of the provisions of Rule 191 A or Rule 191 B of the Central Excise Rules, 1944

OR

That I / We are availing the benefit of the provisions of Rule 191 A or Rule 191 B of the Central Excise Rules, 1944 in respect of . . . . . (name of the item).....

[Note: *Strike out the declaration whichever is not applicable*]

Name and Signature of the Exporter . . . . .

(For use by the Customs authorities)

Shipping Bill No. and Date . . . . .

Name and Signature of the Customs Officer . . . . .

**ANNEXURE – IV**

**7.15 DECLARATION TO BE MADE ON SHIPPING BILLS FOR CONSIGNMENTS COVERED BY AR – 4A PENDING WEIGHMENT AT THE DOCKS**

In consideration of the [Commissioner of Customs] agreeing to assess the goods on the declared weight pending verification by reference to AR – 4A Forms, I / We . . . . . (name of the exporter) do hereby agree: -

- (a) to pay way extra duty / cess leviable on the goods covered by the Shipping Bill, and
- (b) to produce the AR – 4A Forms covering the shipment to the Customs House within 15 days of the shipment of the goods.

[Note: *Strike out the declaration whichever is not applicable*]

Name and Signature of the exporter . . . . .

(For use by Customs authorities)

Shipping Bill No. and Date . . . . .

Name and Signature of the Customs Officer . . . . .

**ANNEXURE – V**

**7.16 DECLARATION TO BE MADE BY EXPORTERS WHO FILED SHIPPING BILL WITHOUT CERTIFICATE FROM THE EXPORT INSPECTION AGENCY ETC.**

(a) I / We . . . . . (name of the exporter) do hereby declare that the goods being dispatched are / shall be in accordance with the conditions prescribed in the Export (Quality Control and Inspection) Act, 1963. Application for necessary inspection / quality control has been made to . . . . . (name of the export inspection agency) and the same in original will be produced along with the goods at the time of customs examination.

(b) I / We . . . . . (name of the exporter).....do hereby declare that the goods are as per the quality control requirements under the Export (Quality Control and Inspection) Act, 1963.

Application for the issue of the inspection / quality control certificate has been made to . . . . . which is duly authorised agency to issue such a certificate. The said certificate will be produced to the Customs Officer for checking at the time of shipment

[Note: Strike out the declaration whichever is not applicable]

Name and signature of the exporter . . . . .

(For use by Customs authorities)

Shipping Bill No. and Date . . . . .

Name and Signature of the Customs Officer . . . . .

#### **7.17 PROCEDURE FOR COMPUTERISED PROCESSING OF SHIPPING BILLS UNDER THE INDIAN CUSTOMS EDI SYSTEM-EXPORTS**

computerised processing of Shipping Bills (S/B) in the Custom Houses started in 1998.

Under the system, there would be no processing of paper documents except statutory declarations and endorsements until "Let Export" order stage. Till such time exporters/CHAs are given access to file documents electronically, they would have to avail the facility of filing the documents through the Service Centre (the Centre for short) set up in the Custom House or directly on the ICEGATE.

#### **7.18. PROCEDURE FOR SDF:**

Under the revised procedure, exporters (includes CHAs also) would be required to file a declaration in the form SDF (Appendix I). It would be filed at the stage of "goods arrival". One copy of the declaration would be attached to the original copy of the S/B generated by the system and retained by the Customs. The second copy would be attached to the duplicate S/B (the exchange control copy)

and surrendered by the exporter to the authorised dealer for collection/negotiations.

The exporters are required to obtain a certificate from the bank and through which they would be realising the export proceeds (Appendix 1A). If the exporter wished to operate through different banks for the purpose, a certificate would have to be obtained from each of the banks. The certificate would be submitted to Customs and registered in the system. These would have to be submitted once a year for confirmation or whenever the bank is changed.

In the declaration form (Annexure A or B) to be filed by the exporters for the electronic processing of export documents, the exporters would need to mention the name of the bank and the branch code as mentioned in the certificate from the bank. They will verify the details in the declaration with the information captured in the system through the certificates registered earlier.

In the case of S/Bs processed manually, the existing arrangement of filing GR 1 forms would continue.

#### **7.19. DATA ENTRY OF SHIPPING BILLS**

The procedure for registration of IEC codes, PAN numbers, CHAs licence numbers and/or account numbers by the exporters and CHAs has already been as detailed in the Public Notice No. 201/98 dated 28.10.98. The S/Bs cannot be allowed in absence of registration in the system.

For the purpose of filing the S/B, the exporters would present, at the Centre, a declaration in form Annexure A (for exports without claim for drawback) or Annexure B (for exports under claim for drawback) along with copy of the invoice. The guidelines for filling up these forms are at Annexures G, H, I and J. The form should be complete and signed by the exporter or his authorised CHA. Incomplete or unsigned forms would not be accepted.

In respect of items subject to cess, the corresponding serial number of the Cess Schedule appended at Annexure D should be mentioned. A printed challan generated by the system would be handed over to the exporter. The cess amount indicated should be paid in the Cash Section of the Custom House, under a receipt.

In the beginning, data entry for S/B will be made only at the Centre. Later, it is proposed to provide the facility for remote EDI connectivity and it should be possible to file S/Bs electronically from offices of exporters or of CHAs through dial-up modems using telephone lines.

The exporters would have to pay charges at the following rates to the Centre Operator: -

S/Bs having up to five items	Rs.
For every additional block of five items	Rs.
Amendment fees for a block of five fields	Rs.

The declarations would be accepted at the Service Centre between 10.00 A.M to 4.30 P.M. and will be entered in the system the same day.

The validity of S/B in the system would be 15 days, after which it would stand automatically deleted. The exporters would have to file the declarations afresh after that.

The Centre Operator shall carefully enter the data entered in the declaration (Annexure A or B) and hand over the resultant checklist to the exporters for confirming the correctness of entries. The exporter would make the corrections, if any sign the checklist and return it to the Operator. The Operator shall make corrections in the corresponding data and submit the revised checklist to the exporter for re-confirmation. This process would be repeated till the exporter signs a clean checklist in token of correctness of the entered data.

On submission of the electronic S/B, the system would generate a S/B number. The Operator would endorse it on the final checklist and return it to the exporter. No copy of the S/B would be made available to the exporter at this stage. However, the TR-6 challan, for payment of cess generated simultaneously would be made available to the exporter (para 3.3 supra).

For all exports requiring examination in the docks, the procedure is detailed in Section 7 below.

For all exports requiring examination outside the docks namely, Container Freight Stations, factory premises etc., the procedure is detailed in Section 8.

## **7.20. ARRIVAL OF GOODS AT EXPORT EXAMINATION SHEDS IN DOCKS**

The existing procedure of permitting entry of goods, brought for the purpose of examination (and subsequent "Let export" order), in the docks on the strength of S/B shall be discontinued. The Chennai Port Trust (CPT) will permit entry of the goods on the strength of CPT form B-1, the checklist, the data entry form (Annexure C) and the declaration (Annexure A or B). CPT would endorse the quantity of goods entering the docks in form B-1 and reverse of the checklist.

5.2. The goods should be brought for examination within 15 days of filing of declaration in the Centre. In case of delay, a fresh declaration would need to be filed.

5.3. If at any stage subsequent to the entry of goods in docks, it is noticed that the declaration has not been registered in the system, the exporters will be solely responsible for the delay in shipment of goods and any damage, deterioration or pilferage.

## **7.21. PROCESSING OF SHIPPING BILLS**

The S/B shall be processed by the system on the basis of declaration made by the exporter. However, the following S/B shall require clearance of the Assistant Commissioner (AC): -

- i. Duty free S/B for FOB value above Rs. 10 lakh.
- ii. Free Trade Sample S/B for FOB value above Rs. 20,000.
- iii. Drawback S/B where the drawback exceeds more than Rs. one lakh.

Apart from verifying the value and other particulars for assessment, the AC may call for the samples for confirming the declared value or for checking classification under the Drawback Schedule. He may also give special instruction for examination of goods.

If the S/B falls in the categories indicted in para 6.1 above, the exporter should check up with the query counter at the Centre whether the S/B has been cleared by AC, before the goods are taken for examination. In case AC raises any query, it should be replied through the Centre or, in case of EDI connectivity, through terminals of the exporter/CHA. After all the queries have been satisfactorily replied to, AC will pass the S/B.

## **7.22. CUSTOMS EXAMINATION OF EXPORT CARGO**

On receipt of the goods in the Export Shed ('O' yard or JD 7) in the docks, the exporters will contact the System Examining Officer (SEO) and present the checklist with the endorsement of CPT, declaration along with all original documents such as Invoice, Packing List, AR-4, etc. He will also present additional particulars in form at Annexure C.

SEO will verify the quantity of the goods actually received against that entered in the system. He will enter Annexure C particulars in the system. The system would identify the Examining Officer (if more than one are available) who would be carrying out physical examination of goods. The system would also indicate the packages (the quantity and the serial numbers) to be subjected to examination. SEO would write this information on the checklist and hand it over to the exporter. He would hand over the original documents to the Examining Officer. No examination orders shall be given unless the goods have been physically received in the Export Shed. It may, however, be clarified that Customs may examine all the packages/goods in case of any discrepancy.

The Examining Officer may inspect and/or examine the shipment, as per instructions contained in the checklist and enter the examination report in the system. There will be no written examination report. He will then mark the Electronic S/B to and forward the checklist along with the original documents to the Appraiser in charge. If the Appraiser is satisfied that the particulars entered in the system conform to the description given in the original documents (including AEPC quota and other certifications) and the physical examination, he will proceed to give "Let Export" order for the shipment and inform the exporters. The Appraiser would retain the checklist, the declaration and all original documents with him.

In case of any variation between the declaration in S/B and the documents or physical examination report, the Appraiser will mark the electronic S/B to AC Exports. He will also forward the documents to AC and advise the exporters to meet him for settlement of dispute. In case the Exporter agrees with the views of the Department, the S/B would be processed finally. Where the exporter disputes the views of the Department, the case would be adjudicated following the principles of natural justice.

### **7.23. PROCEDURE IN CASE OF CONTAINERS STUFFED OUTSIDE DOCKS AREA**

Containers stuffed in factories would enter the CPT through Gate No. 1 (formerly 'O' gate). CPT would permit entry in the docks on the basis of form B-1 and the checklist. Customs will verify the seal on each container and make an endorsement on the checklist and Annexure C. Thereafter, the exporter would present the Invoice, Annexure C and the checklist along with all the original documents such as, Packing list, AR-4 etc., to SEO at "O" yard. SEO will enter all the particulars along with the seal No. in the system and submit the S/B to the Appraiser for consideration of "Let Export" order.

The samples drawn, if any, in the factory should be brought to the Export Shed in CPT along with the container and handed over to SEO. SEO would enter the details in the system and forward the samples to the Deputy Chief Chemist, Custom House.

The system may require re-examination of the factory stuffed container on a random basis. If the container is selected for re-examination by the system, the procedure as given in para 7.2 supra will be followed. The examination would, however, be carried out in Container Parking Yard. The Shed Appraiser may also decide to re-examine the container in which case he will obtain the approval of AC Export.

Either way, once the Appraiser is satisfied, he will proceed to allow "Let Export" for the shipments and inform the exporter.

This procedure will also apply to containers stuffed in factories and sealed by the manufacturer-exporter under notification No. 36/98-CE dated 2.9.98.

This procedure would, *mutatis mutandis*, apply to the containers stuffed in the CFSs, till 31 December 1998 or earlier; by which time all CFSs within the jurisdiction of Commissioner of Customs, Chennai would be provided connectivity with the system. At the CFSs, the existing procedure would continue with the only difference that the examination report would be recorded on the reverse of the checklist. As soon as the connectivity is provided, procedure outlined in para 7.2 *supra* will become applicable.

#### **7.24. GENERATION OF SHIPPING BILLS**

As soon as the Shed Appraiser gives "Let Export" order, the system would print two copies of the S/B i.e., original, for Customs and the duplicate, for the exporter. On both the copies, the Appraiser will obtain the signatures of the E.O., on the examination report and of the representative of the CHA, on the S/B. Name and identity card number of the representative of the CHA should be clearly mentioned below his signature. The Appraiser will also sign the Shipping Bill at the specified space.

One more copy, Export Promotion copy will be generated only after the vessel has sailed and goods have been physically exported in full. The Preventive Officer will authenticate this copy only after verification of the Mates Receipt.

The original AEPC quota and other certificates will be retained with the Shipping Bills and recorded in the Export Shed.

#### **7.25. PAYMENT OF MERCHANT OVERTIME (MOT)**

For the time being the present manual system for payment of Merchant Overtime (MOT) charges will continue.

MOT charges will be required to be paid by exporter when the goods are examined by Customs for allowing "Let Export" beyond the normal office hours. No charges would be required to be paid on normal working days when the examination itself is being done for "Let Export" up to 10.00 P.M. In addition, no charges would be required to be paid if the exporter wants the goods to be entered in CPT/CFS only for meeting the quota deadlines.

#### **7.26. DRAWAL OF SAMPLES**

Where the Appraiser of Customs orders for samples to be drawn and tested, the Examining Officers will proceed to draw two samples from the consignment and enter the particulars thereof along with name of the testing agency in the system. No registers will be maintained for recording dates of samples drawn. Three copies of the test memo will be prepared and signed by the Examining Officer, the Appraiser and the exporter. The disposal of the three copies would be as follows: -

i.

Original to be sent along with the sample to the testing agency.

ii.

Duplicate copy to be retained with the second sample.

iii.

Triplicate to be handed over to the exporter.

AC may, if he deems necessary, order for sample to be drawn for purposes other than testing such as visual inspection and verification of description, market value enquiry etc.

#### **7.27. QUERIES**

With the discontinuance of the assessment of S/B in the Export Department, there should not be any queries. The exporter, during examination, can clarify doubts, if any. In case where the need arises for a detailed answer from the exporter, a query can be raised in the system by the Appraiser, but would need prior approval of AC Exports. The S/B will remain pending and cannot be printed till the exporter satisfies the AC.

#### **7.28. AMENDMENTS**

Corrections/amendments in the checklist can be made at the Service Centre provided the system has not generated the S/B number. Where corrections are

required to be made after the generation of the S/B No. or, after the goods have been brought in the docks/CFS, amendments will be carried out in the following manner.

- i. If the goods have not yet been allowed "Let Export", AC may allow the amendment.
- ii. Where the "Let Export" order has been given, the Additional/Deputy Commissioner Exports would allow the amendments.

In both the cases, after the permission for amendments has been granted, the Assistant Commissioner (Exports) will approve the amendments on the system. Where the print out of the S/B has already been generated, the exporter will surrender all copies of the S/B Bill to the Appraiser for cancellation before amendment is approved in the system.

#### **7.29. SHORT SHIPMENTS, SHUT OUT, CANCELLATION AND BACK TO TOWN PERMISSIONS**

AC Export will give permission for issue of short shipment certificate, shut out or cancellation of S/B, on the basis of an application made by the exporter. The S/B and the corresponding Bill of Lading (B/L) particulars would need to be cancelled/modified in the system before granting such permission. AC should check the status of the goods in the corresponding Export General Manifest (EGM), before granting permission.

#### **7.30. CHANGE OF VESSEL NAME AND AMENDMENT OF FREIGHT AMOUNT**

It is mandatory for the exporters to indicate vessel name in Annexure C. The request for change in the name of vessel (and not in respect of any other parameter, not even freight) after "Let Export" and before loading shall be made by the exporters/Steamer Agent/Shipping Line in writing to AC Exports. Superintendent Preventive will permit the amendment and the designated P. O. will carry out the change in the system. The system will generate an amendment No., which will be endorsed on the application. Cancellation of "Let Export" order or re-print of S/B will not be required for this purpose.

If the freight/insurance amount undergoes a change before “Let Export” is given consequent to the change of vessel, corresponding changes would also need to be made in the S/B with the approval of AC Exports. But if the change has taken place after the “Let Export” order, approval of Additional/Deputy Commissioner would be required. Non-intimation of such changes would amount to mis-declaration and may attract penal action under the Customs Act, 1962.

### **7.31. RECONSTRUCTION OF LOST DOCUMENTS**

Duplicate print out of EDI S/B cannot be allowed to be generated if it is lost, since extra copy of Shipping Bills are liable to be misused. However, a certificate can be issued by the Customs stating that “Let Export” order has been passed in the system to enable the goods to be accepted by the Shipping Line, for export. Drawback will be sanctioned on the basis of the “Let Export” order already recorded on the system.

### **7.32. RE-PRINT OF SHIPPING BILLS**

Similarly, re-prints can be allowed where there is a system failure, as a result of which the print out (after the “Let Export” order) has not been generated or there is a misprint. Permission of AC Exports would be necessary for the purpose. The misprint copy shall be cancelled before such permission is granted.

### **7.33. EXPORT OF GOODS UNDER CLAIM FOR DRAWBACK**

Processing of drawback claims under the system will be applicable for all exports except in respect of claims under Section 74 of the Customs Act and those relating to EPZ/100% EOU. For the excluded categories, the export S/B will be filed manually and processed by AC Drawback, as hitherto.

For export goods under claim for drawback, the exporters will file declaration in Annexure B. The declaration in Annexure C would also be filed when the export goods are presented at the CPT Export Shed (or at the CFS, if connectivity is provided) for examination & “Let Export”. In addition they should file a declaration in Appendix III.

The exporters have been, vide P. N. No. 201/98 dated 28.10.98, advised to open their accounts with the Indian Bank, Harbour Branch, Chennai. This has been done to enable direct credit of the drawback amount to their accounts, obviating the need for issue of cheques. The exporters have to indicate these account numbers in Annexure B. Shipment for exports under claim for drawback would not be accepted in case the account number of the exporter in the Indian Bank is not indicated in the declaration form.

The exporters should also give their account numbers, along with the details of the bank through which the export proceeds are proposed to be realised.

The drawback claims are sanctioned subject to the provisions of the Customs Act; the Customs and Central Excise Duties Drawback Rules, 1995 and conditions prescribed against heading/sub-headings of the Drawback Schedule.

In order to sanction the drawback through the system, exporters should submit declaration in Appendix III along with appropriate declaration, if any in Appendices IV to XV. The details of the declarations submitted shall be mentioned in the appropriate column of Annexure B.

The rates of drawback under some S. S. Nos. are dependent upon conditions mentioned against them in the Drawback Schedule. To enable the EDI system to process the claims correctly, exporters are advised to give the correct Sl. No., of the relevant Appendix applicable to their case on the declaration as well as in the column "Condition No" in the Table at Page No. 3 of Annexure B. The Sl. Nos. of the relevant declarations not applicable for the exporters may be deleted.

If the relevant declarations are not filed along with the S/B, the system will not process the drawback claims. The exporters are, therefore, advised to file the correct declaration along with the S/B and properly fill the Table on Page 3 of Annexure B.

Vide notification 39/97-Cus (NT) dated 10.09.97, against S. S. No. 87.55, 87.56, 87.57, 87.58, 87.59, 87.60, 87.61 and 87.62 different ceilings have been fixed, though the ad valorem rates of drawback for different items against these are the same. Therefore, exporters are advised to mention correct S. S. Nos. in Annexure

B. The drawback will be paid calculated on the basis of quantity in the unit mentioned against each sub-serial of Annexure E.

The chart in Annexure F shows the Serial number of different Appendices to be filed by the exporters for goods falling under respective S. S. Nos. of the Drawback Schedule. The exporters are advised to ensure that correct the declarations in the required Appendix is filed as indicated below: -

- a. Several specified sub-headings mentioned in the Drawback Schedule are dependent on the condition that MODVAT facility has not been availed. In order to claim drawback under such sub-headings, the exporters are required to file a declaration in Appendix-IV. They should produce a certificate in support from the Superintendent of Central Excise in charge of the factory of production. In case a merchant exporter is exporting the goods, the certificate of the supporting manufacturer would have to be produced.
- b. The drawback in respect of S. S. Nos. 28.26, 28.261, 29.15, 29.16, 30.01 and 30.02 is subject to the condition that Drugs and Pharmaceuticals exported are other than those ineligible. The exporters availing drawback under any of these S. S. Nos. should file a declaration in Appendix V.
- c. The drawback in respect of goods packed in OTS cans is Rs. 10 per Kg. of the net weight of empty containers plus Central Excise duty actually paid on the cans. The exporters availing drawback under these S. S. Nos. should file declaration in Appendix IV along with the certificate from the Superintendent of Central Excise that MODVAT facility had not been availed of on any of the inputs. They should also produce documentary evidence towards payment of Central Excise duty on the cans.
- d. The drawback rates under S. S. Nos. 30.10 and 30.11 are applicable for 1000 boxes of 14 tablets each. For claiming drawback under these S. S. Nos., exporters should give number of boxes of 14 tablets each in Annexure B. If the number of tablets in a box is less or more 14, they should declare the number of boxes proportionately so as to indicate number of boxes containing 14 tablets.

- e. In respect of goods falling under S. S. Nos. 30.04, 30.05, 30.06, 30.07 and 30.14, declaration has to be filed in Appendix VII.
- f. In respect of goods falling under S. S. Nos. 30.03, declaration has to be filed in Appendix VIII.
- g. In respect of goods falling under S. S. 48.03, 48.04, 48.05, 48.06, 48.07, 48.08, 48.09 and 95.01, declaration has to be filed in Appendix IX.
- h. Drawback for goods falling under S. S. Nos. 72.01, 72.03, 72.05, 72.07, 72.09, 72.11, 84.38, 87.13, 87.14, 87.15, 87.16, 87.17, 87.18, 87.19, 87.21, 87.22, 87.23, 87.24, 87.25, 87.26, 87.27, 87.29, 87.30, 87.31, 87.32, 87.33, 87.34, 87.35, 87.36, 87.37, 87.39, 87.40, 87.41, 87.43 and 87.44 is admissible subject to the condition that only duty paid imported HR Steel/Strip/Wide coils have been used in the manufacture of export product. The exporter claiming drawback under these S. S. numbers are required to file declaration in Appendix X.
- i. The drawback in respect of S. S. Nos. 73.01, 73.18, 73.20, 73.24, 84.01, 84.02, 84.03, 84.04, 84.05, 84.06, 84.061, 84.062, 84.49, 84.50, 84.60, 84.61 and 87.12 is admissible subject to the condition that duty paid imported steel has been used in the manufacture of export product. A declaration to this effect should be made on S/B and Invoice and a certificate from Superintendent of Central Excise to this effect should be produced. The exporters claiming drawback under these S. S. Nos. are required to file declaration in Appendix XI.
- j. The drawback under S. S. Nos. 85.56 is subject to the condition that imported colour Monitor Tubes have been used in the export goods and documentary evidence in this regard is produced. The exporters exporting goods under this S. S. Nos. are required to file declaration in Appendix XII.
- k. The drawback under S. S. No. 84.10, 84.11 and 84.12 is subject to the condition that the order/contract and relevant shipping documents give clear indication of FOB prices charged for pump and electric motor separately. If so, drawback on motor is admissible @ 7% and @ 4.4% in respect of pump. The exporters claiming drawback under the these S. S. Nos. are required to file

declaration in Appendix XIII. If the FOB prices of motor and pump are not available separately, drawback @ 3% on total FOB value is admissible and exporter is required to delete S. No. 2 of the Appendix in such a case. If separate prices are available, S. No. 1 should be deleted and the value of electric motor and pump written separately in Annexure B. Value of motor shall be mentioned against S. S. No. 84.121 and that of pump against S. S. No. 84.122.

l. The exporters of leather articles are required to file Appendix XIV, subject to the condition that the goods are manufactured out of indigenous finished leather and there is no content of duty free imported leather.

m. The Exporter of electric fans, if exporting regulators along with the fans are required to separately enter S. S. No. of fans and S. S. No. of regulators in Annexure B. Similarly, the exporters of bicycle/cycle rickshaw, if exporting accessories also, should fill relevant S. S. Nos. for bicycle/cycle rickshaw accessories separately.

n. The rate of drawback for German silver Artware falling under S. S. No. 74.22 is dependent upon content of copper, zinc and nickel. The exporter of this product is required to file this information in Annexure B, showing content of copper against S. S. No. 74.221, content of zinc against S. S. No. 74.222 and of nickel against S. S. No. 74.223.

o. The rate of the drawback for galvanised Iron Artware with brass falling under S. S. No. 74.23 is dependent upon content of brass and iron. Exporter of this product is required to file the information in the Annexure B showing the content of brass against S. S. No. 74.231 and content of iron against S. S. No. 74.232.

p. The drawback rates under S. S. No. 73.31, 74.25, 75.02, 78.02 and 79.02 are at the rates applicable under the relevant S. S. Nos. in proportion to the material content. The Annexure B in such cases shall be filled claiming drawback under the relevant S. S. Nos. at the rates mentioned against them, indicating quantities of the content in the export product of each of the constituents.

After actual export of the goods, the drawback claims will be processed through the system on first come first served basis. There is no need for filing separate drawback claims. The status of S/B and sanction of drawback claim can be ascertained from the Query Counter set up at the Centre. If any query has been raised or deficiency noticed, the same will be shown on the terminal provided there. The exporter or his authorised representative may obtain a printout of the query/deficiency from the Centre, if he so desires. Exporters are advised to reply such queries expeditiously and get the replies entered in the system. The claim will come in queue of the system as soon the reply is entered.

Shipping Bills in respect of goods under claim for drawback against brand rates would also be processed in the same manner, except that drawback would be sanctioned only after the original brand rate letter is produced to AC Export and is entered in the system. The Exporter should specify the S. S No. 98.01 for such provisional claims in Annexure B.

All the claims sanctioned on a particular day will be enumerated in a scroll and transferred to the Indian Bank through the system. The bank will credit the drawback amount in the respective accounts of the exporters on the next day. Bank will send a fortnightly statement to the exporters of such credits made in their accounts.

The Steamer Agent will transfer the EGM electronically to the system, so that the physical export of goods is confirmed. The system will process the claims only on receipt of the EGM.

#### **7.34. EXPORT OF GOODS UNDER THE DEEC SCHEME**

Only S/B pertaining to DEEC Books issued on or after 1.4.95 will be processed in the system. This would cover DEEC Books issued under the following notifications: -

- i. 079/95 Cus. dated 31.3.95
- ii. 080/95 Cus. dated 31.3.95
- iii. 106/95 Cus. dated 02.6.95

- iv. 107/95 Cus. dated 02.6.95
- v. 148/95 Cus. dated 19.9.95
- vi. 149/95 Cus. dated 19.9.95
- vii. 030/97 Cus. dated 01.4.97
- viii. 031/97 Cus. dated 01.4.97

All exporters intending to file S/B under the DEEC scheme including those under the claim for drawback should first get their DEEC Books entered in the Centre by producing the original DEEC Book. A print out of the particulars entered will be given to the exporters for their confirmation. After the confirmation by the exporter, by way of signing the printout along with the Identity Card No. of the CHA, the DEEC Book should be presented to the Appraiser, DEEC Cell for verification and registration in the system. The Registration No. of the DEEC Book would be furnished to the exporter and should be mentioned in Annexure A or B. Thereafter, it would not be necessary for the exporter to produce the original DEEC Book for processing of export declarations.

For all exports under the DEEC scheme, the exporter should file the declarations at Appendix II (in all cases) and Appendix III (where drawback is claimed in addition to DEEC benefits). These declarations should be signed by the exporters themselves and not by the CHA (or representative).

Appendix II requires declarations to be made regarding availment/non-availment of MODVAT or regarding observance/non-observance of specified procedures prescribed in the Central Excise Rules, 1944. The declaration should be supported by certificates (AR-4 or any other evidence of non-availment of MODVAT) issued by the jurisdictional Central Excise officer. The "Let Export" would be allowed only after verification of all these certificates at the time of examination of the goods. The fact of filing Appendix II or III should be mentioned in Annexure A or B.

Appraiser Exports and AC Exports will process, on the screen all export declarations for DEEC. After the declarations have been so processed and

accepted, the goods can be presented for examination along with the DEEC book and “Let Export” as detailed in para 7.2 supra.

The requirements in regard to computerised processing of DEEC Shipping Bills are as follows: -

- i. Where benefits under the both DEEC and the Drawback Schemes are sought to be availed of, exporters should file both the declarations in Appendices II and III.
- ii. The options set out in Appendices II and III should be read carefully and whatever not applicable should be struck out.
- iii. Exporters availing of DEEC benefits in terms of Notifications No. 148/95 and 149/95 both dated 19.9.95 or 30/97 dated 1.4.97 should subscribe to the declaration at S. No. 1A of Appendix II, if the export goods have not been manufactured by availing of the procedure under Rule-12 (1) (b) or 13(1)(b) of the Central Excise Rules, 1944.
- iv. Exporters possessing a DEEC Book in terms of Notification No. 149/95 dated 19.9.95 and desirous of availing of the benefit under Notification No. 49/94-CE (NT) dated 22.9.94 should subscribe to be declarations at S. No. 1(B) of Appendix II.
- v. Similarly, Exporters availing of benefits in terms of Notification Nos. 79/95 or 80/95 both dated 31.3.95, 106/95 or 107/95 both dated 2.6.95 or 31/97 dated 1.4.97 shall subscribe to the declaration at S. No. 1 (A) or 1(C) of Appendix II, as the case may be.
- vi. Exporters who wish to avail DEEC benefits but do not propose to claim any drawback need file only the declaration in Appendix II.

It is also clarified that those exporters who propose to fulfil export obligations themselves have to sign declaration at S. No. 2A of Appendix II. However, if the export obligations are being fulfilled by exports through a third party, the exporter is required to strike out S. No. 2A and subscribe to S. No. 2B of Appendix II. In such a case, the name of the DEEC licence holder as well as that of the exporter shall be given and both have to sign the said declaration.

As regards the declaration in Appendix III, the options are set out in Sl. No. 4 & 5. Exporters are required to subscribe to the correct option and delete the other(s). Exporters who are exporting goods under DEEC Scheme shall delete declaration at Sl. No. 5A of Appendix III and shall subscribe to the Sl. No. applicable to them.

Those Exporters who possess a DEEC book under notification No. 79/95, 80/95, 30/97 or 31/97 and intend to claim the Central Excise portion of drawback shall subscribe to declarations at Sl. No. 5B of Appendix III. Those exporters who are exporting goods under DEEC but intend to avail at the brand rate of drawback shall subscribe to the declaration at Sl. No. 5C of Appendix III. Such exporters are, required to file their S/B in Annexure B. Exporters, who are having DEEC books under notifications other than 79/95, 80/95, 30/97 and 31/97, are not entitled for All Industry Rates of drawback.

It is clarified that:-

- i. While giving details relating to DEEC operations in the forms at Annexure A/B, the exporters should indicate the Sl. No. of the goods being exported in the column titled "ITEM S. NO. IN DEEC BOOK PART E" OF Annexure A/B.
- ii. If inputs mentioned in DEEC Import book only have been used in the manufacture of the goods under export, in column titled "ITEM S.NO IN DEEC BOOK PART C" of Annexure A/B, the exporters are required to give S. No. of inputs in Part -C of the DEEC Book. They need not fill up column titled "DESCRIPTION OF RAW MATERIALS".
- iii. If some inputs which are not in Part-C of the DEEC Book have been used in the manufacture of the goods under export and the exporter wants to declare such inputs, he shall give the description of such inputs in column titled "DESCRIPTION OF RAW MATERIALS"
- iv. In the column "IND/IMP", exporters are required to write "N", if the inputs used are indigenous and "M", if the inputs used are imported.

- v. In column titled "Cess Schedule SI No." relevant Serial No. of the Schedule relating to Cess (at Annexure D) should be mentioned.

### 7.35. EXPORT GENERAL MANIFEST

Arrangements are being made for all Steamer Agents to furnish the EGMs giving details of S/Bs and Bills of Lading to the Customs electronically. In the meantime, they should enter the EGM in the system through the Centre on payment of fee @ Rs. 60 per EGM. After the entry of the EGM, a checklist will be generated which has to be signed by Steamer Agent certifying the correctness of data. They shall be liable for penal action, if incorrect or incomplete EGMs are submitted. The Service Centre would be receiving the EGMs for data entry between 9 AM and 11 AM and between 6 PM and 8PM.

Apart from submitting EGMs electronically, the Steamer Agent would continue to file manual EGMs along with the duplicate copies of the S/Bs as per the present practice. Since the disbursement of drawback to exporters is dependent on the filing of EGMs by the Steamer Agent, they are advised to file the EGMs soon after the vessel has departed. The manual EGMs would be entered in the register at the Export Department and the Steamer Agents are advised to obtain acknowledgements indicating the date and time at which the EGMs were received.

#### Journey of export documents

1. The Exporters/CHA has to submit duly filled-in **Annexure-A** in case of Duty Free Bills/Cess Bills/D.E.E.C.Bills and **Annexure-B** in case of Duty Drawback Bills/Drawback cum D.E.E.C Bills along with one copy of Invoice and two copies of Form S.D.F.
2. The Service Centre staff enters the data into the system and generates check list to be verified by the Exporter/CHA for correctness on verification if the data found to be correctly recorded. The Exporter/CHA will sign the check list and return it to the Service Centre, signaling final submission. Then the Service Centre will generate the S/B Number, which will be recorded manually on the right top of the check list and returned to the Exporter/CHA; thus completing the registration of document. The Service Centre will also generate three copies of

TR-6 Challans for payment of Cess wherever the Cess element is involved.

3. The following categories of S/Bs will be put to Asst.Commissioner queue for clearance:

- Duty Free S/Bs - F.O.B. value over Rs.10 lakhs
- D.E.E.C. S/Bs - F.O.B. value over Rs.1 lakh
- Drawback S/Bs - Drawback over Rs.1 lakh
- Free Trade Samples - F.O.B. value over Rs.25000.

Once cleared from A.C., these Bills will be put in goods registration for Examination queue.

4. All other S/Bs straightaway put in examination goods registration queue with no prior assessment of documents.
5. The Exporter/CHA has to present goods for examination within 15 days from the date of document registration of Service Centre.
6. The Exporter/CHA has to submit duly filled **Annexure-C** to the Systems Examination Officer who will register the entry of goods in the system.
7. At this stage, the system randomly picks up certain S/Bs for examination, and the rest of the S/Bs will be subjected to inspection of description through marks and numbers.
8. With the directions generated by the system, S/B will be moved to Appraising Officer's screen. The A.O. will verify the correctness of data available in the system vis-a-vas physical documents.
9. The A.O. will mark the S/B to various examiners working under his control with necessary directions.
10. The Examiners will carry out the examination and enter the examination report in the system.
11. The S/B will move back to A.O.'s screen for Let Export Order (L.E.O.). In case

of Cess S/Bs and grants L.E.O. the A.O. will verify the examination report, duty payment details.

12. After L.E.O. is given by the Appraising Officer, the system will generate two copies of S/B. The A.O. will obtain the signatures of Examiner and Exporter/CHA. in the designated places besides signing himself on the documents.
13. The first copy (Customs Copy) along with all other original documents will be retained by A.O. and second (Exporter Copy) will be given back to the Exporter along with one copy of the Form S.D.F. for banking purpose.
14. The S/B will then move electronically to Preventive Section where Preventive Officers will supervise the stuffing of cargo into containers and stuffing report will be recorded in the system by the P.O.
15. The container will be loaded into the vessel by obtaining goods received stamp from the Chief Officer/Master of vessel exporters on the copy of (hard copy) Shipping Bill.
16. On verification of the goods received stamp, the P.O. will record sailing report in the system.
17. The S/B will then move into Shipping Agents Queue for filing of E.G.M.
18. After E.G.M. is recorded in the system, the DBK bills are put in DBK Processing Queue. D.E.E.C. bills will be put in D.E.E.C. Superintendent's Queue for log-in details and other S/Bs will form part of History Database.
19. DBK and D.E.E.C. S/Bs after completing the respective formalities will join the other S/Bs in the History Database; thus completing the cycle of Shipping document.

## UNDER CLAIM FOR DRAWBACK

- EDI System will process Drawback Claims for all exports, except in respect of Claims u/s 74 of Customs Act, 1962, exports made in the name of third party and those relating to EPZ/100% EOU.
- Every exporter should open their account with the Indian Bank, Harbour Branch, Chennai-1, so as to enable Chennai Customs to directly credit their Drawback amount into their accounts, obviating the need for physical issue of cheques. No shipment will be allowed without proper account number of the exporter in the Indian Bank. The account numbers should be given along with the details of the bank through the export proceeds are proposed to be realised.
- For exports under claim of DBK the exporters will file declaration in Annexure-B. The declaration in Annexure-C will also be filed when the export goods are presented at the Shed for examination. In addition, Appendix-III should be filed as a declaration.
- The Exports/CHA are hereby cautioned to give all relevant declarations. Otherwise, the system will not process the Drawback claims.
- There is no need for filing separate drawback claims. After actual export of the goods, the drawback claims will be processed through the system on First Come First Served basis.
- If any query has been raised or any deficiency noticed by the A.O.(DBK) or by the A.C.(DBK), the same will be printed at the EDI Service Center. The printout can be obtained and replied quickly through the Service Center.
- All the claims sanctioned on a particular day will be enumerated in a scroll and transferred to the Indian Bank through the system. The bank will credit the drawback amount in the respective accounts of the exporters on the next day.

### **7.36. Computerised processing of DEPB, 100% EOU and EPCG Shipping Bills under the Indian Customs EDI Systems (Exports)**

- 1** The procedure for processing of Shipping Bills will be same as above except following changes:
- 2** All the Exporters exporting goods under DEPB, 100% EOU and EPCG schemes will be required to get their Importer Exporters Code Number registered in Customs EDI System (if not already registered) before filing Shipping Bills. The Exporters will file details in the revised form at of Annexure A after incorporating the changes indicated in Annex I. It may be noticed that for EPCG (Green) Shipping Bills i.e. with Drawback, the details would be filed in the revised format of Annexure B after incorporating changes as indicated in Annexure II to this Public Notice. In case of DEPB Shipping Bills Exporters / CHAs are also required to file details as per declaration as per "Annexure F" in the format annexed to this Public Notice at the time of goods arrival, apart from the particulars in Annexure C to above Public Notice. For 100% EOU goods the examination particulars would be filed as per Annexure C1 to this Public Notice.
- 3** DEPB

While filing information as per revised format of Annexure A, Exporters are required to ensure that correct Group Code No. of the goods being exported and the item No. of relevant Group is clearly mentioned in column 20 (item-wise details). For item No.49 of Group Code No. 83 (Electronics) value cap has been fixed at Rs.100/- for video cassette and Rs.35/- for audio cassette, the Exporters exporting video cassettes are required to mention Sl. No.49(A) and those exporting audio cassettes are required to mention Sl. No.49 (B). Wherever the item No. is alpha-numeric like 70(i), 70(ii), 70(iii) etc. in Group Code No. 61 (Engineering) or 38 (A), 38(B), 38(C), 38(D) in group code No.62 (Chemicals), the Exporters / CHAs are advised to fill Item No. in the same manner as given in the Public Notices issued by D.G.F.T..
- 4** DEPB Credit in respect of item No.37(A), 37(B), 37(C), 37A(A), 37A(B), 37A(C) and 37A(D) of Group Code No.62 (Chemicals) are 75% of credit

rate for the relevant bulk drug. For proper calculation of DEPB rate, Exporters/CHAs are advised to claim export under SI.No.37 (A) if they are exporting injections and thereafter mention SI.No. of Group Code 62 of the bulk drug of which such injections have been made. The system will calculate 75% of the DEPB rate of such bulk drugs formulations of which are being exported. For example, if an Exporter is exporting injections of aminophylline, in column 19 of Annexure A they should mention SI.No. 37 (A) and thereafter SI.No. 8 so the system calculates 75% of 18% that is 13.5 % credit in respect of injections of aminophylline. However, if the formulations being exported are made of two or more bulk drugs, the trade is informed that manual Shipping Bills have to be filed as the system cannot process such Shipping Bills.

- 5** As already informed to the trade, filing of GR-I will not be required in cases where exports are being handled through Indian Custom EDI System (Exports). Therefore w.e.f. **05.01.2000** the Exporters exporting goods under DEPB Scheme will not be required to file GR-I Form but only a declaration in form S.D.F as is being done in drawback cases and white Shipping Bills. The format of S.D.F. has already been circulated vide Public Notice No.34/99. For the purposes of negotiating the export documents through authorised dealers, the Exporters will be given an additional copy of Shipping Bill marked as "Exchange Control Copy" duly authenticated by Appraiser of Customs. However, they have to submit certificates from their Bank(s) as per format already circulated to the effect that they are maintaining account in the said Bank and indicate the Branch Code No. of the Bank as well as their Account No. in the Bank. The details about their Bankers will be fed in Customs Computer before processing of the Shipping Bills.
- 6** All the DEPB Shipping Bills having FOB value less than Rs.5 lakhs and / or DEPB rates less than 20% will be assessed by Appraiser (DEPB Cell). However, the Shipping Bills having FOB value more than Rs.5 lakhs and/ or credit rate 20% or more will be assessed by A.C./D.C (Export). Any

query at the time of assessing by Appraiser (DEPB Cell) or A.C./D.C.(Export) may be obtained from the Service Centre and reply to the query has to be furnished through Service Centre.

- 7** If the Group Code No., Item No. and FOB value declared is accepted by the Appraiser (DEPB Cell) or Assistant / Deputy Commissioner (Export), goods may be brought and entered in the system. The examination report will be fed by the examining officer and “Let Export” order will be given by Appraiser in the EDI System. Five copies of Shipping Bill will be printed for the purposes mentioned against each as under:

- |      |                           |   |
|------|---------------------------|---|
| i.   | Customs Copy:             | For record of<br>Customs  |
| ii.  | Exporters’s Copy:         | For record of<br>Exporters  |
| iii. | E.P. Copy                 | from office of<br>DGFT  |
| iv.  | DEPB Copy                 | For use in the<br>import cell of this<br>customs station for<br>registration of<br>licence. |
| v.   | Exchange Control<br>Copy: | For negotiating the<br>export documents<br>in bank  |

- 8** There is a provision for changing the Group Code No./Item No./Value for DEPB credit purposes and such changes will be reflected in the print out of the Shipping Bill. Such changes may be done by Appraiser (DEPB Cell), A.C./D.C. (Export) as well as by Appraiser (Exam). The credit will be allowed by the DGFT at the rate / value (for credit purposes only) as approved by

Customs. The EP Copy of the shipping Bill shall be used by the Exporters to obtain DEPB licence from DGFT

- 9** In case, the Exporters for credit purposes, accepts the lower value as determined by Customs, such lower value will be entered by Appraiser (DEPB Cell), A.C./D.C. (Exports) or by Appraiser (Examination) for each item(s). Printout of Shipping Bills at item level will indicate for FOB value as well value for DEPB credit purposes. Exporters are required to apply for the DEPB Licence at the FOB value accepted by Customs and not the value declared by them. However, as DEPB is issued on the basis of exchange rate applicable on the date of realization, Exporters are advised to apply for DEPB Licence at the value accepted by Customs at the time of export multiplied by exchange rate as per Bank realisation certificate
- 10** In case the Exporters does not accept the value determined by the Customs, the exports will be allowed provisionally after taking samples for market enquiry. The words "NOT VALID FOR DEPB" will be printed on all the copies of the Shipping Bill and the Exporters will be not be eligible for DEPB licence against provisionally assessed Shipping Bills. In such cases, EP Copy of Shipping bill will not be printed and only 4 copies will be printed (6 copies in case of ICDs). However, market enquiries about value will be conducted in such cases and either after issue of the Show Cause Notice the market value will be determined or may be accepted by the Exporters on his own. In such cases where samples are drawn subject to market enquiry the copy of the Shipping Bill for claiming DEPB will be generated after determination of value on the basis of market enquiry and handed over to the Exporters duly signed by Appraiser of Customs. In such cases wherever market value has been found to be less than twice the credit claimed, the market value will be mentioned in the EP Copy of Shipping Bill as under:-

"Market value of the goods is Rs.....and credit not to exceed

50% of the market value”.

Samples may also be drawn for other purposes such as Chemical test, DEPB entitlement etc. The procedure of Provisional Assessment shall be applicable mutatis and mutandis to above cases as well and the cases will be finalised after necessary reports etc. are received and unprinted copy of Shipping Bill meant for DEPB licence shall be released thereafter for printing.

- 11 Registration of DEPB Licences: The DEPB Licence in respect of exports made from this Customs Station will be required to be registered at the same station. Before registration, the concerned officer will verify the Shipping Bill(s) in the Licence from the computer to ensure that exports have been effected and value mentioned is as determined by Customs at the time of export. In cases of Shipping Bills assessed provisionally, the verification will not be possible because Shipping Bill will not be in the verification queue. The Exporters are advised to obtain licences for the items exported under DEPB Scheme and not for non-DEPB items. If the lower value for credit purposes has been accepted at the time of export, the licences shall be obtained only for such lower value and not for FOB value declared in Shipping Bill or as per Bank realisation certificate. Similarly in cases where market value of the goods is less than twice credit availed, the licence shall be obtained for 50% of the present market value of the goods. The computer at the time of registration of licence will calculate admissible credit on the basis of exchange rate on the date of realisation of export proceeds (as per bank realisation certificate) for DEPB items only and at Customs approved value at the time of export. If the amount of licence is more than the amount of credit calculated by the system, it will not be possible to register a licence and reference will be made to DGFT for correction of amount of credit. If the amount of credit as per Customs Computer matches with the credit as per DEPB Licence, Computer will generate printout regarding verification of the exports giving details like Shipping Bill No., Date, rate of credit, FOB value as approved by Customs

and amount of credit etc. DEPB licence will be registered on the basis of printout of verification report duly signed by A.C. /D.C. (Export). If a DEPB Licence is having Shipping Bills exported from other ports in the same city, the Exporters can get the licence registered at any of the ports from where he intends to import the goods in the city after verification about exports from other ports from where exports were effected.

- 12 100%EOU SCHEME.** The Exporters can get the export goods examined by Central Excise / Customs Officer at the factory even prior to filling of Shipping Bill. He shall obtain the Examination report in the form annexed as Annexure 'C-1' to this Public Notice duly signed and stamped by the Examining Officer and Supervising Officer at the factory. However, where the goods are removed from the factory under AR-4, Annexure 'C-1' will not be insisted upon for a period of one month from the date of issue of this Public Notice. There after details in Annexure 'C-1' would be necessary. The export invoice shall also be signed and stamped by both the officers at the factory. Thereafter the goods shall be brought to the concerned Customs Warehouse for the purpose of clearance and subsequent "Let Export". The Exporters /CHA shall present the goods for registration along with Examination Report in Annexure 'C-1' (copy enclosed) / AR-4 Export Invoice duly signed by the Examining Officer and Supervising Officer at the factory, check list, declaration in modified form Annexure 'A', Annexure 'C' and other documents such as document of transportation, AR-4 form etc. to the Examiner in the concerned shed. After registration of goods, the shipping bill will be marked to an Examiner for verification of documents and seal. If seal is found intact the Shipping Bill will be recommended for LEO which will be given by the Shed Appraiser. However if seal is not found intact, the goods will be marked for examination and LEO will be given if the goods are found in order.

**13 EPCG SCHEME**

All the Exporters intending to file Shipping bills under the EPCG scheme

should first get their EPCG licence registered with the Export Section. For registration of EPCG licence, the Exporters/ CHA shall produce the Xerox copy of EPCG licence to the Service Centre for data entry. A printout of the relevant particulars entered will be given to the Exporters/ CHA for his confirmation. After verifying the correctness of the particulars entered, the said printout will be signed by the Exporters. Thereafter, the original EPCG licence along with the attested copy of the licence and the signed printout of the particulars shall be presented to the Appraiser (EPCG Cell). The Appraiser (EPCG Cell) would verify the particulars entered in the computer with original licence and register the same in the EDI system. The registration number of the EPCG licence would be furnished to the Exporters / CHA, who shall note the same carefully for future reference. The said registration number would need to be mentioned against respective item on the modified declaration form in Annexure "A" or "B" filed, for data entry of the Shipping Bill, at the time of export of goods. All the EPCG Shipping Bills would be processed on screen by the Appraiser (EPCG Cell) and the A.C./D.C. (Export). After processing of the EPCG Shipping Bill by Appraiser EPCG Cell and AC / DC Export, the goods can be presented at the Customs Warehouse for registration, examination and "Let Export" as is the case with other export goods. After filing of EGM / Generation of the Drawback scroll, the shipping bill will be put to Appraiser queue for logging/ printing of ledger. After logging / printing of ledger, the EPCG bill will be moved to History tables.

## PROCEDURE FOR DEPB,100%EOU AND EPCG SHIPPING BILLS

- The procedure will be similar to the one meant for white/drawback shipping bills
- The above mentioned procedure differs for DEPB, 100% EOU and EPCG shipping bills only in the following manner:
- All the exporters under these schemes shall register their IECodes with EDI. G.R.1 is waived and Form S.D.F (Self Declaration Form) will be required to be filed along with every shipping bill.
- All exporters will file details in the form of Annexure-I.
- In case of DEPB shipping bills, exporters are required to file the declaration in the form of Annexure-III to P.N.17/2000 at the time of goods arrival.
- For EPCG (Green) shipping bills, i.e. shipping bills with drawback, details in the form of Annexure-II to P.N.17/2000 shall be filed
- For 100% EOU Goods examination particulars shall be filed in form of Annexure-IV to P.N.17/2000.
- For DEPB shipping bills exporters are required to ensure that correct group code number is mentioned for each item.
- For details, please read the P.N.17/2000. All the DEPB shipping bills having FOB value less than rupees five lakhs and/or DEPB rates less than 20% will be assessed by the Appraiser (DEPB).
- All other DEPB shipping bills will be assessed by A.C./D.C. (Exports/DEPB/EDI).
- The DEPB licence in respect of exports made from this Customs station will be required to be registered at the same section. The Appraiser in charge of DEPB Cell will verify the shipping bills in the licence from the computer, in the manner stated in the Public Notice.

- For 100% EOU Scheme, the exporters can get the export goods examined by Central Excise or Customs officials at the factory even prior to filing the shipping bill. T
- The Examination Report shall be made available in the form Annexure-IV duly signed and stamped by the Examining officer and the supervising officer at the factory.
- For details, refer Public Notice No.17/2000. All the exporters intending to file shipping bills under the EPCG Scheme should first get their EPCG licence registered with the export section.
- This registration is similar to the DEEC registration. This Registration No. is necessary to be mentioned against the respective item in Annexure-I/II filed for data entry of such shipping bills.
- All the EPCG shipping bills would be processed on screen by the Appraiser (EPCG Cell) and also by the A.C./D.C.(Exports).
- After filing of Export General Manifest (EGM) the shipping bill be put to appraiser queue for logging/printing of ledger.

## DECLARATION FORM FOR EXPORT OF GOODS

UNDER DEPB, 100% EOU AND EPCG –WHITE

To be filled in by the Service Center

Date of Presentation:

Job No:

Shipping Bill No.:

Date :

Signature:

Date :

**To be filled in by Exporters / CHA**

1. Type of Shipping Bill:

[B] DEPB

[U] 100% EOU

[C] EPCG – WHITE

2. CHA Licence No. :

3. (a) IE Code No.:

(b) Name & Address of Exporter :

(c) Export Type : (i) : [P] Private / [G] Government

(ii): [R] Merchant / [F] Manufacturer

4. State of Origin of Export goods:

(Tamil Nadu / Karnataka / Kerala etc.)

5. Consignee Name & Address:

6. Consignee Country :
7. Port of Destination :
8. Final Destination Country:
9. (a) Name & Address of the Bank through which export proceeds are to be realised:
  - (b) Account No. :
  - (c) Authorised Dealer Code:

### **Invoice Details**

10. Invoice Number: Date:
11. (a) Whether Consignee and Buyer are same : (Yes / No)
  - (b) If No, Buyer's Name and address:
12. Currency of Invoice:
13. Export Contract No. :
14. Nature of Payment :
  - [LC] Letter of Credit
  - [DA] Delivery against acceptance
  - [DP] Direct Payment
  - [AP] Advance Payment
15. Period of Payment as per the contract (No. of. Days):
16. (a) Nature of Contract : [1] FOB [2] CIF [3] CF [4] CI
  - (b) Whether unit price includes [F] Freight [I] Insurance

[B] Freight &amp; Insurance [N] None

(c)

	Rate	Currency	Amount
Discount			
Commission (FAC or LAC)			
Other Deductions			
Packing & Misc. Charges			
Freight			
Insurance			

(d) Name &amp; Address of the person to whom the commission is paid / payable :

## 17. Item – wise details

ITC (HS)	Generic & Item Description	Qty	A/c Unit	Unit Price	DEPB Particulars		
					Group Code	Item Sl. No in the Group	Quantity in terms of the accounti in the value specified in the Schedule
(2)	(3)	(4)	(5)	(6)	(7) (i)	(7) (ii)	7 (iii)

- Only where value cap is based on quantity.

18. S.No. 20 Quota related details should continue to be filled in as per the table below

S.No.	Invoice No.	Item No. of the Invoice	Quota Certificate No. Export Licence No.	Expiry Date	Qty	Name of the agency issuing Certificate /Licence

### **DECLARATION**

I/We Declare that the particulars given above are true and correct.

I/We enclose the copies of the following documents: -

(To be submitted with the export goods in the Export Shed)

- i. SDF form
- ii. DEEC Declaration
- iii. Invoice
- iv. Quota/Inspection etc. Certificate
- v. Packing List with package wise contents
- vi. Others (Specify)

**Name of Exporter:**

**Designation:**

**Signature:**

**Name of CHA:**

**Designation:**

**ID Card No:**

**Signature:**

**Dated:**

**Notes:**

1. All entries should be made in capital letters, typed or neatly hand written.
2. Photocopy of invoice has to be attached with the declaration form for Data entry.
3. All entries should be completed in all respects. Otherwise, it may be rejected.

**ANNEXURE- B**

DECLARATION FORM FOR EXPORT OF GOODS

UNDER EPCG – GREEN (WITH DRAWBACK)

**To be filled in by the Service Center**

Date of Presentation:

Job No:

Shipping Bill No.:

Date :

Signature:

Date :

**To be filled in by Exporters / CHA**

1. Type of Shipping Bill: [ I ] EPCG-GREEN (WITH DRAWBACK)

2. CHA Licence No. :

3. (a) IE Code No.:

(b) Name & Address of Exporter :

(c) Exporter Type :

(i) : [P] Private / [G] Government

(ii): [R] Merchant / [F] Manufacturer

4. Exporter's Account No. in the Indian Bank :

5. (a) Type of Export House (if applicable):

[EH] Export House

[TH] Trading House

[SH] Star Trading House

[SS] Super Star Trading House

(b) Certificate No.:

Valid upto:

6. State of Origin of Export goods:

(Tamil Nadu / Karnataka / Kerala etc.)

7. Consignee Name & Address:

8. Consignee Country :

9. Port of Destination :

10. Final Destination Country:

11. (a) Name & Address of the Bank through which  
export proceeds are to be realised:

(b) Account No. :

(c) Authorised Dealer Code:

**Invoice Details**

12. Invoice Number:

Date:

13. (a) Whether Consignee and Buyer are same : (Yes / No)

(b) If No, Buyer's Name and address:

14. Currency of Invoice:

15. Export Contract No. :

16. Nature of Payment :

[LC] Letter of Credit

[DA] Delivery against acceptance

[DP] Direct Payment

[AP] Advance Payment

17. Period of Payment as per the contract (No. of. Days):

18. (a) Nature of Contract : [1] FOB [2] CIF [3] CF [4] CI

(b) Whether unit price includes [F] Freight  
[I] Insurance

[B] Freight & Insurance [N] None

(c)

	Rate	Currency	Amount
Discount			
Commission (FAC or LAC)			
Other Deductions			
Packing & Misc. Charges			
Freight			
Insurance			

(d) Name & Address of the person to whom  
the commission is paid / payable :

19. Item – wise details

S)	Generic & Item Description	Qty	A/C Unit	Unit Price	Duty Drawback Details							EPCG Regn.No. & Date
								S.S.No. of P.N.	Cond.No.in Appendix	Quantity for DBK	A/C Unit	
(3)	(4)	(5)	(6)	7(i)	7(ii)	7(iii)	7(iv)	7(v)	7(vi)	7(vii)	(8)	

20. Quota Related Details:

Sl.	Invoice No.	Item No. of the	Quota Certificate	Expiry Date	Qty	Name of the agency issuing

No.		Invoice	No./ Export Licence No.			Certificate / Licence
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**DECLARATION**

I/We declare that the particulars given above are true and correct

I/We enclose the copies of the following documents: -  
(To be submitted with the export goods in the Export Shed)

- i. SDF
- ii. DBK Declaration
- iii. Invoice
- iv. Quota / Inspection etc. Certificate
- v. Packing List with package-wise contents
- vi. Others (Specify)

**Name of Exporter:**

**Designation:**

**Signature:**

**Name of CHA:**

**Designation:**

**ID Card No:**

**Signature:**

**Dated:**

**Notes:**

1. All entries should be made in capital letters, typed or neatly hand written.

2. Photocopy of invoice has to be attached with the declaration form for Data entry.
3. All entries should be completed in all respects. Otherwise, it may be rejected.

## ANNEXURE-C

### DEPB DECLARATION

Shipping Bill No. and Date \_\_\_\_\_

I/We M/s. \_\_\_\_\_ (Name of the exporter)

do hereby declare as follows:

1. That the quality and specification of the goods as stated in this Shipping Bill are in accordance with the terms of the exports contract entered into with the buyer/consignee in pursuance of which the goods are being exported.
2. That I/We are not claiming benefit under "Engineering Products Export (Replenishment of Iron and Steel Intermediates) Scheme" notified vide Ministry of Commerce Notification No.539RE/92-97 dated 01.03.1995
3. That goods are being exported under DEPB Scheme as per para 7.25 of Export & Import Policy, 1997-2002
4. That I/We shall not claim any benefit of an advance licence under DEEC Scheme in respect of exports made against this Shipping Bill.
5. That I/We shall not claim any duty drawback in respect of goods exported against this Shipping Bill.
6. That I/We shall not claim conversion of this Shipping Bill into duty drawback Shipping Bill and/or DEEC Shipping Bill.
7. That I/We shall not claim credit under Rule 57A of Central Excise Rules, 1944 in respect of additional duty of Customs debited from DEPB credit.
8. That the goods are not manufactured and/or exported by unit licenced as

100% export oriented unit in terms of Import and Export Policy in force.

9. That the goods are not manufactured and/or exported by unit situated in any free trade zone/export processing zone or any such zone.

10. That the goods are not manufactured partly or wholly in bond under Section 65 of the Customs Act, 1962.

11. That the present market value of the goods under export is as follows: -

Sl.No.   Item No.in Invoice   Present Market Value (in Indian Rupees)

12. That the benefit under DEPB Scheme in respect of goods being exported under this Shipping Bill does not exceed 50% of the present market value of the goods being exported

13. That I/We undertake to repatriate the export proceeds within the period mentioned in SDF declaration and submit bank realisation certificate in the office of DGFT while obtaining transferable licence. If a non transferable licence is obtained before realization of export proceeds, I/We undertake to submit bank realisation certificate at the port of registration of licence within 6 months from the date of export or will furnish extension of time from Reserve Bank of India and submit bank realisation certificate within such extended period or will pay back amount equal to the DEPB credit against this Shipping Bill.

14. \* I/We are exporting products mentioned at Sl.No.2 of product group "Fish and fish products" and declare that the preservatives as prescribed in standard input-output norms relating to fish and marine products have been used in the export products.

15. \* I/We are exporting products mentioned at Sl.No.3 of product group "Fish and fish products" and declare that the export product have been obtained from aqua culture sources.

[ \* Strike out if not applicable ]

**Name and Signature of the Exporter**

Date:

Place:

**ANNEXURE- D**

**OFFICE OF THE SUPERINTENDANT OF CENTRAL EXCISE**

RANGE \_\_\_\_\_ DIVISION \_\_\_\_\_

COMMISSIONERATE \_\_\_\_\_

C.No. \_\_\_\_\_ Date \_\_\_\_\_ Shipping Bill No.\* \_\_\_\_\_ Date \_\_\_\_\_

**7.37. EXAMINATION REPORT FOR FACTORY SEALED PACKAGES /  
CONTAINERS OF UNITS WORKING UNDER 100% EOU SCHEME**

1. Name of the EOU :

2. IEC No. (of the EOU) :

3. Factory Address :

4. Date of Examination :

5. Name & Designation of the

Examining Officer – :

Inspector/EO/PO

6. Name & Designation of the

Supervising Officer – :

Appraiser / Superintendent

7. (a) Name of Commissionerate/

Range :

(b) Location Code \*\* :

8. Particulars of Export Invoice

(a) Export Invoice No. :

(b) Total No.of Packages :

(c) Name and Address of the  
Consignee abroad :

9. (a) Is the description of the  
goods, the quantity and  
their value as per : Yes / No  
particulars furnished  
in the export invoice?

(b) Whether sample is drawn  
for being forwarded to : Yes / No  
Port of export?

10. Central Excise / Customs Seal Nos.

(a) For Non-Containerised Cargo

No. of Packages : Seal Nos.

-

(b) For Containerised Cargo

Container Number      Size      Seal Nos.

-

-

Signature of      Signature of      Signature of  
Exporter      Examining Officer      Supervising Officer

Name \_\_\_\_\_ Name \_\_\_\_\_ Name \_\_\_\_\_

Designation \_\_\_\_\_ Designation \_\_\_\_\_ Designation \_\_\_\_\_

Note: 1. Invoice(s) and any other document accompanying

this document should be attested by the officer

supervising the examination.

2. \* To be filled in by the exporter before filing

of this document at the time of “Goods

Registration” in the export shed.

3. \*\* Revised 6 digit code as assigned by the Directorate of S&I, XXYYZZ

XX Commissionerate

YY Division

ZZ Range

**7.38. Export Goods to be taken back to town from Docks**

( 1 ) It is notified for the information of the Exporters, Custom House Agents and others concerned that henceforth for taking the export cargo (other than perishable, damaged goods and goods under penal action) back into town, from the Docks, the following procedure shall be followed.

An application for taking the Export cargo back to town, will be presented in the Export Department, together with the relevant duplicate copy of the Shipping Bill. After scrutiny, it will be endorsed to the concerned Shed Appraiser, for examination of the goods and for his no objection.

The percentage of goods to be examined will normally be 5% unless otherwise specified by Assistant Commissioner of Customs/Exports.

“In case of application for taking factory stuffed container back to town, A. C./Export will normally order the container to be taken back to town after endorsing “subject to checking the seal intact” unless other wise specified. If the seals are found to be broken or tampered with in the Docks, the Shipping Bill will be returned back to the Export Department and a suitable examination order will be given.”

The concerned Shed Appraiser in Docks will examine the cargo by exercising the usual precautions and checks and if the goods confirm to the declared description in the Shipping Bill, he will allow the same to be taken back to town under Preventive supervision. The Preventive Officer will endorse the duplicate Shipping Bill to that effect and return the file expeditiously to the Export Department for further action.

In case, where any discrepancy is noticed by the Shed Appraisers, such Shipping Bill will be returned to the Assistant Commissioner of Customs, Export Department through the Assistant Commissioner of Customs, Docks with appropriate remarks.

The status quo regarding the removal of damaged and perishable goods back into town will, however, be maintained.

This supersedes the earlier Public Notice Nos. 150 dt.7.8.82 and No. 99 dt.17.8.98.

**[Public Notice no.124 dated 17.8.98 issued by Commissioner of Customs (EP) in F. No. S/16-Misc-457/98 Exp.]**

( 2 ) Attention of all officers and staff is invited to the fact that henceforth in all cases of requests of 'back to town' of Export shipment after the same have been carted into the docks, but for some reasons are not to be Exported, the full facts and circumstances of the case have to be scrutinised by the competent authority in terms of value of shipment before speaking order is passed in the matter in each case.

All other instructions in this regard will remain same as per Public Notice No. 124 dated 17.08.1998 issued by this Custom House.

**[ Standing Order No. 7477 issued by Commissioner of Customs (EP) in F. No. S/6B-9616/99 EXP ]**

### **7.39. TRANSHIPMENT OF EXPORT CARGO FROM GATEWAY PORTS LIKE CHENNAI & JNPT**

The Export Promotion Board has examined the request of the trade that transshipment of containers of export cargo may be allowed at gateway ports like

Chennai and JNPT, whereby goods which are customs cleared for shipment in small ports would be transhipped by coastal vessels to the gateway ports from where they would be sent on foreign voyage by foreign-going vessels. Similarly, on return journey, the transshipment of imported cargo may be allowed at, say, JNPT or Chennai so that the imported cargo containers can be taken to other smaller ports by coastal vessels for final Customs clearance of those goods at the said smaller ports.

2. The issue has been examined in the Board. On the import side, the imported goods can be allowed for transshipment under Goods Imported (Conditions of Transshipment) Regulations, 1995, whereby transshipment is allowed if the importer or the agent makes an application to the proper officer seeking permission for transshipment of the imported goods and the imported goods are manifested for transshipment to the said Customs port. The transshipment of imported goods at these ports may therefore be allowed liberally.

3. For export goods, the shipping bills may be passed at the port of export and export be allowed, subject to the condition of execution of bond as provided under Regulation 4 of Goods Imported (Conditions of Transshipment) Regulation, 1995 and the export goods are manifested for the final destination through the transshipment port (hub port) like say "To Amsterdam through Chennai".

4. The issue of payment of drawback has also been examined. As per the Drawback Rules the drawback is to be paid when the shipping bills are passed and goods are loaded in ICD/CFS or port. Therefore, the drawback may be paid to the exporters as soon as the shipping bills are passed and goods are shipped at the originating port subject to the condition that the necessary bond has been executed by the Steamer Agent to bring back and submit the proof for export to the Custom House within 90 days. For endorsement and release of AR 4s the procedure prescribed by Circular No. 354/70/97-CX-6, dated 13.11.1997 may be followed. The submission of proof of export by the steamer agents must be strictly monitored.

**[ Board's Circular No. 31/99-Cus. Dt.27.5.1999 issued vide F. No. 450/54/99-Cus. IV ]**

**7.40. Based on the above guidelines, all the Custom Houses have issued Public Notices / Standing Orders on the subject. The two Public Notices issued by the Mumbai Custom House in this regard are reproduced below-**

( 1 ) It is notified for information of all steamers Agents, CHAs, Exporters and all other concerned that to facilitate the movement of export cargo emanating from one port to be shipped from another Gateway Port, the following procedure is prescribed.

The exporter/CHA will file Shipping Bills in sixuplicate i.e. original, duplicate, triplicate, two transference copies and one E. P. copy. In addition to the usual information given in the Shipping Bill, the exporter / CHA will also mention the port of export on the Shipping Bill along with serial number of the container. Each copy of shipping bill will be endorsed that goods are to be transhipped through Gateway Port other than Mumbai.

#### **7.41. Further Procedure:**

The shipping bill shall be processed, the cargo stuffed and the containers sealed by the Customs Officers as per existing procedure.

The Appraising Officer/Examining Officer will give "Let Export" order on the duplicate copy of the shipping bill as also on the transference copies. The E. P. copy will be suitably endorsed/stamped by the Customs Officers (A. O./E. O.) to the effect that the goods will be transhipped at the Gateway Port for their destination outside India. The E. P. copy will be finally endorsed only after receipt of transference copy evidencing despatch of goods from Gateway Port.

The two transference copies of the Shipping Bills shall be placed in a sealed envelope and handed over to the steamer agent who will be responsible for producing it alongwith the container to the Customs Preventive/Boarding Officer at the Gateway Port.

The shipping agent will continue to file EGM in respect of containers transhipped to Gateway Port.

#### **7.42 Procedure for Export of Containers at the Gateway Port:**

The containers at Gateway Port will be unloaded and kept in a separate block under supervision of Customs Preventive officer/Boarding officer. The steamer agent will enter the name of the vessel, through which the goods are exported from the

Gateway Port, on both the transference copies of the shipping bill and have them endorsed by the Boarding Officer at the Gateway Port.

The Boarding Officer or Customs Preventive Officer nominated at Gateway Port should endorse the two transference copies of the shipping bill in the following manner:

- (i) Inspected and found seals intact on containers bearing the marks and numbers.
- (ii) The Customs seals on the above mentioned containers are intact.
- (iii) All the containers mentioned above have been shipped under my supervision by vessel.
- (iv) Will endorse the name of the mother vessel on both the transference copies.

If the seals of the containers are found broken by the Customs at the Gateway Port or anything is suspected suggesting tampering etc., Customs may examine the goods and make suitable endorsement on the transference copies of the shipping bills. In that eventuality, goods can be examined by Appraising Officer nominated for the purpose at Gateway Port. Unless there is strong suspicion that tampering has actually taken place, the container should not normally be held back. In the event of it being decided to carry out examination, this would be arranged by steamer agents who will produce necessary documents like copy of shipping bills, invoices etc.

As regards short shipment/shut out cargo from Gateway Port, existing procedure at Gateway Port will be followed with suitable endorsement in Transference copies.

Immediately after shipment of goods from Gateway Port, the Customs Preventive Officer/Boarding Officer will handover one transference copy to the shipping agent on the strength of which EGM would be filed at that port. The Second transference copy in a sealed cover will be handed over to Steamer Agent who will submit the same to Assistant Commissioner, Preventive (General) of New Custom House, Mumbai. Assistant Commissioner, Preventive (General), New Custom House will make arrangement to endorse EP/AR4 copies.

After endorsing the EP Copy/AR4, the Assistant Commissioner, Preventive (General) will forward the transference copy of the shipping bill to the respective Assistant Commissioner (Exports/Drawback / Group VII) who will process documents as per the prescribed procedure for drawback DEC, DEPB benefits etc.

**[ Public Notice No. 81 issued by Commissioner of Customs (E. P ), Mumbai, from F. No. S/6B-4535/98 EXP. ]**

( 2 ) In continuation to earlier Public Notice 81 Dated 09.07.1998, it is notified for information of all Steamer Agents, CHAs, Exporters and all others concerned that to facilitate movement of import/export cargo emanating from Mumbai port to be shipped from another gateway port, the following procedure is prescribed:

1. On the import side, the imported goods can be allowed for transshipment under Goods Imported (Conditions of Transshipment) Regulations, 1995, whereby transshipment is allowed if the importer or the agent makes an application to the proper officer seeking permission for transshipment of the imported goods as manifested for transshipment to the said customs port. The transshipment of imported goods at these ports may therefore be allowed liberally.

2. For Export goods, the shipping bill may be passed at New Custom House Mumbai and export be allowed, subject to the execution of a bond (sample bond enclosed) and the export goods are manifested for the final destination through the transshipment port (hub port) like say "To Amsterdam through J.N. port".

3. As per the Drawback Rules the drawback is to be paid when the shipping bills are passed and goods are loaded in ICD/CFS or port. The drawback may be paid to the exporters as soon as the shipping bill is passed and goods are shipped at the originating port, subject to the condition that the necessary bond has been executed by the Steamer Agent to bring back and submit the proof of export to the Custom House within 90 days. For endorsement and release of AR4 the procedure prescribed by Board Circular No. 354/70/97-CX-6 dated 13.11.1997 will be followed.

The submission of proof of export by the Steamer Agent will be strictly monitored by the Custom house.

4. For the amendment of shipping bills from foreign going vessel to coastal run in case the shipment is not effected in the original vessel, the Exporters / CHA may apply to the proper officer for amendment of shipping bill after attaching two additional copies of shipping bills each duly stamped as 'True Copy' and 'Transference Copy', duly certified by the A. C. / D.C. Export.

5. Only those steamer agents, who are registered at NCH, Mumbai can operate the vessel for export / import of goods from / to Mumbai port through gateway ports.

6. Bond to be executed by the shipping agent shall be as prescribed by C.C. (E.P.), NCH, Mumbai and the validity of the said bond shall be one year from the date of execution.

**[ Public Notice No. 89 / 99 dated 03.08.1999 issued by Commissioner of Customs ( Export Promotion ), New Custom House, Mumbai, from F. No. S/6B – 4535 / 98 EXP. ]**

### **SAMPLE BOND**

BOND REQUIRED AS PER PUBLIC NOTICE NO. 89 DATED 03.08.99 ISSUED BY THE COMMISSIONER OF CUSTOMS (E.P.), NEW CUSTOMS HOUSE, MUMBAI.

### **( TO BE EXCUTED BY STEAMER AGENT )**

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KNOW ALL MEN BY THESE PRESENTS THAT, WE.....  
 HEREINAFTER CALLED "THE STEAMER AGENT" (WHICH EXPRESSION SHALL INCLUDE HIS SUCCESSORS/HEIRS, ASSIGNEES, EXECUTORS, ADMINISTRATORS AND LEGAL REPRESENTATIVES), AND WE..... THE "SURETY" (WHICH EXPRESSION SHALL INCLUDE OUR SUCCESSORS/HEIRS, ASSIGNESS, EXECUTORS AND LEGAL

REPRESENTATIVES) ARE HELD AND FIRMLY BOUND TO THE PRESIDENT OF INDIA , HEREINAFTER CALLED THE "PRESIDENT" (WHICH EXPRESSION SHALL INCLUDE HIS SUCCESSORS & ASSIGNEES), A SUM OF RS.....(IN WORDS).....) TO BE PAID TO THE PRESIDENT, FOR WHICH PAYMENT WILL BE TRULY MADE WE BIND OURSELVES, OUR SUCCESSORS, HEIRS, EXECUTORS, ADMINISTRATORS AND LEGAL REPRESENTATIVES FIRMLY BY THESE PRESENT.

SEALED WITH OUR SEAL ON THIS                      DAY OF                      (                      )  
MONTH/YEAR)

WHEREAS THE SAID STEAMER AGENT M/S                      HAS  
APPLIED

TO                      THE ASSISTANT/DEPUTY COMMISSIONER (E.P.), NEW CUSTOM HOUSE, MUMBAI (HEREIN AFTER CALLED THE PROPER OFFICER) AND THE SAID OFFICER HAS AGREED TO ALLOW TRANSHIPMENT OF GOODS FROM/TO THE PORT OF MUMBAI TO/FROM GATEWAY PORT FOR EXPORT/IMPORT OF THE GOODS,

NOW THE CONDITIONS OF THE ABOVE WRITTEN BOND ARE SUCH THAT,

- 1) IF THE SAID STEAMER AGENT CAUSES THE SAID GOODS TO BE FULLY AND SAFELY TRANSHIPPED TO/FROM THE SAID GATEWAY PORT AND PRODUCE TO THE PROPER OFFICER AND DULY ACCOUNTED FOR AT THE GATEWAY PORT WITHIN 90 DAYS FROM THE DATE OF SHIPMENT OR CAUSES THE SAID GOODS TO BE OTHERWISE ACCOUNTED FOR, TO THE SATISFACTION OF SUCH OFFICER, AND
- 2) IF THE STEAMER AGENT PRODUCES , WITHIN 90 DAYS OF SHIPMENT, TO NEW CUSTOMS HOUSE MUMBAI A TRANSFERENCE COPY OF THE GATEWAY PORT THROUGH WHICH THE SAID GOODS ARE EXPORTED / IMPORTED AND,

- 3) IF THE SAID GOODS/CONTAINERS ARE TRANSHIPPED WITHOUT ANY DAMAGE OR SHORTAGES WITHIN A REASONABLE TIME OR WITHIN SUCH EXTENDED TIME AS MAY BE PERMITTED BY THE PROPER OFFICER,

THEN THE ABOVE WRITTEN BOND SHALL BE VOID AND OF NO EFFECT OTHERWISE THE SAME SHALL REMAIN IN FULL FORCE AND VIRTUE.

AND IT IS HEREBY AGREED AND DECLARED BY PARTIES AS FOLLOWS :

1. THIS BOND IS GIVEN UNDER THE ORDER OF THE CENTRAL GOVERNMENT FOR THE PERFORMANCE OF AN ACT IN WHICH THE PUBLIC ARE INTERESTED.
2. THE BOND SHALL REMAIN IN FORCE OF A PERIOD OF ONE YEAR FROM THE DATE HERE OF.
3. THIS BOND SHALL BE ENFORCEABLE AGAINST THE SURETY NOTWITHSTANDING THAT PROCEEDINGS HAVE NOT BEEN TAKE AGAINST THE EXPORTER/IMPORTER.
4. THE ASSISTANT/DEPUTY COMMISSIONER OF CUSTOMS (E.P.), NEW CUSTOMS HOUSE, MUMBAI OR ANY OTHER OFFICER OF THE GOVERNMENT OF INDIA SHALL HAVE FULL LIBERTY WITHOUT REFERENCE TO THE SURETY AND WITHOUT EFFECTING THE GUARANTEE TO POSTPONE FOR ANY TIME OR FROM TIME TO TIME THE EXERCISE OF ANY OF THE POWERS AND RIGHTS CONFERRED ON THEM BY LAW OR THIS BOND AND EITHER OR FORBEAR TO ENFORCE ANY SUCH POWERS AND RIGHTS OR ANY REMEDY AGAINST THE STEAMER AGENT AND THE SURETY SHALL NOT BE RELEASED BY ANY SUCH EXERCISE OR NON EXERCISE BY THE ASSISTANT / DEPUTY

COMMISSIONER OF CUSTOMS (E.P.), AND / OR OTHER OFFICER OF THE GOVERNMENT OF INDIA WITHOUT NOTICE TO OR CONSENT OF THE SURETY OR BY REASON OF TIME BEING GIVEN TO THE STEAMER AGENT OR BY ANY OTHER FOR BEARANCE , ACT OR OMMISSON ON THE PART OF THE GOVERNMENT OFFICER TO THE STEAMER AGENT WHICH UNDER THE LAW RELATING TO SURETY WOULD BUT FOR THIS HAVE THE EFFECT OF REALISING THE SURETY. IN ORDER TO GIVE EFFECT TO THIS GUARANTEE THE PRESIDENT SHALL BE ENTITLED TO ACT AS IF THE SURETY WAS THE PRINCIPAL OBLIGE AND THE SURETY WAIVE ALL RIGHTS AS SURETY AND OTHER RIGHTS WHICH MAY BE INCONSISTENT WITH THE ABOVE PROVISIONS.

5. THE REIGHTS OF THE PRESIDENT TO RECOVER THE SAID AMOUNT FROM THE SURETY IN THE MANNER AFORESAID WILL NOT BE AFFECTED OR SUSPENDED BY REASON OF THE FACT THAT ANY DISPUTES HAVE BEEN RAISED BY THE STEAMER AGENT WITHREGARD TO THE LIABILITY OF OR THAT ANY PROCEEDINGS ARE PENDING BEFORE ANY OFFICER, TRIBUNAL OR COURT WITH REGARD THERETO OR IN CONNECTION THEREWITH.
6. THE GUARANTEE HEREIN CONTAINED SHALL NOT BE DETERMINED OR AFFECTED BY THE LIQUIDATION OR WINDING UP OR CHANGE OF CONSTITUTION OF THE STEAMER AGENT OR OF THE SURETY.
7. THE PRESIDENT THROUGH THE ASSISTANT / DEPUT COMMISSIONER OF CUSTOMS (E.P.). NEW CUSTOM HOUSE MUMBAI OR ANY OTHER OFFICER MAY RECOVER THE SAID SUM OF RS.....(RS. IN WORDS.....) OR PORTION THERE OF IN THE MANNER LAID IN SECTION 142 OF

THE CUSTOM ACT 1962 WITHOUT PREJUDICE TO ANY OTHER MODE OF RECOVERY.

8. THE SURETY HAS POWER TO GIVE THIS GUARANTEE IN FAVOUR OF THE PRESIDENT AND SIGNATORY OF THIS BOND ON BEHALF OF THE SURETY HAS FULL POWER TO SIGN THIS BOND.
9. THE GUARANTEE HEREBY GIVEN SHALL BE A CONTINUING ONE AND SHALL NOT BE REVOKED BY THE SURETY WITHOUT THE CONSENT OF THE PRESIDENT OR THE COMMISSIONER OF CUSTOMS (E.P.), MUMBAI.

IN WITNESS WHERE OF THE STEAMER AGENT AND THE SURETY HAVE HEREIN SET AND SUBSCRIBED THEIR RESPECTIVE HANDS AND SEALS THE DAY, MONTH AND YEAR FIRST WRITTEN.

SIGNED AND DELIVERED BY AND ON BEHALF OF  
THE STEAMER AGENT IN PRESENCE OF :-

SIGNED AND DELIVERED BY AND ON BEHALF OF SURETY IN

#### **7.43. Export through ICDs / CFSs – Speedy Acceptance of Proof of Exports**

It has been brought to the notice of the Board that there are inordinate delays in acceptance of proof of export where goods are exported through and Inland Container Depot/Customs Freight Stations (ICDs/CFSs) because of delayed receipt/non-receipt of the Transference Copies from the Customs formations at the port of exit. This causes delay in getting rebate claims or in fulfillment of conditions of bonds executed for exports without payment of duty. In many cases, rebate claims are rejected or the demands are raised for non-submission of proof of exports within the stipulated period of six months from the date of export.

It has been decided by the Board that for exports through ICDs/CFSs, a revised procedure should be followed in respect of the acceptance of proof of exports which is as follows: -

The Appraiser/Superintendent (Shed) will give a certificate in Part-B of the Original, Duplicate and Sixtuplicate copies of AR-4/AR-5 simultaneously when he gives the Let Export Order on the shipping Bills in terms of Section 51 of the Customs Act, 1962. This certificate shall be in the following form in lieu of the format given in Part – B of the AR-4/AR-5: -

Certificate that the consignment was stuffed in Container No(s) .....under Shipping Bill No.....dated.....for which the Let Export Order was given on ..... the day of..... The Customs at the ICD/CFS will send the duplicate copy of AR-4/AR-5 to the address given at Sl. No. 1 of the AR-4/AR-5 (the concerned Jurisdictional Assistant Commissioner of the Maritime Commissioner) and hand over the Original and Sixtuplicate copies to the exporter. A provision has already been made under the instructions of the Board that the duplicate AR-4/AR-5 can be given to the exporter his authorised agent on his request in a sealed cover for presenting to the rebate sanctioning authority or the authority before whom the bond is executed.

Under the present procedure, the Transference Copies of the Shipping Bill (TR-I & TR-II) move along with the goods from ICD/CFS to the port of shipment and are endorsed with the details of Mate Receipt No., name of the issuing person, details of the cases/cartons/packages/container, name of the ship, date of sailing and the port of sailing – by the officer of Customs (Preventive Officer) who supervises the shipment. One copy of TR is received back in ICD/CFS on the basis of which the officers of Customs at ICD/CFS complete the Part-B of AR-4/AR-5. This TR copy is required at ICDs/CFSs for logging the DEEC Book, in the cases where the exports are effected under the Duty Exemption Scheme.

Under the modified procedure, the Customs formations (ICDs/CFSs), immediately after completing the DEEC Book logging, wherever applicable, will

forward this Transference Copy to the same postal address where they had forwarded the corresponding AR-4/AR-5. To facilitate this, the exporters are required to indicate on the TR copies the same postal address to the concerned Central Excise formalities, as mention in the corresponding AR-4/AR-5 and this requirement should be duly reiterated and impressed upon, in the Trade Notice/Public Notice. This TR copy should be used as the corroborative evidence for acceptance of proof of export outside India.

Where the TR copy is not received from the Port of Shipment within 30 days of the Let Export Order, the exporter may present the relevant Mates Receipt issued by the shipping line at the time of loading of container(s) on board the ships and Bill of Lading, to the Jurisdictional Assistant Commissioner of Central Excise or the Maritime Commissioner, as the case may be. These should be accepted for the purpose of verifying the shipment of the goods at the Gateway port. After verification, that goods have actually been exported, the rebate claims should be sanctioned or the bond should be discharged, as the case may be.

A post facto verification shall be done by the Central Excise Divisions. The file for acceptance of proof of export shall be closed, once TR copy is received from ICD/CFS within 120 days of the Let Export Order containing details of actual export. In case TR copy is not received within 120 days, the exporter may submit the Bank Realisation Certificate of export receipts in Original along with certified copy of this certificate. The Original will be returned to exporter after verification, and the certified copy will be retained in the Central Excise Division. If found in order, file regarding acceptance of proof of export will be closed.

If TR copy or Bank Realisation Certificate is not received within 180 days of clearance for exports, where exports are effected under bond, action for recovery should be taken in terms of Rule 14A of the Central Excise Rules, 1944.

In the interest of export promotion, it is imperative that full advantage of modern means of communication, which are not only speedy but also economical is taken by the offices of Customs (Docks) and the Central Excise Divisions. They are already computerised upto Range level. Verification on E-mail with the help of TR

copy retained at the Gateway Port should be encouraged. The hard copies (printouts) can be retained for official records.

For proper monitoring of the cases, a register should be maintained in the Central Excise Division in the format given in Annexure I.

Other procedures contained in Board's Circular No. 81/81/94-CX dated 25.11.94. No. 87/87/94-CX dated 26.12.94 and No. 129/40/95-CX dated 29.5.95 will remain the same.

**[ Board's Circular No. 354/70/97-CX dated 13.11.97 in F. No. 209/54/97-CX.6 ]**

### **Proof of Export**

### **Post Factor Verification**

### **Register**

#### **Note: (To be written on the Cover)**

**II. Authority :** Board's Circular ...../...../9.....- CX  
dated .....(F. No. 209/54/97-SC.6) Trade Notice  
No. ....../9 dt. ....

Signature

(Name in Block Letters)

Supdt. of Central Excise

(Tech. Division)

#### **Note: (First Page of the Register)**

#### **III. Index : (Range-wise)**

Sl. No.	Name of the Exporter	Page Nos. (.....to.....)
(1)	(2)	(3)

--	--	--

**Note:** Allot first few pages for Index : make index for every Range enter exporters name

Alphabetically as far as possible).

**IV. Format**

	Sl. No.	Name of the Exporter	Date of Let	Date of Discharge	Sanction of rebate	Date	of & Date
		Shipping Bill AR-4/AR-5					
	(1)	(2)	(3)	4(a)**	4(b)**		(5)
	(6)						

ICD/CFS of Lading	Mates Receipt No. & Date	Vessel (Name) Shipping Line	No. & Date	Bill 10 (a)
(7)	(8)	(9)		10 (a)
10 (b)				

Date of Receipt of TR	Date of submission of	Action	Taken
Remarks			
Bank of Realisation**			

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(11)**	(12)**	(13)
(14)		

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Note: "\*\*\*" Strike out whichever is not applicable.

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## **CHAPTER – EIGHT**

### **8.1. INDIAN CUSTOMS ELECTRONIC DATA INTERCHANGE SYSTEM (ICES)**

Indian Customs EDI System (ICES) was made operational as a pilot project at Delhi Air Cargo in 1995 and has been gradually expanded to other sites. Initially the System was designed and implemented by Officers of Delhi Customs and National Informatics Center. The existing manual procedures which were operational in Custom Houses for several decades were minutely examined and re-engineered for converting them into automated systems to improve productivity and efficiency of Customs Department and facilitate the trade.

ICES (Export) and (Import) are being continuously modified to bring in remaining activities and new requirements due to change in laws, policies and procedures. After creation of the Directorate General of Systems, further development activities and expansion of Systems to other locations, have been undertaken by the Directorate General since 1997. ICES is being maintained by Officers of the Directorate General of Systems, supported by a central team of officers from National Informatics Center for development and maintenance of Software. For support at sites NIC has deployed persons at each of the locations. To impart a working knowledge of the ICES to Officers, the Directorate General has come out with a Handbook for handling Imports and Exports.

### **8.2. INDIAN CUSTOMS EDI SYSTEM (ICES): An OVERVIEW**

ICES is a software package which accepts Customs documents electronically from Custom House Agents (CHA), Importers and Exporters for processing by Customs Officers. The Bills of Entry (BE) and Shipping Bills (SB) can be submitted at the Service Center in the ICES location or filed online over Indian Customs Gateway (ICEGATE), using the Remote EDI System (RES).

Once the documents are submitted in the ICES, the BE/SB is then processed electronically by the designated Officer without requirement of paper movement as in the case of Manual BE.

ICES is designed, updated and maintained by Directorate General of Systems and Data Management with the logistic support of National Informatics Centre. It comprises two major sub-systems, namely

*ICES/I for Processing of Import documents*

*ICES/E for Processing of Export documents*

**ICES/I** consists of the following main modules:

<b>*Service Centre</b>	<b>*IGM</b>	<b>*Appraising</b>	<b>* Audit</b>
<b>*Assistant Commissioner</b>	<b>* Bank</b>	<b>*Examination</b>	<b>* Bonds</b>
<b>*Licence</b>	<b>* DEEC</b>	<b>*Baggage</b>	<b>* Refund</b>
<b>*SAPTA</b>	<b>* DEPB</b>	<b>*DFRC</b>	<b>*EPCG</b>
<b>* Tariff Value</b>	<b>*Anti-Dumping duty</b>	<b>*Re-import</b>	<b>*MIS</b>
<b>*Preferential Rate</b>	<b>*Systems Manager</b>	<b>*Preventive Officer</b>	

**ICES/E** consists of the following main Modules

**\*Service Center \*Examination \*Duty Drawback \* Licence Registration**

**\*DEEC/DFRC/EPCG Assessment \*DEPB verification \*Additional  
Commissioner**

**\*EGM \*Assistant Commissioner \*Preventive Officer  
\*Systems Manager**

**\*MIS**

These modules are integrated in the System to facilitate the role of each Designated Officer in processing the documents filed in the ICES in the same lines as in manual mode but without the necessity of involving the physical presence of the CHA/Importer/Exporter. The CHA/Importer/Exporter presence is at the bare minimum till the goods are presented for examination. ICES ensure efficiency, accuracy, transparency and integrity of transactions. Computation functions like Duty calculation and Duty Drawback, ledger maintenance for Bonds, DEPB, DEEC, DFRC and EPCG are online, which enables highest level of efficiency and accuracy. This has enabled zero errors in maintenance of these ledgers and reduction in Audit Objections and total transparency in transaction.

The role of each Officer is defined and access levels are maintained as per assigned roles. Depending upon the role of the Officer, the access level may vary. Updation of Data to the extent permitted can be done only by authorised roles. Wherever the limit

is exceeded or unauthorized entries are made the system shall not permit such changes. Thus when the role is assigned, the activities are confined to that role in specific.

### **8.3. Login into the ICES**

To be able to login into the ICES one has to be allocated a User-ID by the Systems Manager. The User-ID carries certain privileges and access is limited to the role assigned. The Unix password and the Oracle Password should be changed immediately after the first Logon. Password should be regularly changed to maintain security.

#### *How to Login?*

To open the login screen click on the icon, Server (or TNVT Plus) and enter your User-ID and Password, in the Oracle Screen enter the User-ID again and enter your Oracle password. The Main Menu opens up, from which options as desired maybe chosen to commence work. In case of any difficulty the System Manager should be contacted and problem solved

#### *Use of Function Keys*

Function Keys F1 to F12 are available on the top row of the standard Key Board. These are single touch screens that enable pre-defined functions. Some of the Keys have been enabled in the applications in the ICES, which are shown in the Message Box/Bar. The keys may not be enabled in all menu's

Function key	Purpose
F2	Display sub Menu Option
F7	Help on Directory
F4	Save and Continue
F3	Exit without saving
TAB	To move to previous
ESC F11	To clear the field
F12	Help
F4+ F3	Save and Exit
ESC F6	Copy the value of previous record

#### 8.4. Help Facility

Help (list) facility has been provided for all directories maintained by the system and on functional parameters, namely BE No, SB No, Standard Examination orders, Bond Registration No, and Licence Registration number. System at the bottom of the screen displays a following message wherever help facility has been provided.

Press < F7> for help.

On pressing the key, the system displays the directories in alphabetic order and BE No., Bond & Licence Registration number in ascending order.

In order to find a particular code or name, the user has to scroll through the window by pressing <UP> or <DOWN> arrow key.

Particular code can be located by pressing the <TAB> KEY. On pressing the <TAB> key, cursor moves to 'FIND' block. Here, enter the first few character of the string to be located and press <RETURN> key. On pressing the key, the cursor moves to be first located record, which matches with the given string. If there is no data related to the string, a blank window appears .To repeat the process, enter the proper string. User has to select the code by pressing the <RETURN> KEY.

### **8.5. ICES/EXPORT**

ICES/E has defined number of roles for Customs officers to process the Shipping Bills, which are similar to the current assignment in the manual mode in the Custom House. Each Officer has an assigned role in processing the documents. ICES not only defines the roles but also restricts the access to the documents specific to that role. Thus, once the role is assigned, system access is confined to the activities specified for the role.

Following are the roles defined in ICES/E:

- Assistant Commissioner (Export)
- DEEC/DEPB Appraiser/Superintendent
- Exam Appraiser/Superintendent
- Examination Inspector/Examiner
- DEPB verification Appraise/Supt
- Appraiser/Superintendent (DBK)
- Assistant Commissioner (DBK)
- Additional Commissioner
- Systems Manager
- EGM Administration
- End of day operator
- Beginning of day operator

The role of systems Manager is very critical in the ICES implementation. Therefore, the first step to operationalise the Systems is designating of the Systems Manager (SM). SM has two major responsibilities – one related to System Administration and Security, the second the management functions w.r.t. Processing of SBs.

As System Administrator, the SM will be the owner of 'root' password of the system and will be performing the following:

- Registering the new users
- Deleting the users
- Disable all users from using system (kill all users)
- Disable specific user from using the system (kill specific user)
- Generation of Security reports such as Oracle alert messages, commands used by root and Oracle users etc.

**8.6. The management functions of SM w.r.t. Processing of documents is as follows:**

As far as directory managements are concerned Exchange rate directory, DBK schedule rate, Export Cess directory are updating centrally by snapshot to all ICES locations. New addition and modification of IEC directory are done by DGFT centrally automatically. These directories are centrally created in a server known as Kandla Server I located at C.R.Building, New Delhi. Other directories like AD code, CHA directory etc maintained locally at ICES system.

In the Sea Ports Shipping line, Shipping Agents directory also have to be created.

Rest of the directories such as:-Airline, Airports, Currency Code, Country Code etc. will be created at the time of installation of ICES. However, these directories have to be scrutinized and updated.

- Monitoring of system performance.
- Housekeeping activities.
- Registering of transfers of Appraiser/ Superintendents and Examiner/  
Inspector from one warehouse to other.

Apart from above management functions, ICES enables SM to monitor the document clearing statistics such as

- No. of SBs file category-wise

- No. of LEOs given
- Date wise duty drawback sanctions
- Officer-wise DBK sanctions.
- Warehouse-wise No. of SBs processed etc.

#### **8.7. The pre-requisites for filing the SB with ICES are:**

a) The Exporter has to open account in the designated bank for crediting of DBK amount and the same has to be registered on the system, without which the DBK SBs will not get submitted. This is essential for automatic remittance of DBK amount to the Exporter's account.

b) Exports under DEEC scheme require that the DEEC advance Licence or Application has to be registered with the system.

The exporter also has open to an account with the Authorised foreign Exchange dealer (AD) and get the same registered in the system.

The Custom House has to nominate an officer for registering the AD code and the Bank account number. The DEEC Licence registration will be done by DEEC Section.

#### **8.8. Processing Of Shipping Bills through ICES (E).**

A shipping Bill can be submitted to the Customs for processing, either through the Service Centre, or through EDI over ICEGATE using RES Package.

- a) CHA/Exporter has to submit the Export declaration in the prescribed form (**Annexure A**) (Declaration form for export enclosed). Service Centre assigns a job No. to the declaration
- b) Job is entered and checklist is generated.
- c) The checklist has to be thoroughly verified by the Exporter/ CHA and corrections, if any have to mark.
- d) The Service Centre operator makes the corrections and the Job is submitted to Customs. A SB No. is allotted. After the submission of the

job, it becomes a Customs document and no amendment is possible. The SB No. is recorded on the declaration form and is returned to the CHA.

e) The queries raised by Customs Officer are printed in Service Centre and replies to queries are entered through Service Centre. Request for amendment of SB are also filed through Service Centre.

f) Processing status of the document can be enquired through Enquiry counter. SBs status with respect to AC's clearance, DBK processing etc. can be enquired through the counter.

### **8.9. Remote EDI System (RES) through ICEGATE**

a) Software for RES package is available in the CBEC website, any importer and exporter can download the same free of cost.

b) Exporter /CHA can file SB through ICEGATE service.

c) The data is loaded in the ICES database and validation takes place. If any error/mistake a negative acknowledgement will be sent to the CHA/Exporter with details of error and if no error SB number will be assigned and it becomes a customs document and the process of document starts as per ICES procedure. If the goods are not registered in the system within 7 days in case of air and 30 days in case of sea/ICD, the shipping bill will get purged automatically.

After the submission of the SB, its routing on the system is automatic. SB is put to the AC (Export) queue under the following conditions.

**DEEC SB** - DEEC SBs over Rs. 1,00,000 of FOB value is routed to  
**AC (Export)**

**DBK SB** - DBK over Rs. One lakh.

**Duty free SB** - FOB value over Rs. 10 lakhs

**DEPB** - FOB value 5 lakhs

**Free trade samples - FOB value over Rs. 25,000 rest of the documents are directly to the examination queue.**

### **AC (Exports)**

SBs moved to AC have to be endorsed. The SBs are automatically displayed on AC's screen on first cum-first-serve basis. AC can view the SB and raise query to CHA for clarification, if any.

The queried SBs are put in AC's queue back on receipt of reply from the exporter. AC, after satisfying himself can give comments, through Departmental comments. Examinations instructions, if any can be given by the AC.

In the case of DEEC SB, AC has an option to compare the items of export as per DEEC book and SB. AC can also view the import item used in the manufacture of the export item and compare with the DEEC book (Part C)

### *Amendments*

AC is also responsible for approval of amendments. CHA on his own can file the amendments to the SB or he may file the amendment at the instance of the Customs. The amendment is filed through Service Centre. Amendment is allowed till issue of Let Export order (LEO).

SBs for which amendments filed are removed from the processing queue till the amendment request is processed.

Amendments are routed to AC. On approval by AC the old values are replaced by amended values and wherever required the FOB and DBK values get recalculated. SB is restored back to the same queue from where it was picked-up for amendment.

### **8.10. Registration of goods**

The CHA brings the goods to the concerned warehouse along with checklist, Annexure 'C' and other required documents. (Declaration form for export goods including Annexure 'C' enclosed).

The contents of Annexure 'C' are as follows:

**AIR:** MAWB No, total No. of pkgs indicated on MAWB, Airlines name, Total Number of Packages received against SB, S.No of the packages, HAWB No, Factory Stuffed (Y/N), seal Number, Mark and Number, Sample Accompanied, Gross weight, Net weight, Unit of Measurement, Packing details

**SEA:** Factory stuffed (Y/N), sample accompanied (Y/N), Nature of the Cargo, Marks & Number, Total number of packages, Number of loose packages, No of CONTAINERS, gross Weight, Net weight, Unit of Measurement, Container details, Packing details, rotation Number, Rotation date.

**ICD & CFS:** Same as above except rotation number and rotation date.

Where the EDI message with custodian is implemented part of the information received online which is viewed by Inspector.

These parameters may not get finalized by the exporter at the time of filing the SB (Declaration form, Annexure A), hence these are captured at the time of entry of goods into the warehouse.

One Examiner/Inspector will be responsible for monitoring the arrival of goods at the warehouse. He checks the Marks & Numbers, weight of the consignment and then signs the Annexure C'.

Normally, the inspector who has signed the Annexure 'C' will enter the details of the same on the system.

### **8.11. Examination Norms**

ICES will ensure the following at the time of registration of goods-

- 5 % of the Duty free SBs are selected for examination.

- All DBK SBs are subject to examination.
  - 5% of the consignments subject to minimum of two packets are selected for examination.
  - Packets to be examined are selected randomly.
  - Freight and Insurance, entered by the Inspector will result by change in the FOB and DBK values. System will re-calculate and updates the values.
- Due to change in freight etc if FOB increases the SB need appraisal by AC.

Packet Nos selected for examination are written on the checklist. After the registration of goods, the SB is put in the Superintendent/ Inspector/Examiner/AC depending on the category of SB.

### **8.12. Allotment of Inspector for Examination**

At good registration stage itself, system will automatically allot the SBs to inspector for examination. The allotment is based on weightage of SBs. For allotment of SBs for examination, inspectors in the warehouse have to mark their attendance on system at the beginning of each shift.

Shed Superintendent has the option to re-allocate the SB among Inspectors.

There is another procedure available in ICES for allocation of inspectors which is explained below:

CHA approaches the Appraiser/ Superintendent for allotment of Inspector for examination. Where there is more than one Superintendent in the warehouse, the SB can be picked by any one of them. Superintendent can view:

- The complete SB
- Instructions given by AC, if any
- Departmental comments given by AC, if any
- Whether the SB is selected for examination or inspection

After viewing the above, Superintendent can do the following: -

- Raise query to exporter/ CHA for clarification, if required.
- The query has to be approved by AC (shed).
- Enter departmental and send the SB to AC for clarification.
- Allot the Inspector for examination.

For allotment of Inspectors for examination, Superintendent has to mark the attendance on system at the beginning of the shift.

System displays the list of Inspectors who are present in the warehouse on a given day/shift with number of SBs allotted.

Superintendent can select Inspector for examination and record the Inspector name on the checklist.

### *Inspection*

Superintendent also has a choice of changing the examination type from inspection to examination or vice versa in the case of duty free SBs.

### **8.13. Let Export Order (LEO)**

Similarly, the Appraiser/Superintendent has the choice to issue LEO without examination in case of duty free SBs.

### **8.14. Examination by Inspector**

CHA has to approach the Inspector for examination. Inspector has to view and note the examination instructions on the system. The Inspector has the option to view the complete SB.

Inspector then conducts the physical examination/inspection of goods as the case may be. He then enters the examination report on the system. Inspector has the option to:

- Enter departmental comments
- Mark the SB to Superintendent for clarification
- Raise query to exporter. The query is marked to Superintendent for approval
- Draw samples wherever required
- Suggest DBK classification
- This classification by Inspector will be taken into consideration by DBK processing officers.
- Recommend LEO

Inspector has to mark whether the examination instructions were followed or not and certify whether required documents have been attached with the SB.

### **8.15. Let Export order**

Inspector can directly update the following parameters before LEO, if required-

- Gross weight, Net weight, Bank A/C No., Authorised Dealer code, GR No, RBI Code, AWB No, Airline code (in Air customs) AR4 details, quote certificate Nos (AEPC, CTEPC etc.)

From Inspector the SBs are marked back to superintendent

- For clarification
- For query approval
- For issue of LEO

Inspector after examination shall submit the SB to the Superintendent for clearance.

Superintendent has to select the SB from the queue, which displays the SB No. And forwarding reason i.e. from where, and for what purpose the SB is marked to him.

Ex: SB No. 931760 For LEO

SB No. 917631 for clarification

SB No. 913491 for allotment of inspection

*LEO*

Superintendent can view the examination report for those SBs, which are recommended for LEO and finally accord LEO.

**8.16. SB Print**

After issue of LEO by Superintendent, the CHA/Exporter has to go to the print counter in the warehouse, where copies of the processed SB with examination report will get printed.

CHA, on behalf of Exporter/Exporter has to sign on all the copies and submit the same to the Shed Superintendent for his signature. Superintendent has to sign Exporter copy, Customs copy and examination report.

Customs copy with examination report is attached to the document set, and is retained by the Superintendent.

Exporter copy is handed over to CHA.

**8.17. No. Of copies of SB**

AIR: 3 copies –Custom/Exporter/ EP Copies EP copy is signed by Shed

Superintendent after filing of EGM.

Flight No. Date, and EGM No. is recorded on EP copy.

SEA: 2 copies of SB-Customs and Exporter copy. EP Copy is generated after filing of sailing report by Shipping Agents.

ICD & CFS: 5 Copies-Customs copy/ Exporter copy, TR-1, TR-2 and EP copy

**8.18. Stuffing by Preventive Officer**

There is no Preventive Officer (PO) role in Air Cargo Complexes. Therefore, on issue of LEO the SB is put in EGM queue. In the Sea Port, ICD, and CFSs, the SB is put to PO queue after issue of LEO if containerized cargo. The PO, after stuffing of containers will enter the following parameters:

Container No, No. of packets. On entry of container details, the SB is put in EGM queue.

In case of short shipment the packet numbers, which are not stuffed, are also entered. The SB is put in 'Shortship-queue' for amendment of SB. Exporter has to file amendment through Service Centre. After approval of amendment by AC, the SB will be put in EGM queue.

#### *Clarification*

Superintendent can enter the clarification required in the Departmental Comments and mark the SB back to Inspector for examination.

#### *Query*

Superintendent can approve or reject the query. Query rejected SB is market back to Inspector for examination.

Otherwise, the SB is market to AC for final approval of query. If query rejected SB is marked back to the Inspector for examination. Otherwise, the SB is marked to AC for final approval of query.

### **8.19. Re-registration of goods**

There can be data entry mistake while entering the parameters from Annexure C, at the time of registration of goods. If errors are noticed before LEO, these can be rectified by re-registering the goods. Superintendent has the provision for granting permission for re-registration of goods.

Error in entry of number of packets will affect the random selection of packages for examination. Hence, Superintendent has been provided with an option through which goods registration can be done again.

## **8.20. Amendment to SB**

After LEO, amendment to SB is not permitted (except a few parameters –refer Role of AC)

Amendment requests are filed through Service Center, after the approval by AC (Export).

Amendments are put to queue of AC for approval. On approval, the FOB and DBK value get recalculated.

## **8.21. Role of AC (EXPORT)**

### **8.21.1. Amendment to SB after LEO**

Only AC can do amendment to SB after LEO. AC in this case collect the SBs printed, makes the necessary changes required directly on the database and reprints the SB. The earlier print of SB should be cancelled by marking with bold letters.

AC can amend the following parameters-

Gross weight, Net weight, Bank account number, Authorized dealer code, GR No, RBI Code, AWB No AND airline code (in Air Customs), AR4 details, Quota certificate Nos (AEPC, CTPC etc).

### **8.21.2. Re-print of SB**

Processed SB (3 copies) is printed at the warehouse. Due to any problem, if the SB is not printed incomplete, AC has the provision to permit re-print.

### **8.21.3. Shutout**

After the issue of LEO, if the consignment has to be withdrawn, CHA has to request for shutout. AC has to enter the reasons for shutout on the system, and collect the copies of processed SBs from CHA.

**8.21.4. SB Cancellation**

CHA has to apply to AC for cancellation of SB. AC has to enter the reasons and grant permission for cancellation.

System automatically cancels the SB, if the consignment is not brought for examination within 7 days of issue of SB No in case of air and 30 days in case of sea/ICD.

**8.21.5. Changes of Airlines**

AC has to grant permission on system, the changes in Airlines after the issue of LEO. AC can directly update the AWB No, and Airline code on the system and SB is reprint with changed values

**8.21.6. Cancellation of LET EXPORT ORDER**

In case where LEO is wrongly issued against a SB, AC has the option to cancel LEO.

**8.21.7. Entry of Test Report**

For those SBs, where samples are drawn, on receipt of the test report, the Examination Inspector has to enter the report on the system. Till the entry of test report, the Drawback SBs are not put in Drawback Superintendent queue for processing

In the case of duty free SBs, after the entry of test report, the S/Bs are transferred to archival database.

**8.22. Export General Manifest (EGM)**

After issue of LEO, the next major event in the processing of a SB is the filing of EGM. In the case of Air the routing of SB is determined after filing of EGM, whereas the Train summary and Exit Report submitted by Custodian at ICD s and CFS respectively. In the sea Customs stations the sailing report submitted by port authority determine the routing of SB. EGM gives Flight No., AWB No in the case of Air and Vessel Name., Rotation Number, Shipping bill number in the Sea .After recording the EGM particulars on the SB, its routing is determined as follows:

**a) Duty Free SB**

Duty free SBs, both commercial and free trade sample are put to History queue for transfer of data to archival database.

**b) Duty Draw back SBs**

The SBs where samples are drawn at the examination stage and test report not received will be put in sample queue indicating that report is yet to be entered. On entry of test reports they will be input in the DBK Superintendent queue.

The SBs where duty drawback is determined by brand rate will be put the “Brand” queue till the registration of Brand rate. Once the brand rate is determined, the SB is put to DBK Superintendent for processing.

All other SBs are directly put in DBK Superintendent queue for processing.

Thus, in the ICES, submission of EGM train Summary/Exit Report/Sailing Report is the key for sanction of Duty drawback.

**8.23. EGM can be filed in two ways****a) Service Center**

ICES has an option for entry of EGM/ Sailing Report / Train Summary/ Exit Report through Service Center. The agencies who are not utilizing the network services can submit the documents to Service Centre. Service Centre after entering the data generates a checklist for verifications. The Agencies after verifying, has to return the document for correction and submission to Customs.

After making necessary updation to the database EGM gets submitted.

The submission process matches the critical parameters of the document with the SB information and is put it appropriate queue.

**AIR**

AWB No mentioned in the EGM is matched with AWB No on the SB. The EGM No., Date, flight No and date are recorded against the SB where ever the AWB No. are matching. Similarly, the SB No Is recorded against the AWB No in EGM.

**SEA**

The sailing report submitted by ports contains Voyage No., Vessel name, SB No., Date, Container No, Port of Origin, Port of Destination etc. On submission of the report system will match the container No mentioned in the report with SB data and record the Voyage No, vessel name and sailing date against the SB.

**ICDs**

The train summary information transmitted by custodian contains the Train No, date, Gateways port, Container No, etc. The container Nos are matched with SB data and Train No and date is recorded against area SB.

**CFS**

The Exit report submitted by custodian contains Truck No, Date of exit, Container No etc. The container No is matched with the SB date and truck No, and date is recorded against the SB.

#### **8.24. Exchange of information between custodian/ports/ and Shipping lines /Airlines and customs**

The following documents are transmitted electronically to customs daily.

Sailing Report - Port Authority

EGM - shipping lines/ Airlines

Exit Report - CFS

Train Summary - ICD

#### **b. Transmission of EGM through ICEGATE**

Network service providers of the airlines can be provided with mailbox address on ICEGATE for filing the EGM s to Customs.

Airlines file EGM in the ICEGATE through Internet with a specified Header. ICEGATE put this message in the respective Custom House MES. The respective Customs ICES (E) picks up the file from MES and processes the EGM and generate replay message to MES. ICEGATE pickup the replay message from respective ICEGATE and reply to the original sender.

On submission of EGM, as mentioned earlier, the S/Bs are put in the appropriate queue for further processing.

### **8.25. Duty Drawback processing**

Only on filing the EGM, the DBK S/Bs gets eligible for processing for duty drawback sanction. Flow of DBK S/Bs for processing is as follows:

- **Sample Drawn:** Those S/Bs where sample are drawn at the time of examination will be kept in the “Sample” queue till the test report is filed. Once the test is filed, the S/B is put to DBK Superintend queue for processing. Before entry of test report, the Inspector should ensure that there is no discrepancy & test confirm to the declaration. In the case of discrepancy report should not be entered in the system.
- **Brand Rate:** S/Bs, where the drawback is claimed under “Brand” Rate the brand rate order has to be produced DBK section, till then the SBs will be in the “Brand” queue. On production of the certificate, the SB is retrieved for processing, and DBK is sanctioned based on the brand rate allowed.
- Rest of the DBK S/Bs are directly put to the queue of DBK Superintendent/AC (DBK) for processing

### **8.26. Registration of DBK Officers**

For processing of DBK claim, the DBK ACs and Superintendents have to be registered on ICES. System Manager is responsible for creation of User accounts.

### **8.27. Processing of SBs by Superintendents**

- S/Bs are allocated to Superintendents automatically. On first –cum-first-serve basis. i.e. SB submission date –wise.

- Once the S/B is allotted, it cannot be accessed by any other Superintendent.
- Superintendent has to view the complete S/B and compulsory view the examination report.
- Superintendent can raise query to exporter and it has to be approved by AC. Once the query is approved, the processing of DBK is suspended till the reply is received.
- Superintendent has the option to change the DBK schedule No. and Unit Price of the item for DBK purposes through F2 menu. On changing the Unit Price, the FOB and DBK will get recalculated and the changes in values can be viewed.
- The S/Bs where samples are drawn, test report can be viewed by Superintendent, he can change or enter the raw material composition accordingly.
- There is option to review the decision taken w.r.t. to change in DBK schedule No. or Unit Price. This can be done on the current S/B under process only. Once the S/B is forwarded to another queue, the review is not possible.
- Superintendent can mark the S/B to AC (DBK) for advice. This is in the form of departmental comments.
- Superintendent can up to Rs.One lakh DBK amount and put S/B to put the “ Scroll” in queue for onward transmission to bank.  
Over Rs.One Lakh value S/B s are put to AC (DBK) for processing.

### **8.28. Role of AC (DBK)**

Following S/Bs are put in DBK AC: -

- S/B over Rs. One lakh of duty drawback.
- S/Bs forwarded by Superintendent for clarification.
- Queries raised by Superintendent
- Query reply from Exporter.

- The S/Bs are assigned to AC on first –cum-first –serve basis i.e. S/B submission date –wise.
- Once the S/B is allotted, another AC cannot access it.
- In case of more than one AC (DBK). SBs are allotted automatically.
- AC can view complete S/B, Departmental Comments, queries raised.
- AC has option to raise the queries to CHA/ exporter.
- AC can change the Unit price for DBK purpose, FOB value and DBK value get recalculated.

Apart from processing of S/B, AC is also responsible for certain administrative actions such as transmission of scroll to bank after scrutiny, suspend the sanction of drawback, monitoring of export proceed realization etc.

- Generation of scroll checklist before transmitting to Bank.
- Making updation of scroll.
- Generation of two copies of scroll, one for Customs, the other for Bank. The contents of the scroll are:  
The S/B No., date, Exporter name, IEC, bank A/C No, Amount of DBK sanction, DBK Superintendent identification.
- The scroll has to be signed by AC and towards to bank.
- System generates one scroll per day.
- System generates a text file of the scroll for transmission to Bank electronically. AC does transmission.
- AC has the option to suspend sanction of DBK claim, in case of discrepancy .AC can revoke sanction after rectification of discrepancy by Exporter.
- Provision have been given to AC for monitoring the realization of Export proceedings.

RBI submits a report a half yearly to Customs, mentioning the IEC, exporter Name, S/B No, date, FOB value etc for whom the foreign

exchange remittance is not taken place. Provision has been made to enter the IEC Nos, so that pending duty drawbacks payment are stopped.

- Ac has the option to transfer the S/B from one Superintendent to another.
- AC has option to view various MIS reports such as
  1. Pendency report for Drawback.
  2. Daily SB statistics
  3. Daily DBK reports
  4. Top Exporters for specific period
  5. Top DBK commodities for a specific period
  6. DBK statistics for specific period
  7. Officer wise DBK sanction report
  8. Scroll summary

### **8.29. Supplementary claim of Drawback**

Exporter/CHA has to apply to AC (DBK) /DBK Superintendent for supplementary claim. DBK Sup. has to select the option from the menu for processing the application. The option has the following.

- Change DBK schedule No.
- Change DBK Quantity.
- Changing of advalorem and specific rate in case of Brand rate items (DBK Schedule No.98.01).
- Changing DBK and DEEC declaration.
- Conversion of duty free S/B to DBK S/B
- Conversion of non-drawback item to drawback item.

The system will calculate the new drawback value and deduct the amount already paid. The S/B is then forwarded to AC for approval.

AC can approve or reject the claim. On rejection the original value are replaced and S/B is transferred to archival database.

AC has the option to generate and transmit the supplementary scroll to bank.

### **8.30. DEEC Logbook**

System will generate Log Book after filing of EGM. The Exporter / CHA has to approach the DEEC Superintendent for Log print. Given the DEEC registration No. System will generate a logbook containing SB particulars filed during a given period.

### **8.31. DEPB /DFRC verification**

When a Licence issued by DGFT, which cover multiple shipping bills. These can be verified by DEPB Appraiser/Supt through menu option. After verification only this Licence can register in the Import section. At the time of Registration Import system cross check verification by export section.

The Officer verifying Licence should ensure correction of Licence No. & Shipping Bill Nos

### **8.32. Assessment of DEEC/EPCG/DFRC SBs**

Any S/B filed under the Licence scheme comes to Appraiser/Supt queue for assessment. As and when exporter/CHA approaches with licence, Appraiser/Supt can choose and pick from the queue and process the bill.

### **8.33. Directory Updation**

Management of Directories is the responsibility of Systems Managers. A user Id called CUSADM is created for system manager for monitoring processing statistics and maintenance of directories- exchange rate, DBK schedule, DEPB rate, country code, currency code etc

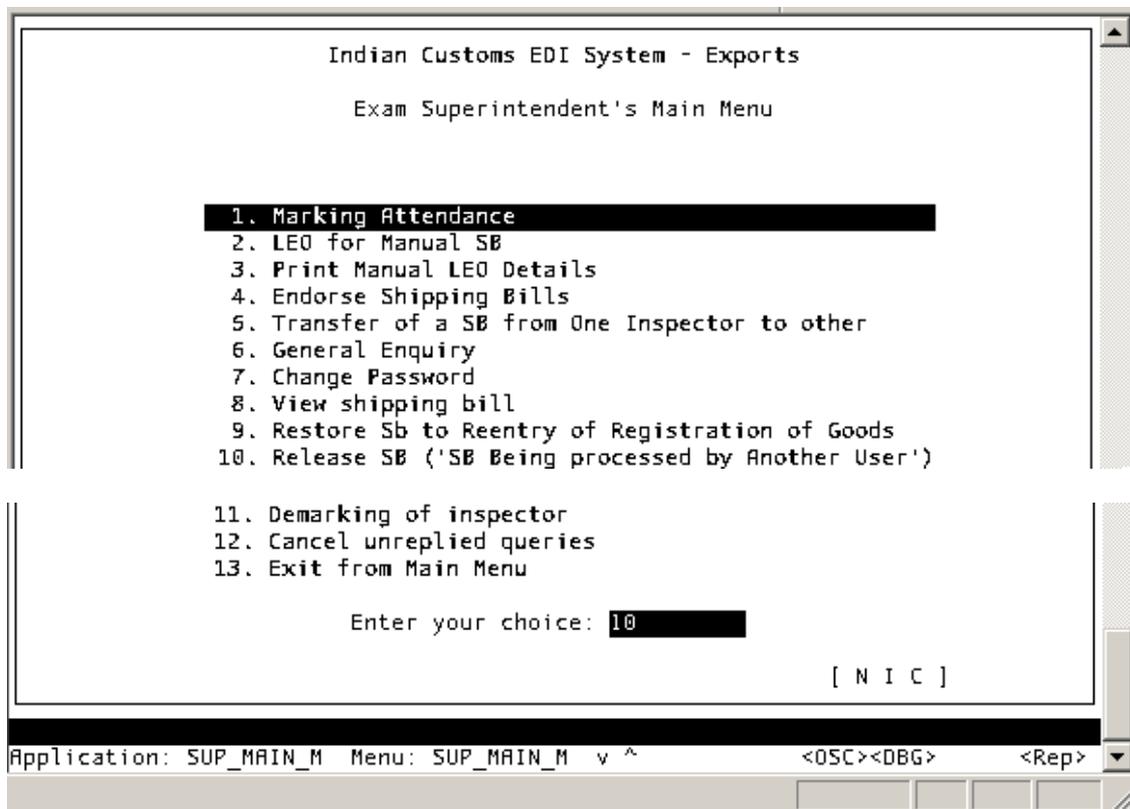
As far as directory managements are concerned Exchange rate directory, DBK schedule rate, Export Cess directory are updating centrally by snapshot to all ICES location. New addition and modification of IEC directory is done by DGFT centrally automatically. Other directories like AD code, CHA directory, and Exporter directory.

In the Sea Ports Shipping line, Shipping Agents directory also have to be created.

Rest of the directories such as: -Airline, Airports, Currency Code, Country Code etc. will be created at the time of installation of ICES. However, these directories have to be scrutinized and updated.

### 8.34. EXAMINATION APPRAISER/SUPERINTENDENT

On login the System displays the following menu.



#### 8.34.1. Mark attendance

A Superintendent can be in charge for more than one warehouse. He has to mark attendance for each warehouse separately.

**8.34.2. LEO for manual S/B**

For any reason SBs are filed manually, AAI/Port will send only general details of the Shipping bills filed through manually to the system. It contains only consigner name, consignee name, total value, description, country of dispatch etc (no item wise details). Using this option Appraiser/Supt can give LEO for this S/BS.

**8.34.3. Print Manual LEO Details**

Using this option Print can be generated for the S/B, where LEO is given.

**8.34.4. Endorse Shipping Bill**

This allows the shed Superintendent to:-

- Give Let Export Order
- Reply to/from Inspector on advice sought
- Approve/reject the queries raised by Inspector or Exporter
- Approve/reject the request for additional packets to be examined by Inspector.
- Seek advice from AC
- Seeks advice from AC to raise queries to exporter

On selection of the option, system displays the SBs pending for endorsement

**a) SB marked for LEO (from Inspector)**

On selection of the S/B, the system displays the examination report filed by Inspector. If sample drawn, the details are displayed. Superintendent can accord LEO.

**b) SB marked from Inspector for advice**

When the S/B is marked from Inspector seeking permission for examination of additional packets, the Superintendent can accept or reject the request, if accepted additional packets to be examined have to be entered by Superintendent.

**c) SB from Inspector for queries approval**

Inspector in order to get any clarification from the exporter can raise queries. The queries have to be approved by the Superintendent first and then by AC.

**d) SB from Inspector seeking permission for examination of additional packets**

When the SB is marked from Inspector seeking permission for examination of additional packets, the Superintendent can accept or reject the request if accepted, additional packets to be examined have to be entered by Superintendent.

**e) SB from AC after cancellation of LEO.**

When the Exporter requests amendment of S/B after the LEO, the AC has to cancel the LEO. On cancellation, the S/B is marked back to Superintendent.

The system displays the reasons for cancellation of LEO entered by AC.

Superintendent has to mark the S/B to inspector for examination.

**f) SB from AC, rejecting the queries.**

Superintendent in order to get any clarification from Exporter has to raise queries. This has to be approved by the AC. If approved, the queries are marked to Exporter.

If rejected, the S/B is marked back to Superintendent with the message.

**g) SB from AC with advice**

This is the case where Superintendent has sought advice from AC and AC replies back. The correspondence between Superintendent and AC are in the form of Departmental Comments.

#### **f) SB from Exporter with replay to queries raised**

Superintendent in order to get clarification regarding the S/B from Exporter has to reply queries through Service Center.

Superintendent can view the replay given by exporter. After viewing the replay, Superintendent has the option to-

- Give LEO
- Mark to the Inspector for re-examination or
- Mark to AC for advice

#### **8.34.5. Transfer of an SB from one Inspector to other**

The option allows the Superintendent to transfer a S/B s from one Inspector to other.

The Superintendent transfers the S/B s under following situations:-

- Inspector is not able to complete examination of S/B s allotted and requests for transfer of some S/Bs to another Inspector.
- Inspector is not available for examination.

In such cases this option has to be selected.

#### **8.34.6. View Shipping bill**

Complete details S/Bs under process (for which LEO is not given) can viewed through the option. The view is from current database, not from history or backup database.

**8.34.7. Restore SB to reentry of Registration of goods**

This option is used before LEO is given and when problem identified at Registration entry, AWB, net weight, seal no, packet details.

**8.34.8. Release SB (SB being processed by another user)**

When the Inspector or Superintendent gets the message ' S/B being processed by another Use', then this option is to be made use of. This happen when there is sudden disruption in power or due to some abnormal termination while working on the specific shipping bill.

**8.34.9. Demarking of Inspector**

This option is used for demarking of inspector from one warehouse

**8.34.10. Cancel unreplied queries**

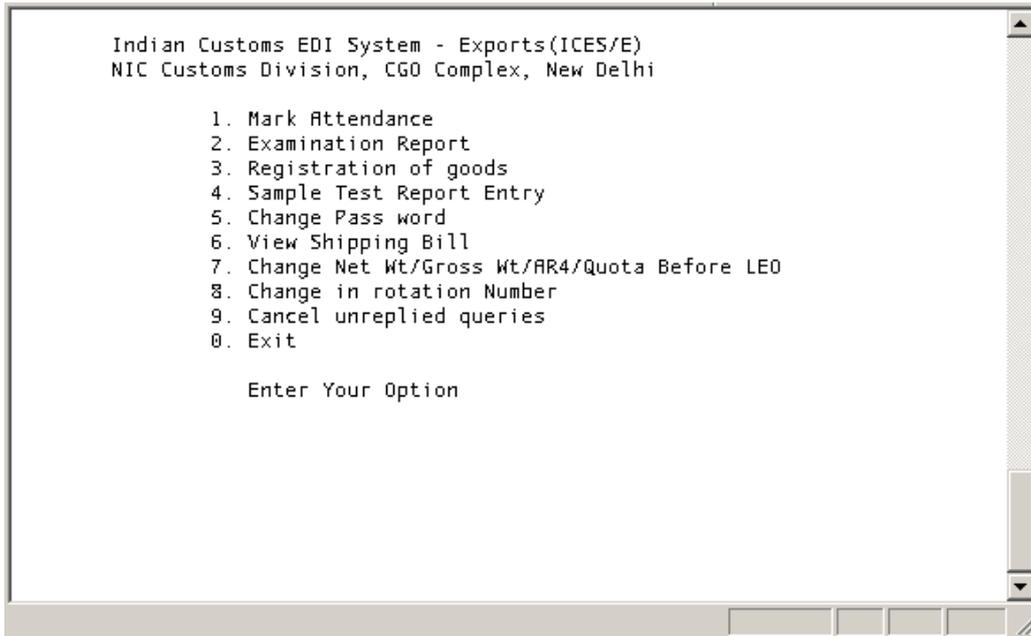
This option is used for cancellation unreplied queries by CHA/ Exporter for a long period.

**8.35. EXAMINATION INSPECTOR/EXAMINER**

S/B is put in queue for Inspector for examination by the system automatically based on workload after login by the Inspector.

While examining the consignment, Inspector has to view the instruction of the warehouse Superintendent. After entering of the examination report, the SB is marked back to Superintendent for giving LEO. Inspector has the option to view the SBs allocated.

On login by the Inspector the System displays the following mail menu.



### **8.35.1. Mark Attendance**

Inspector has to mark the attendance on the systems. If not made attendance S/Bs will not get allotted by the system.

### **8.35.2. Examination Report**

After Registration of Annexure C, system allots Inspector for examination of consignment. The Inspector before examination the consignment has the facility to view and perform the following on the system.

- a. View complete S/B
- b. View and note the examination instruction issued by the Superintendent.
- c. View the packet number to be examined.
- d. Check the Airway bill no, freight and insurance charges mentioned on the Airway bill (document attached) and the entries in the system. In the case of discrepancy, modify the same.

After viewing the above, Inspector has to carryout the examination of the consignment and enter the examination report. If sample are drawn, the details have to be entered.

Inspector has the options to: -

- Raise a query to Exporter. The query has to be approved by Superintendent and AC.
- Forward the S/B to AC, or clarification or guidance by writing the same in the Departmental Comments.
- Write the examination report, mentioning whether the consignment is found in order or not and whether LEO is permitted. The S/B has to be marked to Superintendent for final action.

Inspector has following view options:-

View SB - view Full S/B details

Examination- To carry out filing examination report and to draw Sample.

DBK schedule - To view draw back schedule

Dept Commd - To view and Add Departmental Comments

Queries - To forward the S/B to examination Superintendent.

Forward SB - To exit

### **8.35.3. Examination report**

Through the option examination report, particulars regarding sample drawn can be entered and can also view the details of the previous sample drawn for the S/B.

### **8.35.4. View Sample History**

Select the option to view the sample previously drawn for the S/B

### 8.36. Examination report entry has the following steps: -

- Verify whether required documents are attached with the S/B or not.
- Confirm whether the examination instructions are followed or not and finally enter the report by replying to the system queries in terms of yes or no. The screen display for entry of examination report is as follows.

```

View SB Examination dept Cont qUeries Forward SB Quit
Inspector's Menu
Examination | NIC Customs Division, CGO Complex, New Delhi | Ins./EO
EXAMINATION REPORT
Opened & (E)xamined / (I)nspected ? EXAMINED
Have you verified marks and numbers ?
Are the Numbers of packages as per declaration ?
Do you agree with the item Value ? Yes
Are the Goods as per the Declaration ? Yes
Whether Samples drawn for test/market enquiry ? No
Do you agree with DBK rates w.r.t. declared desc?
Have you verified the Quota Certificate ?
Have you verified AR4 Certificate ?
Have you verified the Licence Annexure-II ?
Have you verified the DEPB Annexure ? Yes
Are you satisfied with requirement of DFRC ?
Have you verified the RBI waiver for SDF decln. ?
Whether the Cess is payable on Export Goods ?
Are the goods otherwise permissible for Export ?

Press F2 for Menu.

Count: *1 <OSC><DBG> <Replace>

```

Inspector has to reply to the queries in terms of “ Yes” or “ No”. The display is self-explanatory.

Press “Y” if as per declaration, otherwise “N”.

On pressing “N” a pop-up is opened for entry of remarks.

### 8.37. Forward SB

Press F2 and enter “F” to forward the SB to Superintendent.

- For LEO: - If S/B is in order, after entry of examination report forward to Superintendent for LEO.

- Please Advice:- Is chosen when the Inspector decides to put any departmental comments on the S/B and forward it to the Superintendent for his comments.
- For more packets:- Forwarding the S/B to the Superintendent for grant of permission to examine more packets.
- For query approval:- Forwarding for query approval.

Series Forward SB Quit	
Inspector's Menu	
on, CGO Complex, New Delhi   Ins./EO	
SP1	SYSTEM EXPORT W/H
Total packages : 9	
( in kgs )	
Gross wt : 40	
Press ENTER to Continue..	
DBK Appraised: .00	
ails ok ? (Y/N) : Y	
Examination Instructions :	
1	SYSTEM Examine the Packets :2,9,
Press F2 for Menu.	
Press F4 to pick selection, F3 to cancel.	
Count: *0	<OSC><DBG> <Replace>

### 8.38. Registration of Goods

CHA/Exporter after getting carting order and paying the terminal charges bring the consignment to the concern warehouse. At the warehouse Inspector designated for receipt of goods registration of the goods received. The information required at the time of registration are bought by CHA.(Annexure C of Public notice).

Parameters to be entered are:

**AIR:** MAWB No, Airlines name, Total Number of Packages, H AWB No, Factory Stuffed (Y/N), seal Number, Mark and Number, Sample Accompanied, Gross weight, Net weight, Unit of Measurement, Packing details

**SEA:** Factory stuffed (Y/N), sample accompanied (Y/N), Nature of the Cargo, Marks & Number, Total number of packages, Number of loose packages, No of CONTAINERS, gross Weight, Net weight, Unit of Measurement, Container details, Packing details, rotation Number, Rotation date.

**ICD & CFS:** All parameters except rotation number and rotation date.

System on entry of packages No randomly select the packet Nos to be examined.

Number of packet to examined is as per the following criteria:

**Factory stuffed Export goods - 0% (unless specific intelligent).**

**Duty Free S/B (with no incentive) - 0% (unless specific intelligent).**

**DBK/DEPB incentive less than Rs.1 lakh – 25 % for sensitive country & 2 % for**

**Others.**

**DBK/DEPB incentive more than Rs.5 lakh – 50 % for sensitive country & 10 % for**

**Others.**

**EPCG/DEEC FOB value less than Rs.1 lakh – 25 % for sensitive country & 2 %**

**for**

**others**

**EPCG/DEEC FOB value more than Rs.5 lakh – 50 % for sensitive country  
&10 %**

**for**

**others**

(System manager through his menu option can change these norms using examination norms under directory management depending on sensitiveness of the cargo or based on the instruction from the CBEC)

When the Registration is over, system automatically allocates the inspector for examination. Customs officer, who is allocate the Inspector for record the inspector name and packet selected on the checklist.

### **8.39. Sample test report entry**

On receipt of test report from the testing agency, Inspector of the concerned warehouse is responsible for entry of report.

On entry of S/B No, system will display the Sample No., Officer ID who has drawn the sample, testing agency and test to be performed. Inspector has to enter, the test report. Test report should be entered in the system only where the results are satisfactory. In case of discrepancy report should not be enter.

### **8.40. Change net weight/gross weight/AR4/Quota before LEO**

Inspector has the option to amend the following parameters before forwarding the S/B for issue of LEO

Net weight, Gross weight, Bank A/C No, Authorized Dealer Code, Airline Code, AWB No, RBI Code, AR4 details, Quota certificate Nos.

### **8.41. Change Rotation number**

This option is used for changing the rotation number of vessel in the Sea Customs.

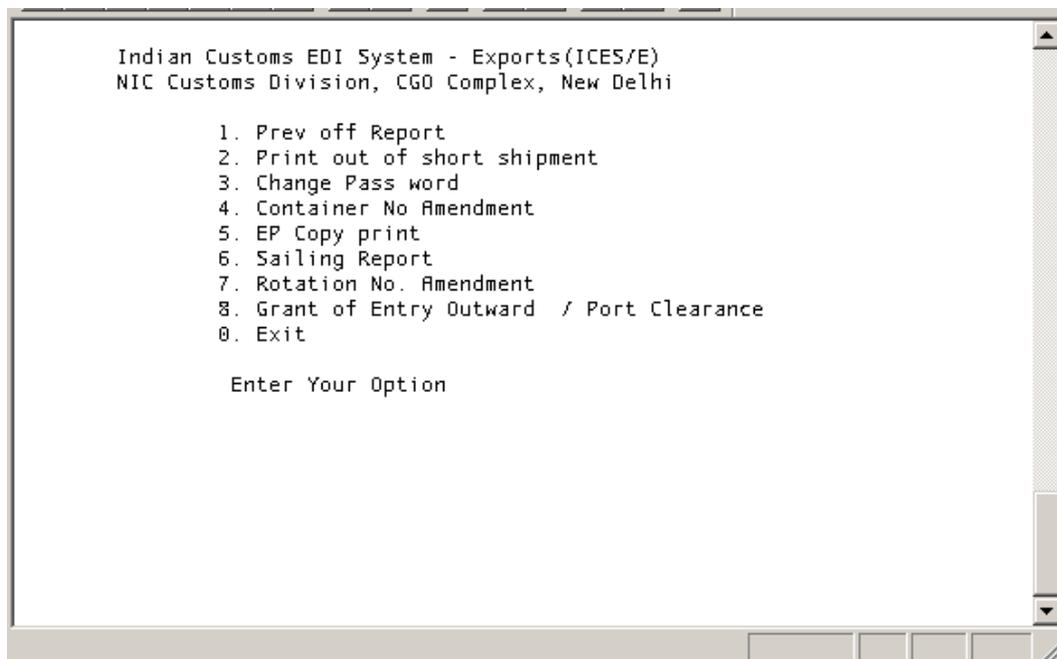
#### **8.42. Cancel unreplied Queries**

This option is used for cancellation unreplied queries by CHA/ Exporter for a S/B.

#### **8.43. PREVENTIVE OFFICER**

The role of Preventive Officer (PO) is valid in Sea Port, ICDs, and CFS s only. In Air Cargo, there is no provision for such role in ICES. S/B after LEO are marked to PO, who is responsible for supervision of stuffing operation.

On login the PO will get the following Menu:



##### **8.43.1. Preventive Officer Report**

The CHA/shipping Agent will approach PO at the time of stuffing. The PO will select the S/Bs and enter the following parameters after stuffing and sealing the containers. This is valid for FCL and LCL containers. The parameters to be entered by PO are:

Voyage No., Vessel Name, Shipping Line Code, Container Particulars, Container No., Size, Excise seal No (if factory stuffed), date, customs seal No., date (System date) and No of packages.

The system will match the No of packages stuffed with no of packages declared at the time of goods registration. If the packages stuffed are less, system will prompt for entry of packages Nos.not stuffed (back to town). The SB is marked to AC (Export) for amendment. If the No. of packages match, the SB is put to EGM queue or the sample queue if the sample are drawn at examination stage.

#### **8.43.2. Print out of short shipment**

In case of short shipment, back to town report is generated by the system. The report contains the following;

S/B No., IEC, Exporter name & Address, Packages No. not stuffed etc.

#### **8.43.3. Container No. Amendment**

This option is used for amending the container Nos of a S/B, which may have been entered wrongly during goods registration

#### **8.43.4. EP copy print**

This option is used for printing EP copy of the S/B.

#### **8.43.5. Sailing report**

**Sailing report entry form as follows**

19/07/2004	Indian Customs EDI System / Export (ICES/ NIC Customs Division, CGO Complex, New Delhi	03:39:23 pm PREV1
***** Sailing Report Entry Form *****		
Rotation Number :	Rotation date :	
Vessel Code:	Vessel Name:	
Voyage No. :	Master Name:	
Shipping Line Code:	Shipping / Steamer Agent Code:	
Country Code Vessel:	Entry Outward Date:	
Cancel Off.ID.:	Cancel Date:	Port Off.ID.:
Port Clrn No. :	Port Clrn Date:	
		Sailing Date:

This option is used for entering rotation number and date, vessel name, entry outward date etc. One sailing report enter there is no amendment of S/B is possible.

#### 8.43.6. Rotation number amendment

This option is used for amending the rotation number enters in the sailing report.

#### 8.43.7. Grant of entry out ward/ port clearance

This option is used for entering date and time of the vessel leave the port.

### 8.44. ICES IMPORTS

#### 8.44.1. Registration of Airlines & Consol Agents

##### Registration of Airlines / Consol agents / Any other person(s)

- All Airlines and such other persons who issue delivery orders to the importers and on the basis of which goods are permitted to be delivered to the importers, are required to be registered in the EDI-System to facilitate filing of IGMs electronically.
- The business category codes assigned to-**Airlines = AL** and **Consol Agents = CN**.

- The designated officer who is assigned the role of registration, shall before entry of details in the system satisfy himself about the correctness of the information furnished by the applicant (Annexure5) and observe all other orders and procedures prescribed from time to time in this behalf.
- The Airlines have already been assigned Airline Codes for filing of IGMs. The same Codes shall be used for registration of Airlines and shall be used for activities of filing of IGMs etc.
- The Consol Agents and Any other person(s) shall be assigned a registration number by the system.
- The registration number shall have three components:
 

10 digit	INCOME TAX PAN
2 digit business category code –	CN
4 digit Port Code like-	DEL4, PPG6, COK1 ...

The registration No shall look like – **AAACK8719P CN DEL4**

- This Registration No. should be used for filing of IGMs by Consol Agents or Any other person.
- After registration, the amendment of any of the details can be made by the designated officer.

#### **8.44.2. Filing of Import Manifest (before arrival of Aircraft)**

##### **Filing of IGM by Airlines**

- The Airline shall file IGM against their Master Airway bills, in the same manner as they are filing at present.
- Now, since IGM shall be filed before arrival of an aircraft, IGM No. would not be available at this stage.
- The IGM shall be filed on the basis of: Flt No, Flt date & Flt time.
- In case the IGM is filed after the arrival of aircraft, the same shall be filed indicating IGM No. as assigned to the aircraft.
- The Format for entry of IGM at service centre is prescribed in Annexure-6.

- Flat file Format for filing of IGM by Airlines through ICEGATE is annexed as Annexure – 8.
- On submission of the IGM at service center the system will generate a Job No. which shall be used for further reference till the final IGM No. is entered against a Job. No.
- In the case of filing of IGM through ICEGATE, the Flt No. & Flt date shall be used for further reference.

#### **8.44.3. Filing of Consol Manifest by Consol Agents / Any other person**

- A Consol Agent or Any other person on whose 'delivery order' the goods shall be permitted to be cleared to the importer shall file manifest in respect of Consolidated Cargo.
- The Format for filing of Consolidated Cargo through service center is prescribed in Annexure-7 and Flat file format for filing through ICEGATE is specified in Annexure-8.
- Consolidated cargo manifest shall also be filed under ICES prior to arrival of an aircraft and is independent of Airlines' manifest.
- If the consol manifest is filed after arrival of the aircraft, the same shall be filed with IGM No as assigned to the aircraft.
- When the consol manifest is filed through service center, the procedure of checklist and submission will be followed.
- On submission a Job No. will be assigned by the system which shall be used for further references.
- The total No of packages in respect of all the HAWBs should not be more than total No of packages against the respective MAWBs in the Consol Manifest.
- However, when the total No. of packages against a MAWB is more than the sum of total No. of packages against all the related HAWBs, the Consol Manifest would be accepted by the system and addition of another HAWB or amendment of No. of packages would be allowed against one or more HAWB or reduction of No. of packages against MAWB would be allowed by the system by following amendment procedure.

**8.44.4. Entry of IGM No against a prior IGM (Air)**

- The IGM Nos shall be assigned to an aircraft
- At the time of obtaining unloading permission, the representative of Airlines shall produce document of assigning to the IFO.
- At the time of giving unloading permission the IFO shall enter in the system, the IGM NO assigned to the aircraft against the prior IGM Job. No / Flt No and Flt date

**8.44.5. Integration of Airlines Master IGM and Consol Manifest (AIR)**

- The Airlines Master IGM and Consol Manifests would be filed independent of each other by different entities.
- Both the manifests would be integrated with each other, by the system automatically, on the basis of Master Airway Bills, which is the common factor in both the manifests.
- Where the details of Master IGM matches with the corresponding Master Airway bill in the Consol Manifest, such IGM lines would get integrated with each other.
- Where No. of packages in the Master IGM against a Master Airway bill, are more than the total No. of packages in the Consol IGM against respective Master Airway bill, such lines would be put in the error queue.
- Either the Master IGM should be amended or the Consol manifest, which ever is incorrect.
- On correction of the number of total packages the Manifest would get regularised.
- Where the No. of packages in the Master IGM against a Master airway bill are less than the total No. of packages in the Consol manifest against the respective Master Airway bill, the system will assume that remaining packages would arrive by another flight.
- When the remaining packages arrive and Master IGM is filed the Consol Manifest against the previous Master IGM would need to be amended and another Consol Manifest would have to be filed corresponding to the later Master IGM.

- Where short landing has occurred, the system would wait for another IGM against another flight, in respect of the short landed packages related Master and House Airway bills.
- On receipt of Master IGM in respect of short landed packages, the respective Consol Agent shall file Consol Manifest for the packages landed subsequently.
- Where excess landing has taken place, the system would wait for amendment of Master as well as Consol Manifest in respect of such excess packages.
- Where some of the packages have landed without any labels and remained unconnected to any particular Airway bill, as and when such packages are labeled with a Master Airway bill and a House Airway bill, the same shall be co-related to the respective IGM lines of the same flight, if such Airway bills appear in the IGM of same flight. by the system.
- When no such Airway bills exist in the IGM of same flight, the IGM shall be amended to incorporate such Airway bills in the IGM of the flight by which these unconnected packages landed.
- Where two or more Consol Manifests have been filed against the same Master Airway Bill No in respect of one or more House Airway bill Nos, it would not be possible for the system to automatically, co-relate the different Master IGMs in respect of same Master airway bill.
- The Consol Agent/person who filed the Consol Manifest shall approach the designated officer for entry of appropriate IGM No against respective Consol Manifest.

#### **8.44.6. Entry of Segregation Report (Air)**

The details of the segregation report, prepared jointly by custodian, Airline and IFO in respect cargo landed from the aircraft, shall be entered in the system by the IFO against respective IGM No based on the parameters: Flt No., Flt date/time, IGM No/ year, date & time of starting of segregation and date, time of completion of segregation report.

Following detail from the segregation report shall be entered in the system:

1. Total Number of packages manifested
2. Total number of packages received
3. Number of packages short landed

4. Number of packages excess landed
5. Total number of packages for delivery at the port
6. Number of packages for transshipment
7. Number packages for airlines stores
8. Number of packages for diplomatic mails
9. Number of packages for valuables
10. Number of packages for perishables/delivery on KBE
11. Number of packages landed in damaged condition

**Details short landing**

MAWB No.

HAWB No.

Number of packages Manifested

Number of packages arrived

**Details of excess landing**

MAWB No.

HAWB No.

Number of packages manifested

Number of packages landed

Number of packages without any label.

**Details of damaged cargo**

MAWB No.

HAWB No.

Package No.

Marked weight

Actual weight

- The Segregation Report would be very important information, in regularization and correction/amendment of IGM
- The IFO without delay should correctly enter the same in the system.

**8.44.7. Amendments/corrections in the Master/Consol Manifest. (Air)**

- The data entry of amendments shall be made from Service Centre.
- The amendment requests will be put to the queue of the designated officer for approving amendments in the system.
- The designated officer shall ensure correctness of the information before approving amendment in the system.
- Where the amendment is sought before arrival of the flight, no approval from the designated officer would be required.
- However, in absence of an IGM No against a Job No., any amendment has been carried out, as if, it is before arrival of the flight but later, if it is found that the flight arrival time was prior to the amendments such an amendment would require approval by the designated officer.
- In a Consol Manifest if, a Master Airway bill No. is deleted all related House Airway bill details also would get automatically deleted.
- When a House Airway bill No. is deleted all other details against that HAWB would be automatically deleted. Minimum one House Airway bill details should remain existing in a Consol Manifest.
- When all HAWBs are deleted whole Consol Manifest in respect of that MAWB would get deleted.

**8.44.8. Late filing of Master/ Consol Manifests.(Air)**

- At the time of submission of Master or the Consol Manifest as the case may be, the system will keep a record of the time of filing of Manifest and arrival of related Aircraft.
- Details of such late Manifests shall be put in the queue of the designated officer, who shall enter the amount of penalty along with date of payments against each of the late IGMs.
- The penalty shall be paid against a manual Challan in the beginning. After some time system will generate the Challan.

- Any amendment, in the IGMs whether Master or Consol, carried after arrival of aircraft shall also be taken as late filing of manifest to the extent of amendment, therefore, amount of penalty shall be entered at the time of approving amendments.
- The system shall accept '0' amount when penalty has not been imposed

#### **8.44.9. Filing of Import Manifest for Transshipped Cargo (Air)**

- The IGM in respect of the transshipped cargo shall also be filed at the place final destination by the Airlines who transported the goods on the basis of the Master Airway bill, which is used for transportation of the goods to the final destination.
- In case the transshipped cargo is a consolidated cargo, the consol manifest shall be filed by the Consol Agent on the basis of Master Airway bill used by the Carriers for transporting the goods to final destination and the House Airway bill against which delivery order is issued.
- The IGM No shall be obtained by the Airlines, at the final destination, in whose aircraft the goods have been transported to the final destination, in the same manner as allotted to international carriers
- A delivery order, issued by an unregistered Consol Agent/persons and who has not file the related Manifest, shall not be honored for clearance of goods.

#### **8.44.10. Filing of IGM by shipping lines/Agents (Sea)**

- The Shipping line/agent shall file IGM against their Master Bills of Lading.
- The IGM shall be filed only prior to arrival of vessel
- The IGM line numbers would be same as indicated by the Carriers.
- The IGM line number should be a numerical number without any character.
- It should be ensure that same numerical number is not repeated.
- In such a situation the second line with same number would be rejected.
- The details in respect of 'Sub-line number, House B/L No & House B/L date' should be left blank.
- Format of IGM Message is shown as Annexure 10

**8.44.11. Filing of Consol Manifest by Consol Agents / Any other person (Sea)**

- Manifest in respect of Consolidated Cargo shall be filed by a Consol Agent or Any other person on whose 'delivery order' the goods shall be permitted to be cleared to the importer.
- The Format for filing of Consolidated Cargo through service center is prescribed in Annexure-9
- Consolidated cargo manifest shall also be filed under ICES prior to arrival of a vessel and is independent of shipping lines' manifest.
- The Consol manifest shall be filed for sub-lines in respect of House B/L against a Shipping lines' Master IGM line Number.
- Sub-lines shall also be numerical numbers without any character and should not be duplicated.
- Duplicate sub-line numbers would be rejected. Consol manifest can be filed independently even before filing of a Master manifest.
- If the consol manifest is filed after filing of Master IGM, the IGM No allotted to the vessel shall be indicated at the time of filing of such Consol manifest.
- When the consol manifest is filed through service center, the procedure of checklist and submission will be followed.
- On submission a Job No. will be assigned by the system which shall be used for further references
- The Format for filing of Consol manifest at service centre is Annexed as Annexure 9

**8.44.12. Integration of shipping line/Agents Master IGM and Consol Manifest (Sea)**

- The Main Carriers' Master IGM and Consol Manifests would be filed independent of each other by different entities.
- Both the manifests would be integrated with each other, by the system automatically, on the basis of:

Vessel Code; Voyage No & Master IGM Line Number, which are common, factor in both the manifests.

- The Vessel Code, Voyage No and the Master IGM Line Number are very important factors for integration of Consol Manifest with Master IGM. Therefore, these parameters should not be incorrect.
- Any mismatch between the Vessel Code & Voyage No. in the Consol & Master Manifests would result in to either integration of Consol manifest with wrong vessel's IGM or will remain hanging.

**8.44.13. On submission of Master IGM and the Consol IGM:**

- (a) Where the details of Master IGM match with corresponding Consol Manifest, such IGM lines would get integrated with each other.
- (b) Where No. of packages against line number of the Master IGM are less than the sum of packages in respect of all sub-lines of Consol manifest, such lines would be put in the error queue. Either the Master IGM or the Consol manifest, whichever is incorrect would be amended. On correction of the number of total packages the Manifest would get regularised.
- (c) Where the No. of packages against a line number of the Master IGM are greater than the sum of packages in respect of all sub-lines of Consol manifest, such lines would be put in the error queue. Either the No. of packages would be corrected in the respective manifest or new sub-lines would be added in the consol manifest for differential number of packages.
- (d) Similarly, in the case of containerized cargo, where the total number of containers and/ or the container numbers mismatch in Master and Consol Manifest, the IGM would be put to error queue for amendment. On correction of errors the Master & Consol manifests would get regularised.

**8.44.14. Amendments/corrections in the Master/Consol Manifest.**

- The data entry of amendments shall be made from service center.
- The amendment requests will be put to the queue of the designated officer for approving amendments in the system.
- The designated officer shall ensure correctness of the information before approving amendment in the system.

- Where the amendment is to be made before arrival of vessel no approval from the designated officer would be required.
- However, in the absence of Entry Inwards, any amendment carried out, as if it is before arrival of the vessel but later on, if it is found that the arrival time of vessel was prior to the amendments, such an amendment would require approval by the designated officer.
- In case any Bill of Entry has been filed against a line/sub-line number of the manifest, any amendment made in manifest would also affect the respective B/E; therefore, the corresponding B/E would also need to be amended for the related details.
- The Shipping lines or the Consol Agents as the case may be should inform the respective importers to get their Bs/E also amended.

#### **8.44.15. Late filing of Master/ Consol Manifests.**

- At the time of submission of Master or the Consol Manifest as the case may be, the system will keep a record of the time of filing of Manifest and Entry Inward in respect of a vessel.
- Details of such late Manifests shall be put in the queue of the designated officer, who shall enter the amount of penalty along with date of payments against each of the late IGMs.
- The penalty shall be paid against a manual Challan in the beginning.
- Any amendment, in the IGMs whether Master or Consol, carried after Entry Inward of vessel shall also be taken as late filing of manifest to the extent of amendment, therefore, amount of penalty shall be entered at the time of approving amendments.
- The system shall accept '0' amount when penalty has not been imposed.

**A delivery order, issued by an unregistered Consol Agent/persons and who has not filed the related Manifest, shall not be honored for clearance of goods.**

**All the Consol Agents/persons shall indicate their Registration No. on the delivery orders which shall be verified by Custodians at the time of delivery.**

## **8.45. Processing of BE's through ICES/I**

### **Registration of Custom House Agent**

All licensed CHA's have to be registered in the system to be able to file documents in the system both online through ICEGATE as well through Service Centre.

#### *Submission of IGM*

IGM'S can be filed at the Service Center as well through the ICEGATE directly. IGM can be file both prior to Entry Inwards of Vessel or Arrival of Aircraft as well as after arrival of vessel or Aircraft. The concerned Assistant Commissioner on the written request of the Steamer Agent or Airlines shall permit amendment of IGM, as the case maybe.

#### *Filing of Bill of Entry*

- CHA/Importer has to file the declaration in the prescribed format to Service Center or through ICEGATE.
- A checklist will be generated by the system, which should be checked by the CHA/Importer and shall be submitted in the System after making suitable corrections, if any.
- On successful submission of the correct BE Declaration, a BE No is generated automatically.
- A Bill of Entry maybe filed on prior entry basis or Advance BE filed before 30 days of arrival of vessel or Aircraft.
- The BE is then allotted to Appraising Group on the basis of value of items for appraisal as per queue on first-come first-serve basis by the system automatically.

#### *Appraising*

- AO has no choice in selection of BE.
- The first BE in the queue will be put for appraisal automatically
- The Appraiser who logins in first will get the first BE on screen
- Alert messages against the BE are flashed on screen.
- AO can raise a Query to the Importer /CHA after approval by the concerned Assistant Commissioner.
- Approval of Amendment of BE

- First Check maybe ordered subject to approval by Assistant Commissioner and BE forwarded to Shed Appraiser for examination.
- AO can change CTH, CETH, Notification No, enter penalty, fine, load at invoice level, item level, BE level by changing unit price.
- Select standard examination order, record Examination Order if the standardized orders are to be modified, enter Instructions and Departmental comments
- AO may seek the advice of AC online by forwarding the BE with comments.
- BE after appraisal is forwarded to Auditor for audit of BE. Where the AV exceeds Rs.1, 00,000/- the BE will have to be passed by the Assistant Commissioner.
- AO can order for execution of Bond by marking the assessment provisional, pending test, production of documents, Valuation details etc
- The BE's returned from Shed after first check have to be retrieved by choosing the option in the Appraiser's Main Menu.
- BEs can be de-activated or activated

#### *Audit*

- The Appraised BE from AO is sent to Audit.
- Auditor's menu has 10 options.
- The first option, Audit of BE maybe used for Auditing of bills and passing the same.
- Option 2, Audit System Appraised BE is used for Audit of System Appraised BE.
- Option 3, List of BE's allocated shows the list of BE's allocated to that Officer.
- Option 4, Enquiry is used for viewing BE details using various approaches.
- Option 5, Bond Management helps the auditor view Bond details of the BE.
- Option 6, allows the user to change his Unix password to maintain System Security.
- Option 7, allows the user to change the Oracle password to maintain System Security
- Option 8, facilitates viewing of preformatted Reports on the screen.
- Option 9, facilitates printing of preformatted reports directly.

- Option 10, Miscellaneous options are as the same as in Assessment Appraiser's Main Menu. This allows various viewing options of BE details for the user.

#### **8.46. First Check Processing**

- First Check can be requested by the Importer or can be given AO subject to approval of the same by the concerned AC.
- All first check BE's are marked to AC irrespective of their Assessable Value. AC may accept or reject the AO'S decision for first Check.
- BE will be marked to shed and marked back to AO (Assessment) after the First Check is entered.

#### *Prior Entry BE*

- A Prior Entry BE maybe filed 30 days before the arrival of the conveyance.
- The prior BE maybe filed in the usual method of filing a BE.
- The BE shall be marked Prior in the Status Field of the BE.
- After appraisal one copy of the BE shall be generated along with three copies of Challan for duty payment.
- On filing of IGM the BE shall be regularised in the System.
- If there is any change in rate of duty after filing of BE as on date of Entry inwards the BE and shall be put up to the Appraiser for re-appraisal and further normal procedure adopted.

#### **8.47. Clearance of Import Cargo under Kaccha BE (KBE)**

##### **8.47.1. Filing of KBE**

- KBE shall be filed as "Prior Entry BE" in the absence of IGM in the System.
- The Data entry shall be done at the Service Center on a 24 Hours Basis
- At the time of filing the BE declaration in column Kaccha Bill of Entry option 'Y' should be chosen
- All other details and procedures shall be as in the case of a normal BE

#### *Appraisement of KBE*

- All KBEs shall be System Appraised on the basis of declaration made by the Importer.

- A Challan for payment of Duty shall be generated along with the assessed copy of Kaccha Bill of Entry.
- Duty shall be remitted at the designated Bank as per usual practice.
- Bank will generate message for receipt of Duty
- Out-of-charge cannot be given until Message from Bank acknowledging duty payment is received in the System.

#### *Examination of Cargo*

- IFO shall enter the IGM number, date and year along with the Inward date (Vessel arrival date/Flight date) in the KBE, as provided by the importer.
- The following Documents should be presented to IFO for examination of cargo
  - (a) Airway bill
  - (b) Invoice and Packing list
  - (c) Delivery Order, clearly mentioning the IGM no., Flight No. and date
  - (d) Other required documents such as Certificate / NOC from the Port Health Officer / Assistant Drug Controller / Plant Quarantine Officer, etc. wherever required.
- IFO shall be the proper Officer for examination of Cargo covered under Kaccha BE.
- The IFO shall check the AWB No. and Date, HAWB No. and Date from the hard copy of the IGM presented by the Carrier.
- He shall scrutinize the documents submitted by the importer / CHA and if the details are correct, shall update the field of IGM No. / Year and Inward Date (Flight Date) in the KBE on screen and enter the examination report.

#### **8.47.2. Out-of-charge of KBE**

- Superintendent in charge of the Shed has been designated as the Officer for giving 'Out-of-Charge' of the KBE.
- Before giving 'Out-of-Charge' he shall check the correctness of declaration and the fact that the goods imported fall under the category of goods allowed to be cleared against a KBE.
- He will verify the permission given by the Addl. / Joint Commissioner in respect of the goods covered under the list of goods permitted to be cleared under KBE.

- He shall also ensure that all other requirements relating to clearance of the goods have been complied with and all necessary documents alike Original Invoice, Copy of AWB, Copy of delivery order, Certificates, NOC from Port Health Officer / Assistant Drug Controller / Quarantine Officer, have been attached with the print-out of the assessed KBE.
- After satisfying that all requirements have been met, the Superintendent in-Charge of the Shed shall give Out of Charge Order for the KBE.
- Upon out of charge, Print of KBE Exchange Control Copy and Importer's Copy shall be taken along with the Order of Clearance.
- The Supdt shall sign both the KBE copies and hand over the same to the CHA and retain the Assessed Copy of BE WITH original Documents that were submitted by the Importer for obtaining Clearance along with the Customs copy of the Order of Clearance.
- All the Original Documents shall be sent to the designated Auditor in the Audit Department.

#### **8.47.3. Audit of KBE**

- Audit of all KBEs shall be carried out on the hard copies of the KBEs of the documents received daily from the Superintendent Shed on Daily basis.
- All KBEs Audited irrespective of the Fact correctly audited or not shall be indicated as audited "Y"
- In case of error in assessment recovery process shall be initiated manually
- Option "N" shall be chosen only when the KBE has not been received in the bundle.
- Such BEs shall be traced and audited.
- After completion of audit the disposal of the KBE shall be in the same manner as in case of a normal B.E.

#### ***System Appraised BE's***

- Where the Bill of Entry falls under the norms prescribed for System Appraisal, System shall appraise the BE, and submission, generate assessed copy of BE with Duty Payment Challan and Examination Order or Green Channel as the case may be.
- Duty is to be paid with the designated Bank

- Green Channel BEs are put up to AC's queue for approval of Green Channel.
- After approval of Green Channel or otherwise the BE is put up to Appraiser/ Supdt Shed for forwarding BE to shed Auditor.
- The Auditor after audit forwards the BE to Shed AO/ Supdt for Out-of-Charge.
- In cases where any discrepancy is found, BE is marked to Assessing Group for re-assessment

#### *Second Appraisalment BE*

- Where the Declaration of the Importer has been accepted by the AO, he shall pass the BE giving examination order or make suitable changes using F2 Menu Options in Option 1 on his Main Menu.
- After assessment by Appraiser the BE is put in Auditor's queue for Audit.
- Where the Assessable Value is over One Lakh the BE is put in the Queue of the AC for AC'S approval
- On completion of audit, BE (one copy of Assessed BE) with Challan (three copies) are generated and can be obtained from Service Center.
- The print of Assessed copy of BE with Challan can be taken by the CHA/Importer from his Office if filed through ICEGATE

#### *Duty Payment*

- Challan details are sent to Bank in message through the MES and vice versa.
- The bank sends details of duty collected to Customs online.
- CHA/Importer on receipt of Duty Payment Challan shall make the payment in the designated Bank.
- Duty paid on Manual Challan cannot be adjusted against EDI Bill.
- On receipt of duty payment message, the BE shall be put Examination queue for examination and out-of –charge.

#### **8.48. Examination of Goods**

- First Check BE is put in examination queue from Group AO/AC.
- The BE shall be registered in the Docks before examination.
- One copy of BE is generated at the Service Center and the same has to be submitted with required documents to the Shed Appraiser, which is then assigned to an Examining Officer for examination.

*Inspector /EO*

- The Inspector/EO to whom the BE has been assigned shall register the Bill and then enter the examination report after examination of the goods.
- Forward the BE to the Shed Appraiser/ Supdt, after entering examination report in the System and with the Examination report on Hard Copy of BE

*Shed Appraiser*

- In the case of 1<sup>st</sup> Check, the BE shall be forwarded to Assessing Group after entering Examination Report in the System as well as on Hard Copy of BE.
- SA on receipt of Examination report on the BE shall give Out-of Charge.
- On out-of-charge, System will generate two copies of BE with Examination Report and three copies of Out-of-Charge Order. Out-of-Charge Order No shall be assigned on BE also.
- SA shall sign and handover the Importer's Copy and the Exchange Control Copy of the BE to the CHA/Importer along with two copies of Out-of-Charge.
- The CHA shall approach the Custodian for delivery of the goods.
- Custodian shall issue Gate Pass for clearance of the goods on the basis of Out-of – Charge Order.
- The Shed Appraiser shall retain the original assessed Copy of BE along with Original Import documents and copy of the Out- of –Charge Order.
- All the BEs after Out-of Charge as retained by the Shed Appraiser should be arranged in the order of Out-of-Charge Order No and sent to MCD/ Audit etc.

**Assistant Commissioner (Shed)**

- The AC (shed) can reject Green Channel and order examination of cargo for which Green Channel Clearance had given by Group AC.
- AC (shed) can also approve Green Channel Clearance on request from CHA/Importer using option "Allow Manual GC" in his Main Menu in the System.

**8.49. Systems Manager (SM)**

Systems Manager is the overall in-charge of the System in an ICES location.

Systems Manager is responsible for the following.

- System Administration
- Performance Monitoring
- MIS Reports
- System Security consideration
- House Keeping Activities
- Management of Directories

System Administration mainly includes creation of Unix and Oracle User-ID's for Officers and other third parties engaged in designated roles in the clearance of a Bill of Entry, Appraising Group Management such as transfer of Officers from one group to another, change of AC/Auditor for a group etc.

Some BE related activities are namely cancel BE, cancellation of Out-of-Charge, Change Priority settings, Print BE from archival Database etc, can also be performed by Systems Manager.

- Disk Space utilization, Table Sizes, User Locks etc are covered in performance monitoring options of Systems Manager.
- Systems Manager can generate various MIS Reports for day-to-day use from the options in his menu.
- Systems Manager is responsible for the upkeep of all Directories such as CTH & CETH Notification Directory, Tariff Directory etc, through the option Management of Directories.
- Systems Manager can deny access to any identified User Role or Group of Users/ Activity/Function if so required.
- Systems Manager should keep track of maintenance of Hardware, Net working Equipments etc and co-ordinate with all the Agencies concerned.

#### **8.50. EXAMINER/INSPECTOR**

BE is put in Examination Queue after the AO/AC has ordered First Check on the BE and when the Importer/ CHA has made a request for filing BE u/s 46 or on payment of Duty under Second Appraisalment of BE.

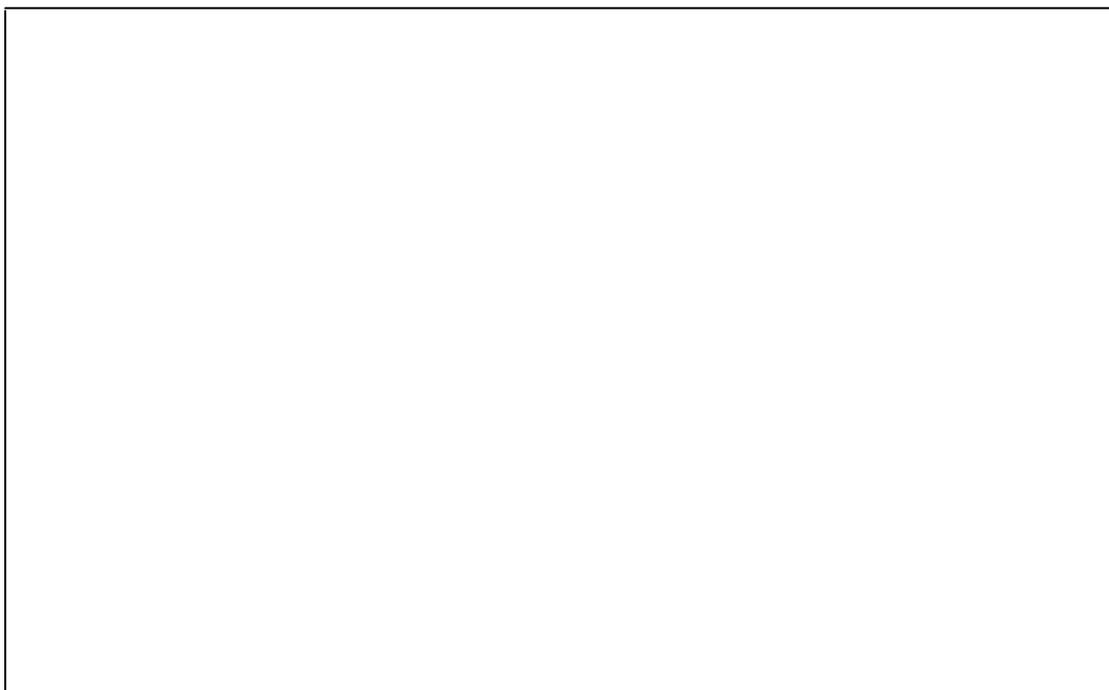
- CHA/Importer shall approach SA with all original Documents for examination of the Cargo
- Register the BE in the shed
- Make a request in writing for GC clearance if so requested
- AC Shed alone can approve Green Channel
- If approved, suitable entry shall be made by the AC and the BE forwarded to SA for allowing OOC.
- Enter the examination report after examination of the goods.
- Forward the BE to Shed Appraiser/ Superintendent after entering the report

#### **8.51. Shed Appraiser / Superintendent**

BEs marked for examination, are first put on the queue of SA. The following are the major activities of SA.

- Allocating Inspectors for Examination
- Giving comments on the Examination report prepared by the Inspector and giving Out-of-Charge
- Re-allocating BEs among Inspectors

On successful Login, the following Main Menu is displayed



**Indian Customs EDI System-Imports,ICES/I**

## Main Menu

- 1. Open BE for Out of Charge or for Clarification**
2. List BEs Allocated
3. Recall BE from Inspector's Queue for manual GC BEs
4. Enquiry >>
5. Bond Management
6. Change Password (Unix)
7. Change Password (Oracle)
8. Miscellaneous >>
9. Exit

Enter your choice: **1**

---

**8.51.1. Open BE for Out-of –Charge or for clarification**

- Enter the BE No to retrieve the same for further action
- On selection of BE, System displays the Examination Order given by Group/System (in the case of System Appraised BE) in a pop-up window.
- System also displays Exam Instruction if any which require compliance by Shed Appraiser
- Press <F4> to close window.
- The main Screen also displays the following details
- At the top of the screen the previous section from which the BE was sent to SA is displayed in the 'from' column
- Possible sections are – Audit, AC, Bank, AC- shed, and Inspector etc
- Exam Status
- This indicates the status of the BE, whether First Check or Second Check
- Green Channel

- This shows the status of the Green Channel recommendation of the Group/Shed AC

Further Details on individual aspects of BE can be seen through F2 Menu Options

- Comments Viewing Departmental comments and Adding further comments
- Comments on rep For entering comments on examination report entered by Examiner
- View - Viewing of BE details like Master, Invoice, Items, and Examination report, Instructions, Declared and appraised Value etc. Drop Menu for option View is shown below
- he Appraiser before out-of-charge shall compare details of items in BE with the related invoice, no mismatch or discrepancy shall exist.
- O/C- For giving Out –of-charge for BE
- Next BE - Next BE can be selected or BE forwarded to another section

#### **8.51.2. List BEs Allocated**

The list of BEs allocated to the officer for Examination/clarification is displayed.

#### **8.51.3. Recall BE from Inspector's Queue for manual GC BEs**

This option is used to recall BEs, which have been allowed Green Channel by AC (Shed) at later stage.

#### **8.51.4. Enquiry**

This option is used to view BE details with various options and combinations.

- Document Status  
This option enables viewing status of a particular Bill of Entry
- Enquiry by Airway Bill No/Bill of Lading No  
Displays the details of the BE covered by a AWB/BL

- Enquiry by CHA No  
Displays the list of all BEs filed by the CHA for a period less than 120 Days
- IGM Enquiry No  
Sub options for search available are  
Query on Submission – gives details of IGMs for a particular date  
Query on IGM Rotn No – Gives details of Specific IGM
- IEC Status at Sites- is used to verify the status of a particular IEC No

#### **8.51.5. Bond Management**

This option is used to view the Bond/BG details against a BE.

System warns against non-production of Bond when it is mandatory.

#### **8.51.6. Change Password (Unix)**

Allows the user to change his Password. Users should change password to maintain system security

#### **8.51.7. Change Password (Oracle)**

Allows the user to change his Oracle Password Users should change password to maintain system security

#### **8.51.8. Miscellaneous**

Various sub-menu options are available for retrieving BE details.

## Out of Charge f2 Option Shed Appraiser

Comments	Comment_on_rep	View	O/C	Next_BE	eXit_menu	Quit
Examination	Inland Cn	Exam_order	j, Delhi - 110096		Shed AO	
Select a BE from the list		exam_iMstr	[Exam.Status: ]			
		Dept_com		IEC	CHA	
		eXam_report				
	Inv. No.	BE_master	ange Rate	No.of Inv/Item		
		Invoice				
Item		Item_details	Pkgs	Gross Weight		
Description		Accessories				
Generic descr.		package_Weight				
Manufacturer		RSP details				
Item						
Description						
Generic descr.						
Manufacturer						
Examination order of Appraiser/AC						
Count: *0						
<OSC><DBG> <Replace>						

After Out-of –Charge in the System the Shed appraiser shall retain th Original Assessed Copy of the BE ,Invoice ,Challan, one copy of Out-of-Charge Order or such other documents that are necessary

### 8.52. Assistant Commissioner (Shed)

On successful login the following main menu is displayed on the screen Using up/down arrows move the cursor to the desired option and press <ENTER>.The following screen shall be displayed.

```

Indian Customs EDI System-Imports,ICES/I

Main Menu

1. Open BE for Out of Charge or for Clarification
2. List BEs Allocated
3. Allow Manual GC
4. Enquiry >>
5. Change Password (Unix)
6. Change Password (Oracle)
7. Reports - Screen >>
8. Reports - Print >>
9. Miscellaneous >>
10. Exit

Enter your choice: 1

[ NIC ]-----[ NIC ]

```

### 8.52.1. Open BE for out of charge or for clarification

F2 Menu options are available for various activities like replying to query raised by SA and Inspector, enter comments on report etc.

#### *List of BEs Allocated*

Lists B/E allocated to the officer as per queue.

These are for approval of Green Channel allowed by Group

#### *Allow Manual GC*

Using this option Manual Green Channel requests maybe allowed, where Group AC has not already rejected the Green Channel request

#### *Enquiry*

Retrieve BE details in view mode using various options.

Various sub menu options are available for retrieval of BE Details

- Document Status  
This option enables viewing status of a particular Bill of Entry
- Enquiry by Airway Bill No/Bill of Lading No  
Displays the details of the BE covered by a AWB/BL
- Enquiry by CHA No  
Displays the list of all BEs filed by the CHA for a period less than 120 Days
- Enquiry by Res/I User Job No  
Details/Status of the BE filed by a particular RES user can be obtained by giving the Job No
- IGM Enquiry No  
Sub options for search available are  
  
Query on Submission – gives details of IGMs for a particular date  
  
Query on IGM Rotn No – Gives details of Specific IGM
- IEC Status at Sites- is used to verify the status of a particular IEC No

### **8.52.2. Change Password (UNIX)**

Change the UNIX Password regularly using this option

### **8.52.3. Change Password (Oracle)**

Change Oracle Password regularly using this option

### *Reports Screen*

Using various sub-options different reports can be generated for viewing the same on screen.

*Reports Print*

Using various sub-options different reports can be printed directly.

*Miscellaneous*

Various sub menu options available in this option are listed below

- Be Movement
- View Be
- View Be From History
- Past Precedents-Online
- View Amendments
- Cancellation Of OOC (Option With SM)
- Documents Processed Officer wise
- No BEs To Be Activated By Appraiser
- BEs Submitted- By An Importer (Code-Wise)
- BEs Submitted By An Importer (Name-Wise)
- BE Movement History
- List Manual GC Clearance
- BE Reprint At Shed (OOO Copies)
- Previous Menu

**8.53. IMPORT FREIGHT OFFICER (Air)**

The Import Freight Officer (Air) shall be the Designated Officer for entering the following details.

1. Examination and Entry of Examination Report for KBE
2. Entry of IGM Number for prior IGMs
3. Entry of Segregation Report

Other options on the Main Menu are all view screen options

On successful login into the system the following display shall appear on the IFO screen. He may choose options for entering the Data as required.

```

Indian Customs EDI System-Imports,ICES/I

Main Menu

1. Open BE for Examination and Entry of Examination Report(KBE)
2. Entry of IGM Number for Prior IGMS(Air)
3. Entry of Segregation Report (Air)
4. Enquiry >>
5. Status of Consol IGM
6. Link Status of IGM Lines with Consol IGM
7. Change Password (Unix)
8. Change Password (Oracle)
9. Miscellaneous >>
10. Exit

Enter your choice: 4

[ NIC ]-----[ NIC ]

```

### 8.53.1. Kaccha Bill of Entry

#### Choosing Option1 from Main Menu

- IFO shall be the Proper Officer for Examination of Goods covered under KBE
- IFO shall enter the IGM number, date and year along with the Inward date (Flight date) in the KBE, as provided by the importer.
- The following Documents should be presented to IFO for examination of cargo along with assessed copy of BE and Duty paid Challan, if any.
  - (e) Airway bill
  - (f) Invoice and Packing list
  - (g) Delivery Order, clearly mentioning the IGM no., Flight No. and date
  - (h) Other required documents such as Certificate / NOC from the Port Health Officer / Assistant Drug Controller / Plant Quarantine Officer, etc. wherever required.
- IFO shall conduct examination of Cargo covered under Kaccha BE.
- The IFO shall check the AWB No. and Date, HAWB No. and Date from the hard copy of the IGM presented by the Carrier.

He shall scrutinize the documents submitted by the importer / CHA and if the details are correct, shall update the field of IGM No. / Year and Inward Date (Flight Date) in the KBE on screen and enter the examination report.

### 8.53.2. Entry of IGM NO:

- **Option 2 of the Main Menu**
- In the case of the filing of IGM before arrival of Air craft the IFO shall enter the Flt No, Flt Date and Time of arrival of the Aircraft in the System

### **8.53.3. Entry of Segregation Report**

- **Option 3 of the Main Menu**

The details of the segregation report, prepared jointly by custodian, Airline and IFO in respect cargo landed from the aircraft, shall be entered in the system by the IFO against respective IGM No based on the parameters: Flt No., Flt date/time, IGM No/ year, date & time of starting of segregation and date & time of completion of segregation report.

Following detail from the segregation report shall be entered in the system:

1. Total Number of packages manifested
2. Total number of packages received
3. Number of packages short landed
4. Number of packages excess landed
5. Total number of packages for delivery at the port
6. Number of packages for transshipment
7. Number packages for airlines stores
8. Number of packages for diplomatic mails
9. Number of packages for valuables
10. Number of packages for perishables/delivery on KBE
8. Number of packages landed in damaged condition

#### **Details of short landing**

MAWB No.

HAWB No.

Number of packages Manifested

Number of packages arrived

#### **Details of excess landing**

MAWB No.

HAWB No.

Number of packages manifested

Number of packages landed

Number of packages without any label.

**Details of damaged cargo**

MAWB No.

HAWB No.

Package No.

Marked weight

Actual weight

- The Segregation Report would be very important information, in regularization and correction/amendment of IGM
- The IFO without delay should correctly enter the same in the system.

**8.54. GATE OFFICER**

- The Gate officer has the role of entry of details at the time of delivery of goods from the gate of the Shed.
- After entry of details the Gate Officer shall retain the gate copy of the Order of Clearance issued by the Appraiser / Superintendent the time of out of charge.

**8.55. RISK MANAGEMENT SYSTEM**

The Risk Management System (RMS) application is a sophisticated software system developed for Central Board of Excise and Customs (CBEC).

RMS is the application that has been designed keeping the goals of CBEC in mind. The RMS application aims at detecting fraudulent shipments, ensuring that Customs interventions are focused on high-risk transactions. RMS enables the application of management policies, procedures and practices to the tasks of identifying, analyzing, assessing, treating and monitoring risks.

The overall approach of RMS is to trust compliant clients and focus resources on non-compliant clients and transactions involving higher risks. The Risk Management Programme has the following essential characteristics:

- It is nationally focused and consistent.
- It is flexible to address both national as well as regional issues.
- It has the capability to address Strategic and Tactical dimensions of risk.
- It is ensuring Customs responses calibrated to the client compliance levels.
- It has guarantee accountability, transparency, and speed.
- It supports the fulfillment of organizational mandate / goals.
- It supports other programs such as Post clearance Audit, Client assistance, education, and any other initiatives that the department may launch to meet the emerging challenges.
- It is scalable to meet future needs.
- It ensures feedback for regular review and monitoring.

The aspect of feedback and regular review and monitoring and a mechanism for compliance measurement is also incorporated in the programme.

#### **8.56. Objectives of the RMS Application**

The RMS application is developed keeping the following objectives in mind:

- Facilitating the importers and exporters by allowing fast clearance of goods.
- Facilitating compliant clients having impeccable track records by allowing green channel entries for importers and exporters.
- Uniformly applying Customs rules and regulations throughout the country through system scrutiny.

- Reorganizing the work procedure by simplifying them to suit international standards.
- Controlling management and collection of Customs Duties quickly and actively.
- Improving and developing quality information for the use by senior management.
- Controlling economic frauds and duty evasions by using advanced system tools and effective redeployment of manpower.
- Keeping a close watch on the movement of contrabands and protecting national economy from unfair trade practices.
- Developing a flexible and robust system capable of meeting the changing needs of the department.
- Improving and developing quality information, through report, for the use by senior management.
- Controlling economic frauds and duty evasions by using this application.

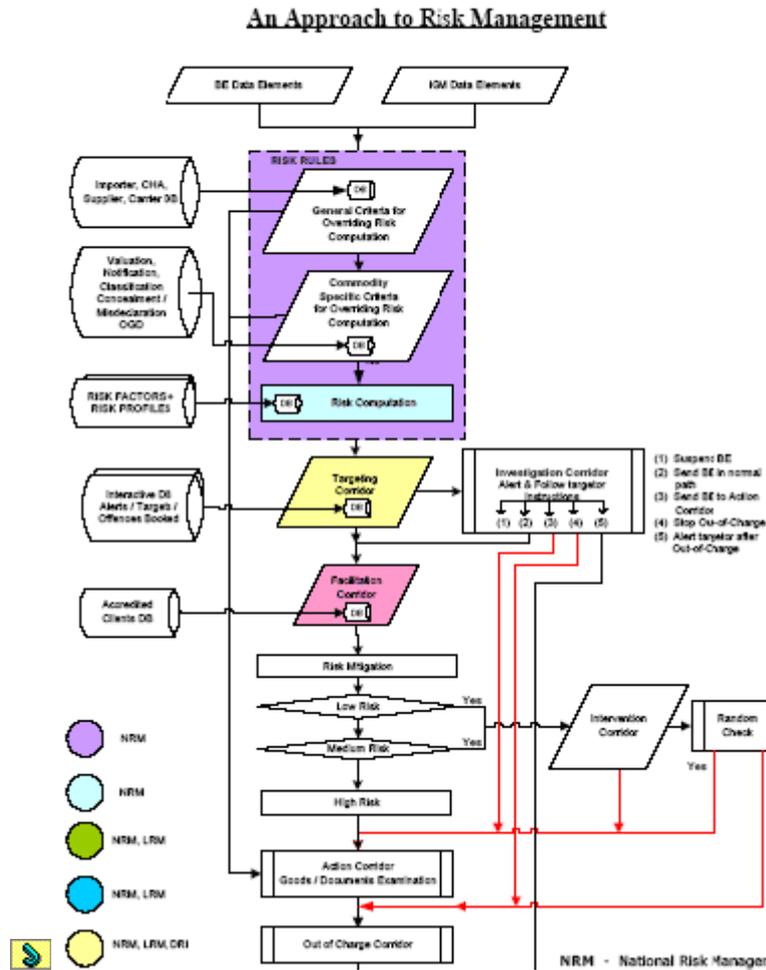
#### **8.57. Scope of the Application**

- Imports
- Exports
- Transit goods
- Temporary admissions
- The diverse requirements at airports, air cargos, seaports and territorial borders.

#### **8.58. Overview of the RMS Application**

The **RMS** application is a self-assessment portal that has interfaces with ICES systems, which have been already implemented at CBEC. The **RMS** portal is used to process the Bill of Entries (BE) submitted in connection with import or export consignments to identify the risks involved in imports or exports of the specific goods.

An overall approach to the [Risk](#) Management is controlled through the seven corridors.

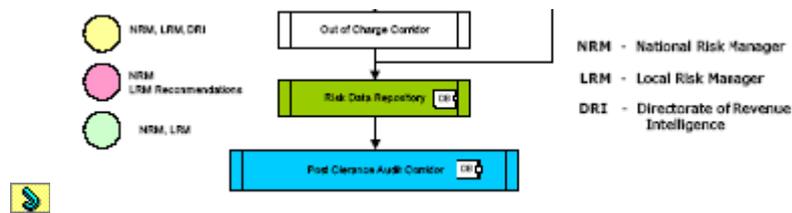


**Figure 1: An Approach to the RMS Application**

A Risk Corridor is the virtual passageway where business rules are applied to each transaction based on the parameters related to Imports and Exports. The parameters in context of the Imports are Importer, Supplier, Commodity (subsuming classification, valuation and OGD dimensions), Clearing Agent, and Carrier. The Risk Corridors for Import are:

- Risk Evaluation Corridor
- Target Corridor
- Intervention Corridor
- Facilitation Corridor
- Risk Mitigation Corridor
- Random Hit Corridor
- Out of Charge Corridor

The RMS portal sends Out of Charge of each BE as an output to the other connected systems such as NIC.



**Figure 2**

The Out of Charge Corridor is further sent to the Risk Data Registry and then to the Post Clearance Audit (PCA) Corridor. The types of audits that happen in the PCA corridor are:

- Transactional Audit
- Strategic Audit
- Types Of Transaction Audit
- Random Corridor Trace
- Risk Rules
- Intervention

### 8.59. Login Procedures

Login feature is used to log on to the RMS portal. To authenticate, the user or the administrator must enter their Username, and Password provided for their respective user accounts, and then click the Login button. If the information entered is incorrect, the portal will display the appropriate error message. If the information entered is correct, then the user will be allowed to access the RMS portal according to his/her privilege provided by the administrator.

To access the RMS application steps followed are:

1. Open the browser window and enter the RMS application URL i.e. <http://servername:port number/cbec>. The Login screen of the portal appears.
2. Enter valid Login ID and Password.
3. Click **Login** to open the Home page of the application. On clicking the **Login** button, the portal authenticates the given Login ID & Password. If the Id &

password are valid, the **Home** page of the portal appears with the privileged features enabled. If the Id & password are invalid, an error message “**Invalid Login Id/ Password**” is displayed. Try the steps again with a valid Id & password to access the application.

#### **8.60. The RMS Procedure**

With the introduction of the RMS, the practice of routine assessment, concurrent audit and examination of almost all Bills of Entry has been discontinued and the focus now is on quality assessment, examination and Post Clearance Audit of Bills of Entry selected by the Risk Management System.

Bills of Entry and IGMs filed electronically into ICES through the Service Centre or the ICEGATE will be transmitted by ICES to the RMS. The RMS will process the data through a series of steps and produce an electronic output for the ICES. This output will determine whether the Bill of Entry will be taken-up for action (appraisal or examination or both) or be cleared after payment of duty and Out of Charge directly, without any assessment and examination. Also where necessary, RMS will provide instructions for Appraising Officer, Examining Officer or the Out-of-Charge Officer. It needs to be noted that the decisions communicated by the RMS on the need for assessment and/or examination and the appraising and examination instructions communicated by the RMS have to be followed by the field formations. It is possible that in a few cases, the field formations might decide to apply a particular treatment to the BE which is at variance with the decision received from the RMS owing to risks which are not factored in the RMS. Such a course of action shall however be taken only with the prior approval of the jurisdictional Commissioner of Customs or an officer authorized by him for this purpose, who shall not be below the rank of Additional/Joint Commissioner of Customs, and after recording the reasons for the same. A brief remark on the reasons and the particulars of Commissioner's authorization should be made by the officer examining the goods in the departmental comments in the EDI system.

The existing system of concurrent audit has been abolished and replaced by a Post-Clearance Compliance Verification (Audit) function. The objective of the Post

Clearance Verification Programme is to monitor, maintain and enhance compliance levels, while reducing the dwell time of cargo. The RMS will select the bills of entry for audit, after clearance of the goods, and these selected bills of entry will be directed to the audit officers for scrutiny by the EDI system. In case any possible short levies are noticed, the officers will issue a Consultative Letter setting out the grounds for their view to the Importers/CHAs. This is intended to give the importers an opportunity to voluntarily comply and pay the duty difference if they agree with the department's point of view. In case there is no agreement, the formal processes of demand notices, adjudication etc. would follow. The auditors are specifically required to scrutinize declarations with reference to data quality and advise the importers/CHAs suitably where the quality of their declarations is found deficient. Such advice is expected to be followed and will be monitored by the local risk managers. It hardly needs emphasis that compliance in all its dimensions is in the mutual interest of the Government and the Trade and Industry and it will enable the government to give increasing levels of facilitation.

The national management of the Risk Management System is the responsibility of the Risk Management Division, established under the Directorate General of Systems and Data Management. There will be a local Risk Management System catering to the needs of the Custom Houses. The local Risk Management System will carry out the live processing of the Bills of Entry and Import General Manifests etc. The Commissioners of Customs are required to appoint the administrator for the 'Local Risk Management System' at the level of the Joint/Additional Commissioner for assigning user privileges on the Local Risk Management System.

#### **8.61. Accredited Clients Programme (ACP)**

The "Accredited Client's Programme" (ACP) is a major component of the Risk Management System (RMS). The objective of the programme is to grant assured facilitation to importers who have demonstrated capacity and willingness to comply with the laws Customs department is required to implement. With the implementation of the Risk Management System, this programme replaced all existing schemes for facilitation in the sites where RMS has been implemented.

Importers registered by the department as “**Accredited Clients**” under the Accredited Clients Programme will form a separate category to which assured facilitation would be provided. Except for a small percentage of consignments selected on a random basis by the RMS, or cases where specific intelligence is available or where a specifically observed pattern of non-compliance is required to be addressed, the Accredited Clients will be allowed clearance on the basis of self assessment i.e. as a matter of course, clearance would be allowed on the basis of their declarations, and without examination of goods. Further, this benefit would be available to the registered Accredited Clients at all the ports in the country where EDI and the RMS are operational.

The importers desirous of availing the facility as “Accredited Clients” are required to apply for registration under the scheme using the Application form prescribed for this purpose. Importers meeting the following criteria shall be eligible under the Accredited Clients Programme:

- (i) They should have imported goods valued at Rs Ten Crores [assessable value] in the previous financial year; or paid more than Rs One Crore of Customs duty in the previous financial year; or, in the case of importers who are also Central Excise assesseees, paid Central Excise Duties over Rs. One Crore from the Personal Ledger Account in the previous financial year.
- (ii) They should have filed at least 25 Bills of Entry in the previous financial year in one or more Indian Customs stations.
- (iii) They should have no cases of Customs, Central Excise or Service Tax booked against them in the previous three financial years. Cases booked would imply that there should be at least a show cause notice, invoking penal provisions, issued to an importer.
- (iv) They should also not have any cases booked under any of the Allied Acts being implemented by Customs.

- (v) The quality of the submissions made by the applicants to Customs should be good as measured by the number of amendments made in the bills of entry submitted by them in relation to classification of goods, valuation and claim for exemption benefits. The number of such amendments should not have exceeded 20% of the bills of entry during the previous financial year.
- (vi) They should have no duty demands pending on account of non-fulfillment of Export obligation.
- (vii) They should have reliable systems of record keeping and internal controls and their accounting systems should conform to recognized standards of accounting. They are required to provide the necessary certificate from their Chartered Accountants in this regard as per format given in the Application form.

For qualifying for the ACP, the applicants will have to satisfy any one of the criteria set out at serial number (i) and all the other criteria set out above. Further, the accreditation would initially be valid for a period of one year and would be renewable thereafter upon a review of the compliance record of the Accredited Client.

The **Risk Management Division** administers the Accredited Clients Programme. The list of Accredited Clients will be maintained centrally in the Risk Management System.

The importers who have been granted the status of Accredited Clients will be required to maintain high levels of compliance. It will be closely monitored by the Risk Management Division in co-ordination with the Commissioners of Customs and where compliance levels fall, the importer will first be informed for improvement. In case of persistent non compliance, the importer may be deregistered under the Accredited Client's Programme.

In order to ensure that there is no misuse of the programme by imposters (persons who assume the Accredited Client's name and identity), it would be mandatory for the accredited clients under the ACP to file bills of entry using digital signatures.

Where the Accredited Clients are filing their documents through their Custom House Agents, they must advise their Custom House Agents to file their bills of entry using digital signatures granted to them by the department.

Additionally, all bills of entry must be filed by Accredited Clients through the ICEGATE facility and duty in respect of these consignments must be paid through such Clients' bank account at the designated bank.

### **8.62. INTELLIGENCE SUPPORT SYSTEM**

The Intelligence Support system (ISS) is a tool developed by DRI. It is very useful for development of intelligence, analysis of trends and assistance in investigations. Presently the system is working on the basis of a database in respect of import and export received from 30 EDI locations. The following are modules available in the ISS:

- **Import:** This module gives access to all the live and consignments cleared (Out-of-Charge). The details include importer details (name/IEC), CHA details (Name/Code), Consignment details (Description, CTH, quantity, model, brand name), Country of Origin, Port of shipment, Valuation details (Assessable value with breakup of various parameters, unit price), Duty details (aggregate duty with breakup of various duties) etc. The module also contains details regarding clearances under various export incentive schemes along with duty foregone. Separate retrievals for imports under SAFTA, ISFTA and those suffering anti-dumping duty have been provided.
  
- **Export:** This module gives access to all the live consignments allowed for export (Let Export). The details include exporter details (name/IEC), CHA details (Name/Code), Consignment details (Description, RITC, quantity), Country of destination, Port of destination, Valuation details (FOB value, unit price). Details of exports under various export incentive schemes and the

extent of export benefit claimed by the exporter are also available. Separate retrievals for exports under DEEC, drawback, DEPB have been provided.

- **IGM:** This module contains details of the Import General Manifest (IGM) filed by shipping lines/Airlines. This includes details regarding the importer, the consignment (description, quantity), port of loading, port of destination, vessel/aircraft & voyage/flight details, container details, airlines/shipping line details, bills of lading/airway bills etc.
- **EGM:** This module contains details of the Export General Manifest (EGM) filed by shipping lines/Airlines. This includes details regarding the exporter, the consignment (description, quantity), port of export, destination country, port of destination, aircraft & flight details, container details, airlines details etc.
- **IEC:** This module provides information about Importer Exporter Codes (IECs) granted by DGFT. The information includes importer details, addresses, category of importer etc. The information available is about IECs registered on all India basis by DGFT and is updated on a periodic basis.
- **Licenses:** Information with respect of licenses issued by DGFT would be available. This information would include License details ( License holder, type of license – DEPB, DEEC, DFRC, details of benefit granted, validity etc), registration details ( date of registration, duty benefit entitled), debit details (debit by way of bill of entry or Release Advice), Release Advice details ( RA No., Port of issue, duty entitlement).
- **Non EDI data:** This module is in its final stage and will be made available on the system shortly. When introduced this module will give information in respect of non EDI transactions effected at most of the Custom houses in the Country.

The retrieval of the above data is in terms of conditional queries ie queries can be built as per requirement of the user. As an illustration, if a user wants data for a specified period for a particular importer importing a specific commodity whose price is below a certain value, these conditions can be built in the query for specific results. Online help has been provided for ease of use.

### **8.63 DRI PROFILING SYSTEM (DRIPS)**

DRIPS is intended to be the central depository of all India Customs offence data. At present all DRI cases detected on or after 1<sup>st</sup> April 2002 have been entered into the database. The software allows data entry and access to all aspects of offences viz. detection, investigation, issue of show cause notice, adjudication/settlement, appeals, Preventive detention, rewards etc. The software can also be used to generate various reports, DRI II/III forms. Recently the facility to generate CEIB report from DRIPS has been added to the system. Another facility to record details of such investigations, which are not culminating in, to cases have been incorporated.

The access being provided to each EDI customs location will enable them to enter data with regard to their respective location and access the same. Each location can also access data related to other formations grouped in the following categories:

CBEC: Consolidated Access to all India data (ie DRI & all Customs formations)

ALL Customs: Consolidated Access to all Customs formations except DRI.

DRI HQ: Access to all India DRI data.

The access of data with regard to other formations is in form of profiles of accused, profiles of cases booked and adhoc queries regarding different facets of the case.

Access to ISS will significantly enhance the capabilities of Customs formations in analyzing their import/export data and to detect Commercial frauds. It will also

provide a powerful tool for assistance in investigations. Access to DRIPS will create a single window access to all India Customs offence data. However it may be noted that effectiveness of DRIPS depends on complete, timely and error-free data entry.

It may also be pointed out that ISS data is highly sensitive and prone to misuse owing to nature of data. It is the responsibility of each location to ensure security of data and monitor access. It is ensured that access to the computer on which the access will be available be restricted. Further access may be allowed to a senior officer who can take responsibility of managing access to ISS.

## **CHAPTER - NINE**

### **9. TRANSIT AND TRANSHIPMENT OF GOODS**

#### **9.1. PRELIMINARY**

The Import and Export of goods to and from our country takes place through various Customs Ports, Customs Airports and Land Customs Stations situated along the frontiers across the country. Every day, numerous Indian & Foreign vessels, aircrafts and vehicles call at these customs stations for the purpose of bringing in imported goods and taking out goods produced in India. Owing to wide ranging factors such as available facilities, operational priorities and conveniences, trade norms, business competition, International transportation laws etc., these conveyances carry goods which are diversified in terms of variety, quantum and destination, in a single journey itself.

The imported goods on board a conveyance calling at any of the Customs station can be classified into, two broad categories -

1) Goods to be retained on board to be carried to other Indian or foreign destination. Such goods are known as Transit goods.

2) Goods to be unloaded at the port/airport of call. This can be further subdivided into two categories-

- (i) goods unloaded to be Custom cleared at the port/airport of call, and
- (ii) goods unloaded at port of call but destined further to some other Indian or foreign port/airport. Such goods are known as Transhipment goods.

The provisions dealing with the Transit and Transhipment goods have been outlined in Chapter VIII of the Customs Act, 1962.

Section 52 of the Customs Act, 1962 specifically excludes a) baggage, b) goods imported by post and c) stores; from the purview of these provisions, which have been covered under Chapter XI of the Act as a special provision.

#### **9.2. GOODS IN TRANSIT**

Section 53 of the Customs Act, 1962, provides that goods mentioned in an Import Report or an Import Manifest, as goods for transit in the same conveyance to any Customs Station in India or to any place outside India, may be allowed to be so transited without payment of duty. This Section, however, also makes it clear that any prohibitions / restrictions in force , on the bringing into India or taking out of India of any goods, shall apply to such goods.

### **9.3. TRANSHIPMENT OF GOODS**

Section 54 of the Customs Act, outlines the provisions for transhipment of imported goods to a place in India or outside India.

Sub-clause (1) of section 54 stipulates that any person intending to Tranship any goods, which are imported into a Customs Station, shall present a “Bill of Transhipment” in respect of such goods to the proper officer. It also provides that, if the goods are being transhipped under an International Treaty or bilateral agreement between the Govt. of India and the Government of a foreign country, a “Declaration for Transhipment” instead of a “Bill of Transhipment” shall be presented to the proper officer.

Sub-clause (2) of the Section 54 provides that if the goods are intended to be transhipped to a place outside India, the same may be allowed without payment of duty but the prohibitions / restrictions on bringing into India or taking out of India of any goods ,shall apply to such goods.

Sub-clause (3) of the Section 54 refers to the goods imported into a Customs Station but whose transhipment is with the object of despatching the same to any Customs Station within India. The Section stipulates that if any imported goods are intended for Transhipment to any Customs Station in India, the proper officer may allow the goods to be transhipped without payment of duty, if he is satisfied that the goods are bona-fide intended for transhipment to such Customs station and subject to the prescribed conditions for the due arrival of such goods at the customs station to which transhipment is allowed.

#### **9.4. Conditions Of Transhipment**

Section 54 of the Customs Act, 1962, is to be read with the regulations made by the Central Government under Section 157 of the Customs Act, 1962. These regulations are reproduced below –

#### **9.5. The Goods Imported (Conditions of Transhipment) Regulations, 1995**

In exercise of the powers conferred by section 157, read with sub-section (3) of section 54 and section 158 of the Customs Act, 1962-(52 of 1962), and in supersession of the Imported Goods (Conditions of Transhipment) Regulations, 1984, the Central Board of Excise and Customs hereby makes the following regulations, namely: -

**1. Short title and commencement.** – (1) These regulations may be called the Goods Imported (Conditions of Transhipment) Regulations, 1995.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.** – In these regulations, unless the context otherwise, requires, -

(a) “Custodian” means a person approved by the Commissioner of Customs for the purpose of section 45 of the Customs Act, 1962 (52 of 1962);

(b) “declarant” means –

(i) the person incharge of the conveyance in which the goods are imported, or his agent, or

(ii) the person authorised to tranship the goods by the exporter of the goods or by an agent acting on behalf of such exporter;

(c) “transporter” means the Railways, the owner of the vessel, the owner of the aircraft or, as the case may be, the owner of the motor vehicle, in which the goods imported are transported for the purpose of transhipment.

**3. Conditions governing transhipment.** – Transhipment shall be allowed under these regulations on the conditions that –

(a) the declarant makes an application to the proper officer of the Customs seeking permission for transhipment of the goods imported;

(b) the goods imported are mentioned in the Import Manifest or the Import Report, as the case may be, as for transshipment to any customs station;

(c) such transshipment is by rail, a vessel, an aircraft or a motor vehicle or by a combination of two or more of these modes of transport:

Provided that if the goods imported are sought to be transhipped by a motor vehicle, such transshipment shall be made only on permission in writing of the Commissioner of Customs; and such Commissioner while permitting such transshipment shall have regard to the following factors, namely: -

- (i) the nature of the goods imported to be transhipped,
- (ii) the amount of revenue involved, and
- (iii) any other factor which the Commissioner of Customs may deem relevant.

Provided further that the Commissioner of Customs shall, before refusing any such application for permission for transshipment of goods imported by a motor vehicle, give a reasonable opportunity of being heard to the declarant.

(d) the declarant, the transporter or, as the case may be, the custodian executes a bond in such form with or without surety or security or with both as the Commissioner of Customs may specify for-

- (i) Completion of the transshipment of the goods imported to the Customs station of destination; or
- (ii) the transfer of the imported goods to another mode of transport during the course of their transshipment:

Provided that if the transshipment to the customs station of destination is by more than one mode of transport, the Commissioner of Customs may accept a single bond for the transshipment by such different modes:

Provided further that the transfer from one mode of transport to another of the goods imported during the course of their transshipment may be under the supervision of a proper officer of Customs and at such places and subject to such conditions as may be specified by the Commissioner of Customs at the customs station of import:

Provided also that the Commissioner of Customs may permit the execution of a general bond in such form and with such surety or security or with both as that Commissioner may deem, fit for the aforesaid purposes.

**4. Terms of the bond to be executed –**

The term of the bond shall be that if the person executing the bond produces to the proper officer, within one month or within such extended period as such officer may allow, a certificate issued by the proper officer at the customs station of transfer as specified in the said bond or at the customs station of destination specified in the said bond and situated at or nearest to the place of destination that the imported goods have been transferred or produced at the station as the case may be, the bond shall stand discharged; but otherwise an amount equal to the value, as the case may be, the market price of the imported goods in respect of which the said certificate is not produced shall stand forfeited.

**5. Payment of fees –**

A fee of twenty rupees in respect of each application for transshipment of the goods imported shall be charged for all customs stations.

**6. Imported goods transferred to be sealed -**

- (1) Before the goods imported are transhipped, the proper officer shall, -
  - (a) in the case of transshipment by rail, seal the containers with the Customs Department's seal in the presence of an authorised representative of the declarant, the transporter or, as the case may be, custodian;
  - (b) in the case of transshipment by an aircraft, a vessel or a motor vehicle, place all small packages containing the imported goods in durable bags and seal the bags with the Customs Department's seal in the presence of an authorised representative of the declarant, the transporter or, as the case may be, custodian.
- (2) The materials and the bags required for sealing the containers or bags under sub-regulation (1) shall be provided by, and at the cost of the declarant or the transporter or, as the case may be, the custodian.

**[Notfn. No. 61/95-Cus(NT) dtd.,. 28.09.1995, as amended by Notfn.No. 31/98 Cus (NT) dtd. 02.06.1998.]**

**9.6. Form of application for Permission of Tranship**

To

Dated.....

The Commissioner of Customs

.....

Sir,

Be pleased to grant permission to tranship/re-ship from the .....arrived from ..... on ..... the undermentioned goods for exportation per ..... to..... without payment of duty (if any).

Marks and Number Remarks of packages	Number of description of packages	Contents of packages
--	--------------------------------------	-------------------------

Transhipment / re-shipment fee of  
Rs.....received.

Shroff,  
Commissioner of

Customs

**(Reverse )**

Preventive Officer Mr.....to board the Exporting ship

Do.

Do.

Importing ship

.....

Commissioner of  
Customs

Marks and number Tally

Packages received on board.

Officer

Preventive

Ship's Officer

**Transshipment Permit**

To

The Commissioner of Customs,

.....

Sir,

Please permit to be transhipped from S.S.....arrived here on  
.....(Date) .....under.....colours from ....., the undermentioned  
goods for Exportation per S. S.....under .....colours  
to.....

Mark s and	Number s and	Descripti on of	Weight or	Originally manifested	Space for	Space for	Space for Import
---------------	-----------------	--------------------	--------------	--------------------------	--------------	--------------	---------------------

No.	kind of packages	goods	quantity	for transshipment under Rot No. Line No.	P.C.'s Stamps	Cashier's Stamps	Department Stamp
1	2	3	4	5	6	7	8

Customs

House

Orders

We do declare the contents of this application to be truly stated.

Space for

Court fee

Stamps

Signature of Transshipment Agent/Importer

**[ C.B.R. Notification No. 232-Cus. dated the 2<sup>nd</sup> November, 1957. ]**

**6. Transshipment of Imported Goods – appointment of Customs stations**

Notification No. 50-Customs (NT) dated 6<sup>th</sup> September, 1995 has been issued appointing all the Customs ports including Inland Container Depots (ICDs) and Customs Airports notified under section 7 of the Customs Act, 1962 as places for transshipment of imported goods.

2. As you are aware, in terms of sub-section (3) to section 54 of the Customs Act, 1962, goods imported into a Customs Port or airport and mentioned in the Indian Ports Act 1908 or the Customs airport at Bombay, Calcutta, Delhi or Madras has to be allowed transshipment, without payment of duty, by the proper officer. This facility of transshipment without payment of duty, is also available to imported goods meant for any other Customs ports including an Inland Container Depot, or Customs airports, notified by the Central Board of Excise & Customs in this behalf. Imported

goods can also be allowed transshipment subject to satisfaction of the proper officer that these are bona-fide intended for transshipment.

3. Notifications have been issued in the past appointing some of the Customs port/airports notified under section 7 of the Customs Act, 1962 as places for transshipment. However, these Notifications do not cover all the airport/ports including ICDs and in respect of the airports / ports including ICDs not covered by these notifications, the transshipment is being allowed by the proper officer, on case to case basis.

4. Notification No. 50/95-Cus, (NT) has now been issued with an intention to bring uniformity in the matter of transshipment & for the sale of administrative convenience. In terms of this notification all the Customs Port including ICDs & customs airports notified u/s 7 of the Act, 1962 would be entitled for automatic transshipment of imported goods.

5. The Notifications as mentioned in annexure to this letter by which airport at Bangalore & ICDs at Pragati Maiden (New Delhi), Bangalore Cantt, Anabardhi Railway Station (AP), Coimbatore (TN), Dhanbari Kalan ( Ludhiana, Punjab), New Guwahati (Assam), Reddipalam (AP) Amin Gaon (Guwahati, Assam) & Sanganer (Jaipur, Rajasthan) have been declared as place for transshipment are also being rescinded.

**[ Circular No. 102/95 dated 22/9/95 in F. No. 434/31/95-Cus-IV ]**

### **9.7. TRANSHIPMENT OF CONTAINERISED IMPORTED GOODS – PROCEDURE REGARDING**

It is notified for information of all Steamer Agents, CHAs, importers and all other concerned that to facilitate the transshipment of imported goods/cargo emanating from one port to be shipped to other ports including foreign ports, the following procedure is prescribed.

#### **9.7.1. Transshipment of imported goods by vessel: -**

Wherein any goods imported at Jawahar Custom House are intended for transshipment in terms of Section 54 of the Customs Act, a application for transshipment shall be presented to the proper officer. Such goods imported as for

transhipment to any place outside India are required to be duly entered in the Import Manifest required to be filed as per provisions of Section 30, of the Customs Act, 1962. The transhipment shall be allowed subject to observance of the conditions as prescribed in "Goods Imported Conditions of Transhipment Regulations 1995" issued vide Notification No. 61/95-CUS NT dated 28.9.95 as amended by Section 111/18.10.95.

The application for transhipment of the imported goods can be made either by the master of vessel/aircraft, the steamer agent, a consolidation agent, a container agent or any other person duly authorised in this behalf by the foreign supplier or his agent.

No goods shall be transhipped unless and until –

- a tranship permit covering the same is produced (Appendix A)
- The transhipment fees, if any, payable in respect thereof have been paid;
- An order to let tranship has been obtained, in writing, on the tranship permit.

Transhipment is to be effected within two months of the final entry inward of the importing ship. Goods not transhipped within two months or such extended period as may be allowed by Commissioner of Customs for reasons to be recorded in writing shall be disposed off by public auction.

The application shall be filed on 5 copies.

For transhipment to a foreign port, the above application will be presented to the receiving clerk in the Import Department of the concerned Custom House, who, after verification that the vessel, to which the goods are to be transhipped, has been duly entered outward for the ports for which the goods are to be transhipped, will make it over to the Manifest noter. The Manifest Noter shall verify that the particulars of the goods furnished in the application correspond with those entered in the Manifest and also that the port of destination is not included in the list of ports to which transhipment is prohibited. The Noter shall also verify whether the articles specified in the transhipment application are such, as are suspected to come under any one of those, the transhipment of which is prohibited. Thereafter, he will note in the Manifest, opposite the relative item or items the name of the vessel, to which and the person or persons by whom the goods are being transhipped and the date of entry and enter the total number of containers in words above his signature in all

copies of the application. He will also calculate and note in all copies of the application the total amount of supervision fee recoverable at the rates prescribed and submit the application for the Assistant Commissioner's permission.

The original copy shall be retained in the Import Section and the other copies sent to Superintendent (Preventive) in the container cell who will depute an officer to supervise the transshipment of goods after making necessary entries in a register to be maintained for the purpose. The Preventive Officer deputed supervise the goods will, after the shipment in whole or in part endorse the applications to show the actual quantity of goods shipped and return the duplicate to the Import Department. The Triplicate copy duly endorsed shall be forwarded to the Container Cell after making for records. The quadruplicate will be given to the master of vessel for filing along with the EGM in the case of transshipment to the Indian Port. The fifth copy will be handed over to the applicant for his record. The procedure to be followed in such cases will be the same as above, except that the Quadruplicate copy will be handed over to the Master of the Vessel for Production at the Indian port of discharge along with EGM to the proper officer.

### **9.7.2. Transshipment of Shut-out or Relanded Goods**

When the whole of the Containerised goods/the goods, the transshipment of which was permitted are not eventually shipped by the vessel originally designated but is intended to shipped by another vessel, the transshipment will be permitted after amendment of the name of the exporting vessel without any further transshipment fee, whether the goods were supervised or not, provided the port of destination remains the same. No amendments fee will charged for the first two such amendments.

When any part of the goods for which a transshipment order was issued is not eventually shipped by the original exporting vessel but is intended to be shipped by another vessel, a fresh application should be filed for such portion of the goods. This will be dealt with in accordance with the procedure detailed in the para above except that after comparing the application with the first set and verifying previous payment of transshipment fee and making necessary endorsement on both sets, it is passed without further transshipment fee being levied.

### **9.7.3. Urgent Transshipment-procedure**

The procedure to be followed in respect of transshipment goods (the transshipment of goods which is prohibited) from one vessel to another, on Sundays and on other holidays and when the receiving vessel is to sail within 24 hours of arrival of the discharging vessel, is as follows: -

The transshipment may be effected within the said period with permission from Assistant/Dy. Commissioner (Imports) or Assistant/Dy. Commissioner (Preventive) and under the supervision of the Preventive Officer on board in anticipation of Transshipment permit and payment of the transshipment fees if any, payable in respect thereof provided that the Steamer Agent execute a guarantee on stamp paper with a list of cargo to be transhipped in duplicate, undertaking to complete the transshipment formalities immediately after sailing of the vessel. Guarantee papers are retained in the Preventive Office and a separate note sheet, with one copy of list of transshipment cargo, will be forwarded to Preventive Officer on board to supervise the transshipment cargo as per list and endorse the papers to Import Department immediately.

The copies of lists received in the Import Department will be retained by the Manifest Noter concerned until the usual transshipment applications are filed and the Export Duty or cess or fees if any are leviable, are paid or noted in the memorandum of fees, as the case may be.

Should there be any delay in filing the ordinary application for transshipment or in the payment of export duty or cess or fees, as the case may be, the matter may be reported to the Preventive Department to take action in accordance with the undertaking.

In case of free cargo coming from Customs Port and of dutiable goods intended for Customs Ports, urgent transshipment may freely be allowed.

No Import Licence is necessary in the case of restricted goods intended for transshipment to other ports but brought to this port and reshipped without being removed from the Docks.

#### **9.7.4. Refrigerated stores pending transshipment: -**

In case of transshipment of refrigerated cargo or stores, carried or brought in the Refer-Containers will be stored in the nominated area or the port. In the absence of the facilities for keeping refer-containers in the nominated port area special

permission from the Asstt. Commissioner Preventive (General) is required to be obtained for keeping such refer-containers in any CFS. Such movement will be under Preventive escort on payment of fees as prescribed. An application for such movement will be made in duplicate, one copy to be retained in the CFS on deposit of such container and the other copy duly endorsed by the Custodian to be brought back to the Office of ACP(G). This copy will be again taken for the purpose of movement of said refer-container from CFS to the Docks for the purpose of loading on the concerned vessel. Before moving of the refer-container from the CFS to the Docks, the copy of application kept with Custodian to be duly endorsed to that effect.

**9.7.5. Transhipment of Imported containerised cargo by Rail/Road to another Customs port in India:**

Transhipment of containerised cargo from one Customs Port to another Customs Port by road or rail is permissible under Customs Act, 1962. It will therefore, be open to the proper officer to allow the goods to be so transhipped. Such transhipment will be permitted as per procedure already in existence. The form of application/transhipment permit, however, shall be as per the revised format in Appendix A and in 5 copies handed over to the person-in-charge of the conveyance instead of the master of vessel.

**9.8. Terms of the bond to be executed :**

Bond will be executed for transhipment to ports and destinations in India. The Bond is not required to be executed if transhipment is made directly to a foreign port. The terms of the bond shall be that if the person executing the bond produces to the proper officer, within one month or within such extended period as such officer may allow, a certificate issued by the proper officer at the customs station of transfer as specified in the said or other customs station of destination specified in the said bond and situated at or nearest to the place of destination that the imported goods have been transferred or produced at the station as the case may be, the bond shall stand discharged; but otherwise an amount equal to the value, or as the case may be, the market price of the imported goods in respect of which the said certificate is not produced shall stand forfeited. The bonds executed will be backed by such surety/security as is prescribed by the appropriate authority from time to time.

**9.9. Payment of fees :**

A fee of twenty rupees in respect of each application for transshipment. Of the goods imported shall be charged for customs station.

**9.10. Imported goods transferred to be sealed :**

Before the goods imported are transhipped to a destination in India, the proper officer shall-

In the case of transshipment by rail, an aircraft, a vessel or a motor vehicle, seal the Containers with the Customs Department ' s seal in the presence of an authorised representative of the declarant, the transporter or, as the case may be, custodian. The requirement of sealing the container for transshipment by any mode of conveyance in general or specifically for any particular conveyance or consignment, may be dispensed with, by an order passed in this regard by the appropriate authority under law, Such authority will be the Chief Commissioner/Commissioner of the Port, or any officer not below the rank of Addl./Jt Commissioner specially designated for this purpose. The Agent of the importing vessel are responsible for due transshipment under permit or all cargo manifested for transshipment. Except where such cargo is transhipped before the vessel obtains inward clearance, a special deposit of Rs. 1,000/- (Rupees One Thousand Only) shall be made on account of each importing vessel and such deposit shall be forfeited unless the name of the receiving vessel is declared by the Agents of the importing vessel within two months from the date of entry. The said amount will be refunded on the submission of the name of the receiving vessel within the prescribed period. Such declaration shall be at once checked with the export general manifest of vessel named and items found to have been duly forwarded shall be cleared from the import manifest. Enquiry shall be made as to omissions discovered.

The master of the exporting vessel is, as per the provision of section 41 of the Customs Act 1962 responsible for the due entry in export manifest of all transhipped cargo ; when an amendment of the export manifest in respect of goods found not to have been entered is permitted, such amendment will be allowed on payment of fees as are prescribed for amendment from time to time.

No goods intended for transshipment at any port shall be landed at any place other than the prescribed area without special permission. Permission to land

transshipment cargo at any place other than the prescribed area, pending shipment may be given by the Assistant Commissioner of Customs, incharge Preventive service on application by the merchant or ship's agent.

Such permissions shall remain in force for one week only, fresh application for every subsequent week is necessary. Each application shall state when the goods will be landed, where they will be (whether in the special enclosures or in the within Customs limit ) and shall be accompanied by sepoys fees as prescribed. All goods entered for transshipment to foreign port shall be stowed entirely separate from cargo meant for home consumption in the enclosure specially allotted for the purpose by Port Trust.

The facility of transshipment will not be made available to arms, ammunitions, explosives and other cargo considered as constituting a threat to the security/safety and integrity of the Country, goods the import of which is prohibited by the EXIM Policy in force at the time of imports and any other goods specified for this purpose under the Customs Act, 1962 or any other law for the time being in force, by, Notification, Circular, Order/Notice or instructions as issued by the appropriate authority, except with the Special Permission of the Commissioner of Customs for reasons to be recorded in writing. The transshipment will also not be allowed to any Port/destination with regard to which any order of Prohibition has been passed by the appropriate authority under law.

Nothing contained in this Public Notice shall adversely affect the right of the proper officer of Customs at the Port of Import to detain, check and if necessary deny the request for transshipment of goods entered for transshipment and to call for any information that is considered as necessary for passing order on the request for transshipment made by applicant.

The above procedure will also apply mutatis mutandis in the case of transshipment of containerised imported goods between two ports.

**[ Public Notice No. 86/99 dated 03.08.1999 issued by the Chief Commissioner of Customs, Mumbai, from file no. S/V – 10 ( 79 ) CCO / 99 ]**

**APPENDIX – A**

Application for permission to Tranship / Transhipment Permit

To \_\_\_\_\_ Date : \_\_\_\_\_

The Customs Commissioner,  
 ..... Custom House,

Sir,

Be pleased to grant permission to tranship/re-ship from the.....arrived from..... on.....the under mentioned goods for exportations per to.....without payment of duty (if any)

---

Marks & Numbers	Description of	Weight or	Value Originally
Manifest for			
Of packages	goods	Quantity	transhipment
			Import General
			Manifest
			No.....of ....(year)..
			Transshipping fee to be
			received.

---

Asstt Commissioner of  
 Customs

Transhipment/reshipment fee of Rs. ....received

Shroff/Cashier

Customs Commissioner

---

I/We hereby declare the contents of this application to be truly stated

Signature of Exporter/importer or his authorised agent.

**(Reverse of form)**

Preventive officer Mr.....	to board the Exporting ship  Importing ship  Customs Commissioner	Supdt. of Customs (Prev.)
Marks & Numbers	Tally	
Packages received on Board	Ships Officer	Preventive Officer

**9.11. TRANSHIPMENT OF FREE AND UNRESTRICTED GOODS**

- (a) **From one Steamer to another** – Permission to tranship is given on the application of the Master or in his lieu the agents of the importing vessel, made at the time of its Entry Inwards at the foot of the vessels' I.G.M. The "Let Tranship" Order is signed by the Superintendent, Imports.

Such goods are discharged from the importing ship under boat-notes issued by the Preventive Officer on board or in his absence, by an officer of the ship. When the goods are shipped on board the receiving vessel, the boat notes are delivered over to the Preventive Officer, if one is present on board such vessel, or to an officer of

the ship and are signed by him in acknowledgement of the goods having been duly received on board. They are subsequently delivered by the Agents of the exporting vessel in the M.C.D. or the Coastal Trade Establishment as the case may be, for check with the relative E.G.M.

Boat Notes shall be issued in duplicate and their counterfoils shall also be in duplicate.

- (b) **From a Steamer or square-rigged vessel to a country craft or vice versa or from the country craft to another-** The procedure described in para is applicable except that no transshipment fee is recovered.

#### **9.12. Transshipment of goods by country crafts**

Transshipment by country craft clearing for foreign ports via Customs Ports of goods and ship's stores liable to duty shall be permitted only on the owner of the goods executing a bond under Section 54 (3) (b) subject to the provision of Section 11 of the Customs Act. The Bond shall be cancelled on production of Landing Certificate from the port of destination. The shippers shall be called upon to pay the duty involved where no such evidence is produced.

#### **9.13. Movement of goods through foreign territory**

Sometimes the goods, imported or otherwise, have to move from one part of India to another through any foreign territory.

Section 56 of the Customs Act, 1962, contains the provisions for such goods. It stipulates that imported goods may be transported from one Land Customs Station to another without payment of duty. It also prescribed that any goods may be transported from one part of India to another part through any foreign territory. It further stipulates that movement of such goods in both the cases is subject to the conditions as may be prescribed for due arrival of such goods at the place of destination.

The Central Government has made the following regulations in this regard –

#### **9.14. The Transportation of Goods (Through Foreign Territory) Regulations, 1965**

In exercise of the powers conferred by section 157 read with section 56 of the Customs Act, 1962

(52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely:-

**1. Short title** – These regulations may be called the Transportation of Goods (Through Foreign Territory) Regulations, 1965.

**2. Application** - These regulation shall apply to goods, whether imported or indigenous which are to be transported from one part of India to another through a route which lies partly over the territory of a foreign country.

**3. Consignor to deliver a bill** (a) Whenever any goods to which these regulations apply are to be transported, the consignor of the goods shall make an entry to that effect by presenting to the proper officer a bill (in duplicate) in the form specified in Appendix A to these regulations.

**4. Permission to load goods, etc.** No person-in-charge of a vessel shall permit the loading of such goods on a conveyance unless-

(a) the bill relating to them after approval by, and

(b) a written permission to load the goods from,  
the proper officer are received by him.

**5. Execution of bond.** Before any such goods are permitted to be loaded on the conveyance, the consignor or the person-in-charge of the vessel shall be required to execute a bond in such form and with such surety or sufficient security as the proper officer may be demand, binding himself in an amount not exceeding the value of the goods.

**6. Duties of the person-in-charge of the conveyance.** (1) On receipt of the documents referred to in regulation 4, the person-in-charge of the conveyance shall prepare as many sets of Manifest (in triplicate) in the Form specified in Appendix B to these regulations in respect of such goods as there are customs stations to be passed through on the route.

He shall, immediately on arrival at any customs station of delivery or re-entry, deliver a set of the manifest along with the bill or bills relating to the goods to the proper officer at the customs station.

(2) The proper officer shall, after making the necessary check, make an endorsement on the manifest, retain one copy of the manifest and return the other two copies to the person-in-charge of the conveyance.

(3) The person-in-charge of the conveyance shall retain one of the two copies for carrier's record and present the other to the proper officer at the loading station.

(4) The person-in-charge of the conveyance carrying such goods shall not leave the Customs station until a written permission has been given by the proper officer after checking the manifest presented to him under this regulation.

**7. Delivery of bills at the destination station.** The person-in-charge of the conveyance shall carry with him on the journey all the bills relating to the goods delivered to him and shall immediately on arrival at any customs station, deliver to the proper officer such of the bills as relate to the goods unloaded at that station.

**8. Clearance of goods.** Such goods, after being unloaded at any customs station, shall not be cleared unless the proper officer gives a written permission that all the goods so unloaded are entered in the bill or bills delivered to him under these Regulations.

**9. Terms of the bond.** The condition of the bond to be executed under Regulation 5 shall be that if the person-in-charge of the conveyance or the consignor produces proof within a time stipulated in the bond or such extended time as the proper officer may permit that the goods have been produced before the proper officer at destination the bond shall be void; and if such proof be not furnished the executor of the instrument shall be liable to pay an amount equal to the export duty leviable on the goods and such penalty as may be adjudged or imposed by the proper officer under the Customs Act, 1962, the Imports and Exports (Control) Act, 1947 [ *now Foreign Trade ( Development & Regulation ) Act, 1992* ] or the Foreign Exchange Regulation Act, 1947 [ *now Foreign Exchange Regulation Act, 1973* ] and shall also be liable to forfeit the whole amount of the bond.

**10. Execution of General Bond.** Notwithstanding anything contained in these Regulations, the proper officer may permit the person-in-charge of the conveyance or the consignor of goods to enter into a general bond in such form and with such surety or security as the proper officer may deem fit, in respect of transport of goods as above said to be effected from time to time.

[ Notfn. No. 112/65-Cus.dt.21.8.1965, as amended by 69/66-Cus,dt.14.5.1966 ]

## APPENDIX A

### Customs Declaration Form

I/We hereby declare that the description and the value of the goods mentioned in the Annexure here to as well as the description in the forwarding note are true to the best of my / our knowledge and belief.

2. In case,
- a) the packages in which they are contained or any of them differ from the description given in the said Annexure or in the forwarding note; or
  - b) the contents thereof have been wrongly described in the said Annexure or in the forwarding note as regards the denominations, characters or conditions according to which such goods are chargeable with duty, or being imported or exported; or
  - c) the contents of such packages or any of them have been incorrectly mentioned in regard to sort, quality, quantity or value; or
  - d) goods not mentioned in the said Annexure or in the forwarding note have been concealed in or mixed with the articles specified therein or have apparently been packed so as to deceive the officers of the Customs, and such circumstances or any of them is not accounted for to the satisfaction of the Commissioner of Customs, or in case the said goods or any part thereof being subject to export duty or any restrictions under the Imports and Exports (Control) Act, 1947 [ *now Foreign Trade (Development & Regulation) Act, 1992* ] or the Foreign Exchange Regulations Act, 1947 [ *now Foreign Exchange Regulation Act, 1973* ], have been lost while in transit over any foreign territory.

I / We agree to pay on demand to the President of India the amount of duty if any, and also such amount of penalty as may be adjudged or imposed by any competent officers of the Government of India on me / us under the Customs Act, 1962 and / or the Imports and Exports (Control) Act, 1947 [ *now Foreign Trade ( Development & Regulation ) Act, 1992* ] or the Foreign Exchange Regulations Act, 1947 [ *now Foreign Exchange Regulation Act, 1973* ].

ANNEXURE

- 1. Marks on and description of packages .....
- 2. Description of goods .....
- 3. Weight, quantity or number .....
- 4. Value of the goods .....
- 5. Customs station of entry .....
- 6. Customs station of re-entry .....

I / we hereby declare the above particulars to be true.

Signature of Consignor or his authorised agent.

.....

Occupation

.....

Address

.....

Date

.....

Transport permitted

Officer of Customs

.....( Name of Customs Station. )

**APPENDIX B**

**Transit Manifest**

Serial

No.

.....

Date

.....

Name of Vessel

.....

Rotation No.

.....

(for calendar

year)

Sl. No.	Bill No. and Date	Station from	Name and Address of Consignor	Station to	Name and Address of Consignee	Description of goods	No. of pkgs.	Quantity	Value of goods	Customs Sl. no. shown in the Bill	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Signature of the person in charge of the conveyance.

**9.15. Liability of duty on transited/transhipped goods**

Section 55 of the Customs Act, 1962, stipulates that any goods allowed to be transited or transhipped to any Customs Stations in India shall, on their arrival at such station, be liable to duty and shall be entered in like manner, as goods are entered on their first importation thereof. The section also stipulates that the provisions of the Customs Act, 1962, and any rules and regulations, shall apply in relation to such goods.

#### **9.16. Customs ports — Appointment for specified purposes**

Dated 21-11-1994

#### **Notification No. 62/94-Cus. (N.T.)**

In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Government hereby appoints the ports specified in column (3) of the table below, situated in the State or, as the case may be, the Union territory specified in the corresponding entry in column (2) of the said table, to be Customs Port for the purposes specified in the corresponding entry in column (4) of the said table.

**Table**

<b>S. No.</b>	<b>STATE/UNION TERRITORY</b>	<b>PORT</b>	<b>PURPOSE</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	Andaman and Nicobar	Nanco-wrie (1)	Unloading of imported goods and the loading of export goods or any class of such goods.
		Port-Blair (2)	Unloading of imported goods and loading of export goods or any class of such goods
2.	Andhra Pradesh	Kakinada (1)	Unloading of Petroleum

			Products and loading of export goods or any class of such goods.
		Krishna-patnam (2)	Unloading of fertilisers as upto 31st August, 1995.
		Masuli-patnam (3)	Loading of export goods or any class of such goods.
		Vishaka-patnam (4)	Loading of export goods or any class of such goods.
3.	Daman and Diu	Daman (1) and Diu	Unloading of imported goods and loading of export goods or any class of such goods.
4.	Goa	Betul (1)	Loading of mineral Ores for export.
		Marma-goat (2)	Unloading of imported goods and loading of export goods or any class of such goods.
		Panaji (3) Port	"(a) Unloading of imported coking coal, coke and limestone ;  (b) Loading of minerals and bamboos for export."
5.	Gujarat	Bedi (1) (including Rozi-Jamnagar)	Unloading of imported goods and loading of export goods or any class of such goods.
		Bhava-nagar (2)	Unloading of imported goods and loading of export goods or any class of such goods.

		(2A) Broach	Unloading of Ethylene, Vinyl Chloride Monomer, Propylene and Naphtha."
		Dahej (3)	<p>"Unloading of imported goods and loading of export goods or any class of such goods."</p> <p>(a) goods :</p> <p>crew (i) baggage;</p> <p>fertilizers, rockphosphate and"(ii) fertilizers, rock phosphate, sulphar, Ethylene, Vinyl chloride Monomer, Propylene Coal, Coke and Neptha, and"; (iii) Gandhar Gas Power Project Jhanor (Bharuch) as up to June 1995.</p> <p>Loading of the following export (b) goods;</p> <p>crew (i) baggage;</p> <p>machinery and equipment (ii) re-exported from Gandhar Gas Power Project Jhanor (Bharuch) as upto June 1995.</p> <p>(iii) Caustic soda Lye, Poly Vinyl Chloride, Chlorine Low Density Poly Ethylene (LDPE) and Poly Propylene.</p>

		Div (4)	Unloading of imported goods and loading of export goods or any class of such goods.
		Gogha (5)	Unloading of imported goods and loading of export goods or any class of such goods.
		Jafrabad (6)	Unloading of imported goods and loading of export goods or any class of such goods.
		Jakhau (7)	Unloading of imported goods and loading of export goods or any class of such goods.
		Jodia (8)	Unloading of imported goods and loading of export goods or any class of such goods.
		Kandla (9)	Unloading of imported goods and loading of export goods or any class of such goods.
		Koka (10)	Unloading of imported goods and loading of export goods or any class of such goods.
		Magd-alla (11)	Unloading of imported goods and loading of export goods or any class of such goods.
		Mahuva (12)	Unloading of imported goods and loading of export goods or any class of such goods.
		Mandvi (13)	Unloading of imported goods and loading of export goods or any class of such goods.

		Mangrol (14)	Unloading of imported goods and loading of export goods or any class of such goods.
		Maroli (15)	Unloading of imported goods and loading of export goods or any class of such goods.
		Muld-warka (16)	unloading of imported coal, petroleum coke and furnace oil and loading of clinker and cement for export
		Mundra (17)	Unloading of imported goods and loading of export goods or any class of such goods.
		Navla-khi (18)	Unloading of imported goods and loading of export goods or any class of such goods.
		Okha (19)	Unloading of imported goods and loading of export goods or any class of such goods.
		Pind-hara (20)	Unloading of imported goods and loading of export goods or any class of such goods.
		Pipavav (Victor) Port (21)	Unloading of imported goods and loading of export goods or any class of such goods.
		Porba-ndar (22)	Unloading of imported goods and loading of export goods or any class of such goods.
		Salaya (23)	Unloading of imported goods and loading of export goods

			or any class of such goods.
		Sikka (24)	Unloading of imported goods and loading of export goods or any class of such goods.
		Talaja (25)	Unloading of imported goods and loading of export goods or any class of such goods.
		(26) Tuna	Unloading of imported goods and loading of export goods or any class of such goods.
		Umbergoan (27)	Unloading of imported goods and loading of export goods or any class of such goods.
		Vadinar (28)	"(a) Unloading of following imported goods, namely :-  (i) Crude Petroleum,  (ii) Machinery and equipment (including Project imports) imported for Essar Oil Refinery Project;  (b) Loading of machinery and equipment imported for Essar Oil Refinery Project."
		Vansi-Borsi (29)	Unloading of imported goods and loading of export goods or any class of such goods.
		Varavel (30)	Unloading of imported goods and loading of export goods

			or any class of such goods.
6.	Karnataka	Belekeri (1)	Loading of iron and manganese ore for export.
		(2) Coondapur (Ganguly)	Loading of iron and manganese ore and ferruginous bauxite for export.
		(3) Karwar (including Sardeshi-vagad)	<p>Unloading of imported goods and loading of export goods or any class of such goods namely :-</p> <p>(i) fertilizers;</p> <p>(ii) food-grains;</p> <p>(iii) rock-phosphate;</p> <p>(iv) timber;</p> <p>(v) metal scrap;</p> <p>(vi) edible oils;</p> <p>(vii) iron and steel (falling under chapters 72 and 73 of the Customs Tariff Act, 1975)</p> <p>(viii) liquid petroleum gas (L.P.G.);</p> <p>(ix) sugar;</p> <p>(x) cotton;</p> <p>(xi) minerals;</p>

			<p>(xii) raw-hides, skins and leather;</p> <p>(xiii) pulp of wood;</p> <p>(xiv) ships, boats and floating structure; and</p> <p>(xv) ships for breaking and unloading of crew baggage of such ships;".</p> <p>(b) Unloading of imported goods and loading of export goods or any class of such goods</p>
		Malpe (4)	<p>Import (a) of ships for breaking and unloading of crew baggage of such ships;</p> <p>Loading of iron and manganese (b) ore, fish and fish products for export.</p>
		Manga-lore (5)	Unloading of imported goods and loading of export goods or any class of such goods.
		New Mangalore (6)	Unloading of imported goods and loading of export goods or any class of such goods.
		Tadri (7)	Import of ships for breaking and unloading of imported crew baggage of such ships.
		(8)Padubidri	Unloading of imported Coal.

7.	Kerala	Allepey (1)	Unloading of imported goods and loading of export goods or any class of such goods.
		Azhikkal (2)	Unloading of imported goods and loading of export goods or any class of such goods.
		(3) C.H. Kozi-kode	Unloading of imported goods and loading of export goods or any class of such goods.
		Cochin (4)	Unloading of imported goods and loading of export goods or any class of such goods.
		Minicoy Island (5)	Unloading of imported goods and loading of export goods or any class of such goods.
		Neen-dakara (6)	Unloading of imported goods and loading of export goods or any class of such goods.
		Tellichery (7)	Unloading of imported goods and loading of export goods or any class of such goods.
		Vazhin-jam (8)	Unloading of imported goods and loading of export goods or any class of such goods.
8.	Maharashtra	Dabhol Port (1)	Unloading of machinery, (a) equipment and fuel for Dabhol Power Project.
			"(b) Loading of imported machinery and equipment for export, imported for Dabhol

			Project
		Dharmtar (2)	Unloading of imported goods and loading of export goods or any class of such goods.
		Nhava-Sheva (3)	Unloading of imported goods and loading of export goods or any class of such goods.
		Ranapar (4)	Unloading of following imported goods, namely "(a) :- ethylene. (i) ethylene Di Chloride, (ii) Vinyle Chloride monomer, (iii) Liquefied Petroleum Gas, (iv) Kerosene.(v) (vi) Methanol , (vii) Low Sulphur Heavy Stock (b) Loading of PVC Resin for export.
		Ratnagiri (5)	"Loading of following goods for export, namely :- all marine products and cement, (i) tugs, fishing vessels, barges, cargo vessels and other (ii) vessels."

		Redi (6)	Unloading of crew baggage and loading of metallurgical coke/coal  (b) iron Loading of crew baggage and ore for export.
		Revd-anda (7)	"(a) Unloading of imported iron, iron ore pellets, iron ore concentrate, coal, Dolomite/Limestone, Petroleum Gas, Steel Melting Scrap, HBI chips/Fines, Pulp, Magnesite and sulpher; and".  "(b) Loading of following goods for export, namely: -  Sponge Iron, (i)  Rejects of Iron ore Chips" (ii)  .
		(8) Dahanu	Unloading of duty paid coal imported by M/s. BSES Ltd."
		(9) Jaigad	Loading of following goods for export, namely:-  (i) Molasses  (ii) Bauxite Ore.
		(10) Vijaydurg	Loading of Molasses for export"
9.	Orissa	Bahabal-pur	Unloading of fertilizers.

		(1)	
		(2) Gopalpur	Unloading of imported goods and loading of export goods or any class of such goods. fertilizers, dead (a) burnt magnesite and wheat.  Loading of ilimanite, (b) sal-extraction, manganese ore ilimanite, synthetic rutile, zircon, monozite and rice for export.
		(3) Paradeep	Unloading of imported goods and loading of export goods or any class of such goods.
10.	Tamilnadu	(1) Cuddalore	Unloading of imported goods and the loading of export goods or any class of such goods.
		(2) Ennore	Unloading of imported goods and loading of export goods or any class of such goods
		(3) Karaikal	Unloading of imported goods and the loading of export goods or any class of such goods.
		(4) Madras Sea Port	Unloading of imported goods and the loading of export goods or any class of such goods.
		(5) Mandapam	Unloading of imported goods

			and the loading of export goods or any class of such goods.
		(6) Thirukkadaiyar	Unloading of imported goods and loading of export goods or any class of such goods."
		(7) Pondicherry	Unloading of imported goods and the loading of export goods or any class of such goods.
		(8) Rameshwaram	Unloading of imported goods and the loading of export goods or any class of such goods.
		(9) Tuticorin	Unloading of imported goods and the loading of export goods or any class of such goods.
		(10) Valinokkam	Unloading of imported goods and the loading of export goods or any class of such goods.
		(11) Veppalodai	Unloading of imported goods and the loading of export goods or any class of such goods.
		(13) Tiruchopuram	Unloading of imported goods and loading of export goods or any class of such goods."

*[Notification No. 62/94-Cus. (N.T.), dated 21-11-1994 as amended by Notification No. 25/95-Cus. (N.T.), dated 20-4-1995, Notification No. 29/95-Cus. (N.T.), dated 1-5-1995, Notification No. 74/95-Cus. (N.T.), dated 20-12-1995, Notification No. 1/96-Cus.(N.T.), dated 16-1-1996, Notification No. 3/96-Cus.(N.T.), dated 16-1-1996, Notification No. 5/96-Cus. (N.T.), dated 24-1-1996, Notification No. 18/96-Cus. (N.T.), dated 22-3-1996, Notification No. 34/96-Cus. (N.T.), dated 16-7-1996, Notification No. 55/96-Cus.(N.T.), dated 14-11-1996, Notification No. 11/97-Cus. (N.T.), dated 26-3-1997, Notification No. 26/97-Cus. (N.T.), dated 2-7-1997, Notification No. 50/97-Cus. (N.T.), dated 29-9-1997, Notification No. 51/97-Cus. (N.T.), dated 29-9-1997, Notification No. 52/97-Cus.(N.T.), dated 13-10-1997, Notification No. 69/97-Cus. (N.T.), dated 15-12-1997, Notification No. 11/98-Cus. (N.T.), dated 23-2-1998, Notification No. 36/98-Cus. (N.T.), dated 9-6-1998, Notification No. 38/98-Cus. (N.T.), dated 9-6-1998, Notification No. 40/98-Cus. (N.T.), dated 24-6-1998, Notification No. 72/98-Cus. (N.T.), dated 16-9-1998, Notification No. 3/99-Cus. (N.T.), dated 8-1-1999, Notification No. 39/99-Cus. (N.T.), dated 16-6-1999, Notification No. 40/99-Cus. (N.T.), dated 24-6-1999, Notification No. 63/99-Cus. (N.T.), dated 17-11-1999, Notification No. 1/2000-Cus. (N.T.), dated 5-1-2000, Notification No. 30/2000-Cus. (N.T.), dated 4-5-2000, Notification No. 53/2000-Cus. (N.T.), dated 4-9-2000, Notification No. 54/2000-Cus.(N.T.), dated 21-9-2000, Notification No. 62/2000-Cus.(N.T.), dated 17-10-2000, Notification No. 1/2001-Cus. (N.T.), dated 24-1-2001, Notification No. 46/2001-Cus. (N.T.), dated 26-9-2001 ,Notification No.41/2002 -customs (N.T.) dated 27-06-2002, and 50 /2002-Customs (N.T.) dated 29-07-2002]*

## CHAPTER – TEN

### 10. WAREHOUSING

Chapter IX, i.e., Section 57 to 73 of the Customs Act, 1962 deals with warehousing. The object of warehousing is to allow the trade the facility of deferring payment of duty on imported goods till their actual clearance for home consumption or re-export or for use as provisions and stores on board any vessel proceeding to a foreign port. Warehousing is permissible in a Public or Private Bonded warehouse. When an importer warehouses the imported goods in the Bonded Warehouse without payment of duty after execution of Bond under Section 59 of Customs Act, 1962, the goods stored therein are referred to as Bonded goods or warehoused goods. Essentially, at a place declared as a warehousing station an Assistant Commissioner of Customs can appoint a public warehouse under Section 57 and licence a private warehouse under Section 58 of the said Act.

#### 10.01 Warehousing Stations

10.01.01 In terms of Section 9 of the Customs Act, 1962 read with Notification No.33/94-Cus. dt.1-7-1994, the Chief Commissioner of Customs may declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed. Thus, goods can be warehoused only at such places.

10.01.02 There should be as few a number of places which should be declared as warehousing stations as possible having regard to the proximity to the Port, the requirement of trade and industry, the availability of Customs expertise etc. The warehousing stations should be so chosen that the industrial units located in the interior, uniformly and without discrimination, get the benefit of the facilities. If the number of places is kept minimal and uniform, it will be possible to cater better to the needs of the staff for exercising powers in regard to warehoused goods. It should also be possible to keep the number of warehouses to the minimum and yet cater to

the needs of the industry adequately if, instead of a number of private warehouses, a single public warehouse is appointed at an appropriate station.

[F.No. 473/147/79-Cus VII, dated 7.7.1980] and Notification No.33/94(NT)-Cus, dated 1.7.1994]

## **10.02 Public Bonded Warehouses**

10.02.01 Besides Central Warehousing Corporation and State Warehousing Corporations, considering the management of CFSs and ICDs has been entrusted to private operators private operators are allowed to be appointed as custodians of the Public Bonded warehouses.

10.02.02 The concerned Commissioner should ensure that while appointing any private operator as a custodian of Public Bonded warehouse, the application is carefully scrutinised and factors such as the feasibility and financial viability of the warehouse operator, credibility, financial status, past record to comply with Customs and Excise Laws, expertise in warehousing field, etc. are given due consideration. Besides, operational requirements such as, suitability and security of the premises, availability of Customs expertise, proximity to the users etc. are to be taken into account. The applicant should agree to take the services of the Customs officers on cost-recovery basis, if the services are required on a continuous basis (i.e. 9 AM to 6 PM), or on payment of MOT/Supervision charges, as the case may be.

10.02.03 Statutorily the Deputy/Assistant Commissioner of Customs can appoint a Public Warehouse at any warehousing station, but this power shall be exercised by the concerned Commissioner.

10.02.04 Bonding in open spaces is not to be encouraged, but this can be allowed when warranted in the judgment of the Commissioner.

[F.No.3/65/65-Cus VII, dated 9.2.1966 and F. No. 473/147/79-Cus VII, dated 7.7.1980]

### **10.03 Private Bonded Warehouses**

10.03.01 Private Bonded warehouses belong to individual private firms of importers and are licensed as such under Section 58(i) of the Customs Act, 1962 by the Deputy / Assistant Commissioner of Customs.

10.03.02 Application for a licence for a private warehouse under Section 58(i) of the Customs Act should be the form C.B.R. Cus. 202.

10.03.03 Requests for grant of licence for private Bonded warehouses will be considered and decided at the level of the Commissioners.

10.03.04 Private Bonded warehouse licences may be allowed without any restriction regarding the type of goods to be warehoused. The Commissioners may carefully scrutinise whether the applicant is financially sound, has good credibility, and has not been involved in any Customs or Excise duty evasion in the preceding 5 years. This is subject to the condition that the premises are suitable and adequately secured and the applicant agrees to take the services of the Customs officers on cost-recovery basis, if the services of the officer are required on a continuous basis (i.e. 9 AM to 6 PM) or on payment of MOT/Supervision charges, as the case may be.

10.03.05 Request for holding a Private Bonded Warehouse should not be turned down on the mere reasons of availability of space in a Public Bonded warehouse. If an applicant is otherwise fit to hold a licence, and shows that it would be highly inconvenient or would definitely handicap his business, if he had to operate in a Public Bonded warehouse, it can ordinarily be held that there is sufficient justification for issuing a licence for a Private Bonded warehouse to such an applicant.

[F.No. 3/30/60-Cus. VII, dated 6.9.1960 and Circular No. 68/95-Cus, dated 15.6.1995]

#### **10.04 Guidelines for Storing Sensitive and Non-sensitive Goods**

##### 10.04.01 Guidelines for storing sensitive goods:

(i) Applicants should produce a solvency certificate (not a reference or confidential certificates) from a scheduled Bank of repute (i.e., other than a cooperative bank which has operations limited to a city, etc.) for a value of not less than Rs.50 lakhs.

(ii) Such warehouses should not be located in residential areas;

(iii) The premises must be carefully checked to ensure against theft, pilferage or other risks and these are easily accessible for the departmental officers for surprise checks.

(iv) Adequate provisions for fire fighting operations should be ensured.

(v) Goods deposited should be fully insured by the warehouse-keeper against theft, pilferage, fire accidents, other natural calamities, risks against rioting, etc. at least for a value equal to the Customs duty by a comprehensive Insurance Policy drawn in favour of the Commissioner of Customs.

(vi) It should be ensured that in respect of new applicants, their record is clean and that the proprietor or partner or any of the directors are not involved in any Customs duty evasion or smuggling offences (other than technical offences).

(vii) If track record of existing warehouse-keepers is not found satisfactory or cases have been registered for illegal removal or improper compliance of the rules and regulations, immediate action should be taken to cancel their licences after observing the principles of natural justice. Where duty evasion is found to be more than one lakh, either in individual case or in a series of offences, the cases of such licences should be reviewed for action.

(v) In respect of individual consignments to be warehoused, the licensees are to give a Double Duty Bond and in case of sensitive goods, a cash deposit or bank guarantee equal to 25% of the duty liability (effective duty foregone) may be taken

(this requirement of cash deposit or bank guarantee in respect of sensitive goods shall apply to both Private Bonded Warehouses and Private Owned Public Bonded Warehouses). However, where a warehouse-keeper wants to have revolving Bond with a single bank guarantee for a higher amount, it can be accepted and suitable credit/debit system for each consignment warehoused/cleared operated.

[Circulars No.99/95-Cus, dated 20.9.1995 and No.18/2007–Cus, dated 24.4.2007]

(vi) Commissioners should decide as to what is sensitive and what is not, after taking into consideration the nature of commodity, the rates of duties and the licensing aspects involved.

[Circular No. 20/96 – Cus., dated 4.4.1996]

10.04.02 Guidelines for storing non-sensitive goods:

- (i) Applicant should be solvent for Rs.10 lakhs and with a good record.
- (ii) All other provisions regarding security of the place, location of the place, insurance to be taken for sensitive goods would mutatis mutandis apply to non-sensitive goods. Normally, the Double Duty Bond with surety would be sufficient, but Commissioners may ask for a bank guarantee where they are not satisfied about the transactions of a particular Bonder.

[Circular No. 99/95-Cus, dated 20.9.1995]

10.04.03 The Commissioner of Customs might ascertain whether violations by the applicant are serious or technical in nature. If violations are of serious nature, the exact seriousness must be examined. If violations committed by the party indicates deliberate action, the grant of warehousing, licences under Section 58 of the Customs act, 1962 to the party may not be warranted.

[Circular No.28/96-Cus, dated 10.5.1996]

### **10.05 Preliminary Enquiries Before Grant or Renewal of Licence**

10.05.01 Before licence for a private Bonded warehouse is granted or an existing licence is renewed, it is incumbent on the Custom House to be satisfied that the applicant for a licence is a person of good financial standing who can be relied upon. An enquiry as to the financial status of the applicant should therefore be made confidentially with his bankers and the information submitted to Assistant / Dy. Commissioner of Customs (Bonds) for orders.

10.05.02 Before granting a licence, it is necessary to verify that the building that is to be licensed as a private bonded warehouse is in sound condition i.e. suitable and safe for depositing goods. On receipt of the application, therefore, the building will be examined by a Preventive Supdt, who will submit his report by filling the questionnaire form as given below:

(Questionnaire to be filled in by the Officer inspecting the premise to be licensed as a Private Bonded Warehouse).

Nature of walls.

Nature of roof.

## Lighting

Are all windows and ventilation spaces properly barred or secured with strong shutters that can be fastened firmly from inside?

Arrangements for locking door. In particular, are all hasps and staples so secured that they cannot be unscrewed or otherwise easily withdrawn from outside?

Are all the doorways other than those to which Customs locks are to be affixed, bricked up or otherwise blocked more securely than by bolting or locking of doors?

Precautions against fire.

Certified that the proposed premises have been verified by me and found suitable for Customs Bonded Warehouse.

Superintendent of Customs

I/c. Bonded warehouse.

The premises have been verified personally by me and are quite suitable and are recommended for issue of a warehouse licence.

Assistant Commissioner of Customs

10.05.03 The procedure for grant of license shall be followed for renewals also. The financial status of each licensee will be reviewed every year, but for this purpose, it is not necessary in all cases to make any written reference to the Bank.

*[Check list before a licence is granted or renewed is at the end of this Chapter.]*

10.05.04 Register of Licences : The Bond Clerk shall maintain a register showing the list of licences granted for private Bonded warehouses and shall issue a warning notice to the licensees a month prior to the expiry of the licences. The list should be kept posted upto-date and all alternations and corrections made on it be initialed, dated and countersigned by the Superintendent (Bonds).

10.05.05 Validity and cancellation of licence: A licence for a private warehouse shall be valid for one year and shall be renewable annually, save in exceptional cases. A licence may also be cancelled by the Asst. Commissioner for the reasons given in the Section 58(3) of the Customs Act, 1962. When a licence is cancelled on an application from the licensee, the date on which the cancellation of the licence takes effect should be taken to be the date of actual removal of the goods therefrom the purpose of Section 15(b) Customs Act, 1962. Further, a licensee has a legal claim to have his licence cancelled before the expiry period of its validity, provided duty is paid on the goods stored in the warehouse.

## **10.06 Customs Control Over Private bonded Warehouses**

10.06.01 The warehouse should be under double lock, one of the Custom House and the other of the licensee. The Custom House locks should be Godrej lock and they should be purchased at the expense of the licensee. The set of keys in actual use shall be in the custody of the Bond Officer in charge of the respective warehouses and their duplicates shall be kept in the safe custody of Superintendent in charge of the Bond.

10.06.02 Periodical verification of stocks: (i) Asst. Commissioner (Bonds), should pay at least one surprise visits in each quarter to check the records of the Bond Department.

(ii) Preventive Supdt. (Bonds) shall verify the stocks in private warehouses periodically. He will satisfy himself that the contents of the packages are intact and agree with the description given in the relative records, by examining 2% of the packages of each consignment, subject to a minimum of 1 and maximum of 25 packages. It will be sufficient, in the case of the bagged cargo such as sugar, to check the contents by probing the bags and in the case of packages containing motor cars and parts thereof, to remove a plank of the case and inspect the contents through the opening. In his report the Preventive Supdt. (Bonds) will note the scope of each inspection.

(iii) Preventive Supdt. (Bonds) shall carry out inspection and checking of Bonded stocks by surprise and indicate in a register the dates of such surprise visits, particulars of Warehouse and stock.

10.06.03 Maintenance of the records of Stocks: (i) In order that the exact stocks in a private warehouse on any date (i.e. the balance remaining after deliveries) may be disclosed, the Bond Department shall maintain, at the end of each volume of a Bond register, a summary in form given below showing a detailed record of packages received in the warehouses and the quantity delivered therefrom, from time to time.

(ii) The Preventive officer supervising the storage of goods into, or deliveries from, any private warehouse shall endorse on the respective duplicate into-Bond or ex-Bond Bill of Entry the date and location of the goods so stored or delivered under his supervision and forward the documents to the Bond Department.

(iii) The particulars endorsed on the duplicate into-Bond or ex-Bond Bill of Entry will be transcribed in the summary and attested by the Senior Clerk in the Bond department. When half yearly inspection reports are received in the Bond

Department, Bond Clerk will check them with the entries in the register and report discrepancies, if any, to Asst. Commissioner, Bonds.

Bond No. & Date	Date of Receipt of goods	Total No. of packages	No. of Packages cleared	Date of clearance	Clerk's initials
1	2	3	4	5	6

The licensees of Private Bonded warehouses shall maintain a Stock Account Book in the form given below.

### Stock Account Book

#### Receipts

Bond S. No. and date	Date of receipt of goods in warehouse	Vessels name & whence imported	Package s marks & numbers	Quantity and / or weight	Description	Value of goods
1	2	3	4	5	6	7

**Issues**

Operations performed in Bond under sec. 64 of the C.A. with full detailed results	Date of clearance of goods	No. of packages of Qty. cleared	B/E Cash number and date	Amount of Duty paid	Shipping Bill No. and date
8	9	10	11	12	13

Name of vessel and Rot. Number	Balance	Preventive Officer's Signature	Remarks
14	15	16	17

10.06.04 Type of goods to be stored and manner of their storage: A licence for a private Bonded warehouse should be granted on the condition that the warehouse shall be used by the licensee normally for warehousing his own goods only and that the goods stored therein shall be stacked in such a manner as to enable easy access, whenever necessary, to every package or parcel therein. In special cases where facilities for depositing imported goods in the public warehouse are not available, the goods, imported by other than the licensee may be allowed in the licensee's warehouse provided the Bond under Section 59 of the Customs Act, 1962 is executed jointly by the importer and the licensee of the warehouse.

10.06.05 Cost of Custom House establishment: The cost of any Custom House Establishment employed at a private Bonded warehouse, permanently or occasionally, should be defrayed by the licensees concerned.

### **10.07 Warehousing of Goods in Public Warehouse**

10.07.01. An into-Bond Bill of Entry, in duplicate containing such particulars, as may be prescribed, will be presented by the Bonder to the receiving clerk in the Import Department who will:

- (i) Verify all the columns therein are properly filled in, and
- (ii) Give a serial number to the Bill of Entry. The Bill of Entry, in duplicate will then be passed on the party for presentation in the Appraising Department.

10.07.02. The procedure followed in the Appraising Department in regard to the examination and assessment of the goods will be the same as that followed in the case of Bills of Entry for home consumption with the following differences that the Appraisers will see:

- (a) All particulars are correctly entered in both copies of the into-Bond Bill of Entry;
- (b) Record on both of them in words and figures, the quantities or values on which Customs duty is leviable and the rate of duty; and
- (c) Initial both copies and ensure particulars ascertained in survey made on behalf of the Ship's Agents should be recorded on both copies.

10.07.03 Apportioning of value and quantity in into-Bond Bill of Entry: (i) A consignment consisting of several packages covered by an into-Bond Bill of Entry may be removed from the warehouse piece-meal either for home consumption under cover of one or more ex-Bond Bills of Entry or under cover one or more Shipping Bills for shipment to foreign ports. Therefore, the total value and quantity of the consignment declared in the into-Bond Bill of Entry should be apportioned correctly amongst the various ex-Bond Bills of Entry and Shipping Bills. Toward this, the Bonder must, at the time of the presentation of the into-Bond Bills of Entry or Shipping Bills in the Appraising Department indicate on the reverse of the original copy thereof, the quantity and value (both in foreign and Indian Currency) of the consignment (when the consignment is cleared in one lot only he must subscribe a declaration to this effect on the into-Bond Bill of Entry).

(ii) The assessing Appraiser will attest the values and quantities in token of having checked them and also show the rate of duty leviable on the goods. When, however, the contents of all piece-goods contain equal number of pieces of identical quantity and uniform value (e.g. sugar bags of uniform weight and value), the assessing Appraiser need only endorse "Contents Uniform" on the reverse of the into-Bond Bill of Entry.

(iii) The Appraising Department will verify:

- (a) The invoice value of each individual package has been noted by the Bonder on the reverse of the into-Bond Bill of Entry and attested by the assessing Appraiser;
- (b) The equivalent in Indian Currency of such values is correctly calculated by the Bonder; and
- (c) The total value shown by him on obverse of the Bill of Entry corresponds with that shown on its front. This will enable the Bond Department to deduce and certify on the ex-Bond Bills of Entry or Shipping Bills, the exact average value, number and/or weight of individual packages from the total assessed value, number and/or weight and there would be no occasion for shortage or excess in respect of these particulars to be adjusted finally. Thereafter the into-Bond Bill of Entry shall be forwarded to IAD for pre-audit (in non-EDI cases).

- (iv) After pre-audit the into-Bond Bill of Entry shall be forwarded to the Bond Clerk in the Bond Department who will retain the original and hand over the duplicate Bill of Entry to the importer or his agent for execution of a Bond under Section 59 of the Customs Act, 1962.
- (v) On presentation of the Bill of Entry and a Bond required under Section 59 of the Customs Act, 1962 the Bond Clerk will compare them with the original Bill of Entry and take the following action:
- (a) Endorse on the face of the duplicate into-Bond Bill of Entry “compared with the pre-audited original into-Bond Bill of Entry”;
  - (b) Note on both copies of the Bill of Entry the period within which the goods should be warehoused;
  - (c) Enter the Bond and all the particulars including the rate of duty in the Bond register;
  - (d) Note the Bond number on the Bills of Entry;
  - (e) Take all the Bond registers to the Superintendent/ Bonds, with the Exchange Control copy and the Bond, who will initial the Bond and sign the Bond register and also three copies of Bill of Entry, permitting the goods to be warehoused within the time specified. The Bond (alone) will then be submitted to Assistant/Dy. Commissioner, Bonds, for his signature in token of its acceptance;
  - (f) Retain the Bond and forward the original into-Bond Bill of Entry on the first working day of each week (along with similar other original into-Bond Bills of Entry collected during the previous week) to the Statistical Department for registration and return;
  - (g) Return the duplicate Bill of Entry to the importer as the authority for the removal of the goods to the warehouse under Preventive supervision;
  - (h) Obtain the signature in the Bond and initials in the Bond Register from the Asst. / Dy. Commissioner (Imports & Bonds) and forward the same with the register to I.A.D. for complete checking; and
  - (i) Forward the original Bond to the Cash Department for safe custody and retain the duplicate copy of the Bond in the Bond Department.

*[For Customs Houses/formations having EDI processing of Bills of Entry and Shipping Bills the procedure of processing into Bond Bill of Entry is given in Chapter 'EDI'.]*

10.07.04 Procedural irregularities in warehousing of goods: Since the warehousing period has to be determined with reference to the order of the proper officer under Section 60 of the Customs Act, 1962, this order should be given immediately, once the warehousing Bond is accepted from the importer.

[Circular No. 30/95-Cus, dated 30.3.1995]

10.07.05 Admission of goods into Public Warehouse and action by warehouse keeper: Please refer relevant parts of Check list III (Examination and Bonding of Goods) at the end of this Chapter.

10.07.06 Action by Bond officer: (i) On receipt of the duplicate Bill of Entry from the warehouse keeper, the Bond Clerk will note in the Bond Register the date on which the goods were warehoused and see that all the packages covered by the Bond have been duly warehoused or otherwise accounted for.

(ii) He will register the particulars in the trade posting registers maintained for the purpose of preparing the monthly statement of stock balances of certain bonded goods specified in the Form C.B.R. Cus. 124 and forward the duplicate into-Bond Bill of Entry to the MCD.

## **10.08 Admission of Goods to Private Warehouse**

10.08.01 The procedure will be the same as that for a Public Warehouse except that when no Customs officer is permanently posted at the warehouse, the duties in regard to the receipt and storage of the goods in the warehouse and the entry of the necessary particulars in the stock lists will be performed by the Preventive officer deputed for the purpose by the Supdt. Preventive Posting section or Bond Deptt. on an application in writing to this effect being made to him by the Bonder of the goods. After receiving goods into a private warehouse the Bond Officer will obtain the licensee's acknowledgement for the receipt of the goods on the duplicate Bill of Entry. The Bond clerk will see that this is invariably done in all cases and submit a report to the Asst. Commissioner of any cases of failures on the part of the Bond Officer to obtain the licensee's acknowledgement.

10.08.02 Whenever a survey is held on behalf of ship's agents on any slack or deficient packages comprising a consignment entered for warehousing the Bonder should, prior to the removal of the packages from the Docks to the Warehouse, repack the deficient packages properly and put a distinctive mark and/or number of the said packages. The marking should be carried out under Preventive supervision on an application to Assistant/Dy. Commissioner Bonds. The Officer deputed for the purpose will make his survey report on the reverse of the into-Bond Bill of Entry and show the marks and numbers on the packages surveyed.

10.08.03 If, while examining any consignment entered for warehousing the Examiner finds that some of the packages covered by the into-Bond Bill of Entry bear common marks but not uniform contents, he may call upon the Bonder to make another kind of distinguishing marks and/or numbers of such packages and note the same on the reverse of the into-Bond Bill of Entry of the guidance of Bond Department.

10.08.04 When it is found that the marks or numbers of any packages brought to the warehouse do not correspond with these shown in the into-Bond Bill of Entry, the Bondholder should be called upon either to account for the discrepancy or to arrange examination to verify whether the package forms part of the consignment covered by the Bill of Entry. So long as the package in question is not so examined or the discrepancy resolved to the satisfaction of the Asst. Commissioner of Customs (Bonds) the packages cannot be considered to have been duly warehoused nor their clearance from the warehouse allowed.

10.08.05 All necessary particulars should be transcribed on the reverse of the original warehousing Bill of Entry as well as in the Bond register from the duplicate warehousing Bill of Entry sent by Bond Officer. Bond Section will retain the Original Bill of Entry and forward the duplicate Bill of Entry to the Manifest Clearance Department.

### **10.09 Acceptance of Bonds under Section 59**

10.09.01 The importer of any dutiable goods which have been entered for warehousing and assessed to duty under Section 17 or 18 of the Customs Act, 1962 shall execute a Bond (or a general Bond) binding himself in a sum equal to twice the amount of the duty assessed on such goods and:

- (a) To observe all the provisions of the Customs Act, 1962 and the rules and regulations in respect of such goods;
- (b) To pay on or before a date specified in a notice of demand all duties, rent and charges claim-able on account of such goods under this Act, together with interest thereon;
- (c) To discharge all penalties incurred for violation of the provisions of this Act and the rules and regulation in respect of such goods; and

- (d) Agreeing to recovery of any amount due from him in the manner laid down under Section 142(1) of the Customs Act, 1962 without prejudice to other modes of recovery.

10.09.02 The executed Bond shall continue to be in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse. However, when the whole of the goods or any part thereof are transferred to another person the proper officer may accept a fresh Bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the Bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh Bond is accepted from the transferee.

10.09.03 The Bond shall be for twice the amount of the Customs duty assessed on the goods proposed to be warehoused. It shall be written up properly, all erasures and corrections therein being initialed by the person signing it. The country whence the goods are consigned will be shown therein after the words imported by sea from ..... ' appearing at the foot of the form and the declaration shall correspond with that in the into-Bond Bill of Entry.

10.09.04 Normally no surety is needed for warehousing Bonds since the goods themselves are a security in kind.

10.09.05 In the Bond format if alternative words or expressions are provided, the party executing the Bond should score out words or expressions which are not relevant to them. As failure to do this would result in an ambiguity likely to prejudice the interest of the Customs House in a Court of Law, if, at any future date, it be

deemed necessary to proceed under that Bond that Bonder must invariably be required to cancel one of these two alternative expressions.

10.09.06 There should be no difficulty as to the stamp duty payable on a general continuing Bond under Section 59 (2) of the Customs Act. As for the other Bonds the stamp duty will be governed by the respective State enactments as may be applicable.

10.09.07 If a Bond is found before its acceptance, to be understamped, it should be brought to notice of the Bonder and the deficiency be made good of. If, however the Bond is over stamped, the fact should be brought to the notice of the Bonder or his representative so that he may, if he so chooses put in a fresh Bond properly stamped and obtain a refund. If he does not consider it worthwhile to do this, the overstamped Bond should be accepted and the following note made thereon – “overstamped – No action by Bonder.”

10.09.08 Every Bond should be executed for the full period of 3 years, 1 year or such period allowed by the Assistant Commissioner for which goods are to remain in a warehouse.

10.09.09 Each Bonder will decide the amount of Bond as per his requirement, but at any point of time the value of the goods deposited in the warehouse should not exceed the maximum permissible as fixed by the amount of Bond.

10.09.10 If the Bond is found to be correct in respect of all the particulars mentioned above and provided the Bond Department is satisfied that it is properly and duly executed by the owner of the goods or his duly authorised agent, its

acceptance cannot be withheld and it shall be submitted to Assistant / Dy. Commissioner (Bond) for affixing his signature thereto in token of its acceptance. If found otherwise the Bond shall be returned to the Bonder for amendment.

#### **10.10 Warehousing of Goods Under General Bond**

10.10.01 An importer wishing to warehouse goods under a general Bond under Section 59(2) of the Customs Act, 1962 shall apply to the Assistant / Dy. Commissioner of Bonds giving full particulars viz. general description, quantity, value of the good intended to be warehoused for the next four years, purpose for which warehousing is sought, quantity and value of the goods imported during the preceding year; and the amount for which the Bond is sought to be executed.

10.10.02 The Assistant / Dy. Commissioner shall see whether the Bond amount proposed will cover the goods to be imported by the party during the next four years and thereafter being satisfied grant approval.

10.10.03 On acceptance of the Bond by Assistant/ Dy. Commissioner (Bonds), it should be registered in a supplementary register, in the proforma set out below. After registration, the Bond will be forwarded to Cash Department / Bond and Bank Guarantee Monitoring Cell as the case may be for safe custody. The maintenance of this supplementary register will not in any way change or interfere with any other registration that may be required under the existing procedure. Once the Bond is duly registered in the supplementary register and assigned a number, it will be intimated to the importer who will thereafter be allowed to warehouse imported goods during the period specified in the Bond so long as there is sufficient balance to cover the value of the imported goods. The importer will quote the general Bond number and date on all references made by him to the Bond Department.

10.10.04 Although there will not be individual Bonds, Bond serial numbers will be assigned for each consignment warehoused and corresponding entry made in the main Bond register. This number will be quoted in the into-Bond Bills of Entry. The importers shall also quote the Bond serial number on all the ex-Bond clearance documents etc. Usual audit check will be conducted for the into-Bond and ex-Bond clearances.

10.10.05 When the goods covered by a particular Bond serial number are cleared or accounted for to the satisfaction of the proper officer, such Bond serial number should be cancelled. Relevant documents relating to such cancelled Bond serial number should be sent to IAD and Customs Revenue Audit for audit check as in the case of general Bonds, so as to avoid duplication of work by sending the same to these departments at the later stage of the cancellation of the relative general Bond on expiry of its validity period.

10.10.06 With a view to keep a watch over the balance of Bond amount the Bond clerk should make clear and suitable debit and credit entries in the relevant columns of the supplementary register, each time an entry is made for warehousing or clearance and strike the balance. Also, when the duplicate into-Bond Bill of Entry is received back from the warehouse keeper or Preventive Officer after completion of warehousing, the Bond clerk should satisfy himself that the quantity warehoused corresponds to the quantity in the into-Bond Bill of Entry. If there is any difference, he should make suitable entries in the supplementary register.

10.10.07 All clearances from the warehouse should be noted in the supplementary register immediately on receipt of the duplicate Bill of Entry, Shipping Bill, or advice from other port in the case of transfer under Section 67 of the Customs Act, 1962 etc. All such entries shall be initialed by the Bond clerk and the Superintendent

Bonds, who shall check the relevant entries and balances with reference to the entries made in the Main Bond Registers and in the relevant documents. The balance column of the register will indicate whether the amount in balance is adequate to cover future consignment to be warehoused. In case of deficiency in the balance available in the Bond, the importer should execute either an individual Bond or a general Bond. One consignment shall, however, not be permitted to be split over two Bonds. If the importer executes another general Bond, it should also be for a sufficiently large amount so that the earlier general Bond could be cancelled after all the consignments Bonded thereunder have been cleared or otherwise duly accounted for to the satisfaction of the Asst. / Dy. Commissioner (Bonds). The importer will not be permitted to warehouse any more consignment under the first general continuing Bond.

10.10.08 The general Bond along with the Supplementary Register (format below) will be put up for audit and thereafter to Assistant / Dy. Commissioner (Bonds) for cancellation.

Supplementary Register

Name and address of Importer:

Name and address of Clearing Agent (if any):

Number of acceptance by the Assistant Commissioner:

Date of Expiry: (in red ink).

Value of the Bond: (a) ..... (in figures)

(b).....(in words)

Sl No .	Date	Reference to the Main Bonds Register	Value of the goods warehoused (Debit entries.)	Value of the goods cleared (i.e.) home consumption shipment ex-Bond or transferred in Bonds (Credit entries).	Balance	Initials of Bond clerk	Initials of Superintendent (Bonds)	Remarks
1	2	3	4	5	6	7	8	9

10.10.09 Even under a general Bond each individual consignment will be entitled to have a life of one year in Bond. The minimum period of Bond therefore, has to be fixed at something in excess of Bond period, with provision to terminate the same by either side with three months notice. Such notice shall operate to suspend fresh warehousing after the period of notice but all consignments warehoused till then shall stand covered by the Bond upto a period one year or a reduced period from the date of warehousing unless the licence for private warehouse itself is revoked.

[F. No. 3/29/60-Cus VII, dated 2.7.63 and Instruction No. 27 of 1963]

10.10.10 In case of goods removed to EOU/EHTP/STP units a transit bond or an insurance policy equivalent to the amount of duty involved may be obtained on the condition that re-warehousing certificate would be submitted within a period of 30 days from the date of despatch of the goods from the port / airport of import. Where the party fails to produce the re-warehousing certificate within 30 days consecutively for more than three consignments, he would be required to support their Bond with 100% Bank Guarantee.

[Circular No. 41/97-Cus, dated 19.9.1997]

### **10.11 Misuse of Bonded Facility**

10.11.01 Goods to be bonded may be removed illegally without payment of duty before their physical bonding. The modus operandi is that the imported goods are cleared from Customs on the pretext of bonding, but are taken to a premises wherein they are substituted with material of no value. The imported goods are then sent to the importer with fabricated Bills of Entry for home consumption. Based on the fabricated documents the importer takes CENVAT credit. Meanwhile, the substituted material (packed in original packing) is deposited in the warehouse for bonding. Accordingly, it is necessary to undertake periodical stock taking of all bonded goods lying in the bonded warehouses beyond 1 year and also to reconcile the records with the record of the warehouse. Samples may also be taken if necessary. SIIB and Preventive Branches may also profile the high risk bonded goods/importers to rule out similar frauds.

[Circular No.19/2000-Cus.IV, dated 10.3.2000]

### **10.12 Warehousing Bond for Ship Stores**

10.12.01 Steamer Agents permitted to import controlled food-stuff for purposes of re-export when required for ship's crew and to store these articles in their Bonded warehouse, shall follow the normal Bond procedure applicable to warehouses where Preventive Officers are exclusively posted with the exception that instead of the prescribed Bond under Section 59 of the Customs Act, 1962 the applicant will execute ITC Bond with the appropriate authorities.

10.12.02 To prevent fraudulent clearances/diversion of duty free imported cargo from Bonded warehouses under Section 90 of the Customs Act, 1962 for delivery to Naval Ships and of duty free goods imported for use as ship spares the escorting of such "ship stores" or "ship spares" should be scrupulously done.

[Notification. No. 211/83-Cus, dated 23.7.1983 and Circular No. 8/98-Cus, dated 11.2.1998]

### **10.13 Warehousing of Bulk Oil**

10.13.01 When any of the tanks authorised for receipt/storage of dutiable petroleum in bulk or any other liquid bulk cargo under Section 8(a) of the Customs Act, 1962 are intended as Private Bonded Warehouse for storage of bulk oil under the provisions of Chapter IX of the Act, the owner shall submit an application in the following format:

**FORM OF APPLICATION FOR GRANT/RENEWAL OF OF LICENCE FOR PRIVATE BONDED WAREHOUSE VIDE SECTION 58 OF CUSTOMS ACT,1962**

(1) Particulars of Licence :

(i) For an `Individual' or Incorporate Company

a) Name :

b) Address :

c) Nature of Business :

(ii) For a Firm

a) Name of Firm :

b) Address :

c) Nature of Business :

And the following particulars in respect of each person having any proprietary interest in the firm.

a) Name :

b) Address :

c) Description :

(2) Description of goods to be warehoused :

(3) Whether Goods other than those :

belonging to the licence or for which he

is an Agent are to be Warehoused

(4) Particulars of maximum stock :

intended to be held in the warehouse :

at any one time : TANK NO. : .....

a) Quantity : M.T. APPROX.

b) Value – C.I.F. : Rs. APPROX.

A.V. : Rs. APPROX.

c) Duty (at rates in force at : Rs. APPROX.

time of application)

NOTE : In the case of spirit intended for denaturation, this should be separately specified.

(5) Particulars of maximum stock actually held at any one time under the expiring licence (for use in case of renewals only.)

a) Date :

b) No. of packages :

c) Value :

d) Duty :

(6) Particulars of any changes in :  
proprietorship of the firm since date of  
last renewal (to be filled in only by firms  
applying for renewal)

(7) Particulars of premises to be licensed :

a) Name and Address of owner :

b) Place at which situated :

c) Dimensions :

i) Diameter :

ii) Height :

d) Distance from the Custom :

House

NOTE : If more than one godown is to be licensed, separate particulars should be given for each if necessary in separate sheet.

(8) Name & Address of Banker or other :

person to whom reference may be made

regarding the financial status of licensee

We declare the above particulars to be true and apply for the grant/renewal of the licence under Section 58 of the Customs Act, 1962 in accordance therewith.

PLACE :

DATE :

10.13.02 Along with the application must be submitted Solvency Certificate issued by Bank, Insurance Policy, Empty Dip memo duly certified by the Preventive Officer and valid calibration chart.

10.13.03 Concerned Asst. Commissioner should grant licence for tanks on compliance of conditions of warehousing, as applicable to private bonded warehouse at 10.04 and 10.05 above.

*[Please see Chapter 'Oil & Petroleum' for procedure of discharge and clearance of liquid cargo in bulk.]*

#### **10.14 Period of Warehousing**

10.14.01 After the date on which the proper officer has made an order under Section 60 of the Customs Act, 1962 permitting the deposit of the goods in a warehouse the goods can remain the warehouse for the following periods:

- (a) 5 years - in the case of capital goods intended for use in any EOU;
- (b) 3 years - In the case of goods other than capital goods intended for use in any EOU; and
- (c) 1 year - In the case of any other goods.

10.14.02 Commissioner of Customs can extend the warehousing period for any further period as he may deem fit in case of goods intended for use in any EOU and in other cases for a period not exceeding six months. Chief Commissioner of Customs can extend for such further period as he may deem fit. The guidelines in this regard are as follows:

- (a) Requests to the Chief Commissioners for extension in warehousing period beyond the extension granted by the Commissioner of Customs, may be considered for the shortest period, not exceeding three months at a time. Such extensions are to be granted after due circumspection and only in deserving cases.
- (b) Requests for extension at the Chief Commissioner's level may be considered only in respect of those cases where it is really warranted that the goods have to be kept in the warehouses under circumstances beyond of the control of the importers viz., closure of the factory due to strike, lock-out, natural calamities etc. Financial constraints of the importers are not to be considered as adequate ground for granting extensions of warehousing period.
- (c) For granting extension of warehousing period, the concerned authority should be satisfied regarding the condition of the goods and that they are not likely to deteriorate during the extended period. Whenever necessary, goods should be got tested to ensure quality and fitness before granting further extension of warehousing period.
- (d) Liberal approach may be adopted in granting extension of warehousing period in respect of the following cases provided the goods are in good condition and not likely to deteriorate during the extended period of warehousing:
  - (i) Goods supplied as ship stores/aircraft stores,
  - (ii) Goods supplied to diplomats,
  - (iii) Goods warehoused and sold through duty free shops,
  - (iv) Goods imported by EOUs, and
  - (v) Goods used in manufacture – in – bond scheme.
- (e) In respect of machinery, equipment, and raw materials imported for building and fitment to ships the applications for extension of warehousing period should be filed, as far as possible, prior to fifteen days of the

warehousing period. All such requests should normally be decided within this period. Requests for grant of extensions of warehousing period can also be considered after the expiry of initial or extended period of warehousing, after taking into consideration the exceptional circumstances of the case, nature of commodity, rate of duties, particularly, whether the same could result in loss of revenue to the Government, licensing aspects involved, etc.

[Circular No.47/2002-Cus, dated 29.7.2002]

10.14.03 In case of other goods (not meant for EOU) if they are likely to deteriorate Commissioner of Customs may reduce the period to such shorter period as he may deem fit.

10.14.04 In cases where the licence for private warehouse is cancelled, the owner of any goods warehoused, has to clear the goods within seven days from the date of cancellation notice or within such extended period as the proper officer allow.

10.14.05 Section 61 also provides for charging of interest on amount of duty payable on warehoused goods. Further it empowers the Board to:

- (a) To waive the whole or part of any interest payable.
- (b) Notify the class of goods in respect of which no interest shall be charged.

### **10.15 Duty on Goods After Expiry of Warehousing Period**

10.15.01 Supreme Court's judgment dated 23.8.1996 in Civil Appeal No. 4459 of 1989 in case of Kesoram Rayon vs. Commissioner of Customs, Calcutta held that goods not removed from a warehouse within the permissible or extended period are to be treated as goods improperly removed from the warehouse. In such a case the importer is required to pay the full amount of duty chargeable on the goods together with interest, penalties, rent and other charges. Also, the duty would be chargeable at the rate applicable on the date of their deemed removal from the warehouse, that is, the date on which permitted or extended period expired. Thus, the date of payment of duty in the case of warehoused goods removed after the expiry of the permissible or extended period would be the date of expiry of the warehousing period or such other extended period as the case may be and not the date of payment of duty.

[Circular No. 31/97-Cus., dated 10.8.1997]

#### **10.16 Levy of Interest on Customs Duty on Warehoused Goods and Waiver thereof**

10.16.01 Section 61(2) of the Customs Act, 1962 provides for charging of 15% interest on the duty payable at the time of clearance of warehoused goods for the period from the permitted warehousing period till the date of payment of duty, as follows:

- (a) With regard to goods specified under Section 61(i)(a) and (aa) of the Customs Act, 1962 i.e., goods warehoused by EOUs, the interest rate @15% is that

specified in Section 47 of the said Act vide Notification No.28/2002-Cus(NT), dated 13.5.2002.

- (b) With regard to goods covered under Section 61(i)(b) i.e., all other goods, the interest rate @15% is specified vide Notification No.18/2003-Cus(NT), dated 1.3.2003.

[Circular No.12/2007-Cus, dated 10.2.2007]

10.16.02 As per Notification No.122/2004-Cus (NT), dated 25.10.2004 the Chief Commissioners of Customs and Central Excise may waive interest of upto Rs.2 crores as per certain guidelines that generally require waiver of interest on specified imports (ship stores etc.) wherein the import duty is finally not payable and in other cases where the nature of activity (ship building, power generating project) require the imported goods to be retained for a longer period of time and charging of interest would unnecessarily escalate the costs. This is however subject to the individual merits of a case. In general the following goods/import would merit interest waiver:-

- (i) Goods supplied as stores/aircraft stores (after bond clearance).
- (ii) Goods supplied to diplomats (after bond clearance).
- (iii) Goods used in the units operating under manufacture-in-bond.
- (iv) Goods imported by EOUs (after completion of export obligation).
- (v) Goods warehoused and sold through duty free shops.
- (vi) Machinery, equipment and raw materials imported for building and fitment to ships (after the goods have been cleared from warehouse for actual use for building/fitment to Ships).
- (vii) Petroleum products.
- (viii) Plant and machinery imported projects.
- (ix) Machinery, equipment and raw-materials imported for manufacture and installation of power generation units.

- (x) Goods imported under OGL and warehouse for subsequent clearance against Valid Advance Licenses / Import-Export Pass Book Schemes and Similar Schemes.
- (xi) Goods imported in bulk by canalizing agencies/public sector trading or Service agencies and warehouse for subsequent release for export production.
- (xii) Imports under EPCG Scheme.
- (xiii) Import of capital goods by Public Sector Undertakings.

[F. No. 473/24/97-LC, dated 12.5.1999]

10.16.03 In all cases the demand for interest are to be raised when due, but not enforced and on fulfillment of the purpose of the import, the waiver of interest is to be decided within six months. Thus, the activity of the importers is to be allowed to continue, which includes clearance of the goods from the warehouse for the purpose of use, and only at the last stage after the goods have been cleared or at the time of de-bonding in cases of EOUs, the waiver of interest is to be decided.

10.16.04 Cases not covered by guidelines and cases relating to interest accrued on scrap generated during the manufacturing activities of EOUs should be referred to the Board for decision.

[Circular No.10/2006-Cus, dated 10.2.2006]

10.16.05 Interest accrued on capital goods, permissible office equipments, captive power plants, tools, jigs, gauges, fixtures, moulds, dies, instruments and

accessories imported by EOUs has been exempted. Interest is chargeable on goods cleared from a warehouse when duty is paid by way of debit in DEPB licenses.

10.16.06 In respect of goods imported by EOUs waiver of interest shall be considered on completion of the export obligation period. However, when EOUs do not fulfill their export obligation and are allowed pre-mature debonding (without going into production or without export), the interest waiver does not merit consideration except in very exceptional circumstances.

[F. No. 475/82/92-LC, dated 10.2.1994]

10.16.07 At present, interest at a flat rate of 15% is chargeable after completion of warehousing, but for the past periods it is to be calculated at prescribed different rates of interest at different periods of duration of warehousing.

10.16.08 Interest under Section 68 of the Customs Act, 1962 relates to interest on other dues such as warehouse charges rent etc., and not duty.

### **10.17 Control Over Warehoused Goods**

10.17.01 In terms of Section 62 of the Customs Act, 1962 the following control shall be exercised on the warehoused goods:

(a) All warehoused goods shall be subject to the control of the proper officer.

- (b) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer
- (c) The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.
- (d) The proper officer shall have access to every part of a warehouse and power to examine the goods therein.

10.17.02 Section 63 of the Customs Act, 1962 deals with the payment of rent and other charges for the warehoused goods, as follows:

- (a) The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law in force or where no rates are so fixed, at such rates as may be fixed by the Commissioner of Customs.
- (b) If any rent or warehouse charges are not paid within 10 days of becoming due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select.

10.17.03 Section 64 of the Customs Act, 1962 prescribes the manner in which the owner of the warehoused goods may deal with them with sanction of the proper officer and on payment of the prescribed fees, either before or after warehousing, as follows:

- (a) Inspect the goods;
- (b) Separate damaged or deteriorated goods from the rest;

- (c) Sort the goods or change their containers for purpose of their preservation, sale, export or disposal;
- (d) Deal with the goods and their containers to prevent loss or deterioration or damage to the goods;
- (e) Show the goods for sale; or
- (f) Take samples without entry for home consumption, and if permitted, without payment of duty.

### **10.18 Manufacture and Other Operations in Warehouse**

10.18.01 In terms of Section 65 of the Customs Act, 1962 with the sanction of the Assistant /Deputy Commissioner of Customs and subject to conditions and on payment of prescribed fees, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse.

10.18.02 If during the course of any operations in relation to warehoused goods there is any waste or refuse, the following provisions shall apply: -

- (a) If the whole/ part of the resultant goods are exported, import duty shall be remitted on the quantity of the warehoused goods contained therein the waste or refuse subject to the waste or refuse being destroyed or duty is paid on it as if it had been imported in that form;
- (b) If the whole/ part of the resultant goods are cleared for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in the waste or refuse as has arisen in relation to the goods cleared for home consumption.

10.18.03 The Manufacture and Other Operations in Warehouse Regulations, 1966 indicate the requirements for carrying out the manufacturing activity in the warehouse, which include the following:

- (i) Application in proper form.
- (ii) Execution of bond.
- (iii) Details of charges to be paid.
- (iv) Procedure for sanction to carry on manufacturing process in Bond.
- (v) Maintenance of accounts
- (vi) Special audit in certain cases
- (vii) Procedures of cancellation and suspension of sanctions.

10.18.04 The guidelines while deciding such requests are that the facility may be extended mainly to export oriented units so that unnecessary difficulties in first paying duty and later claiming Drawback can be avoided. The export orientation can be determined by comparing the following figures:

- (a) Total value of goods manufactured by using imported raw materials;
- (b) Total value of such finished goods exported; and
- (c) Total value of such finished goods retained for domestic sale.

10.18.05 A flexible approach may, however, be adopted in the matter so that there is no instance that the exports have to be less than 50% of imported materials. Further the Manufacture-in-Bond operations are required to be carried out under Customs supervision on cost recovery basis. The Commissioners may carefully scrutinise the applications for grant of in-Bond manufacture facility and if the applicants are financially secure, has good credibility, and has not been involved in Customs or Excise duty evasion in the preceding 5 years in the normal course, an in-

Bond manufacture licence under Section 65 may be granted. This would, of course, be subject to the condition that the premises are suitable and adequately secured. While granting the requests, the provisions of the Manufacture and other operations in Warehouse Regulations, 1966 have also to be complied with.

[Circular No. 132/95-Cus, dated 22.12.1995]

10.18.06 As per Section 66 of the Customs Act, 1962 if any imported materials are used in accordance with the provisions of Section 65 for the manufacture of any goods and the rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied in the interests of the establishment or development of any domestic industry by notification exempt the imported materials from the whole or part of the excess rate of duty.

### **10.19 Removal of Goods From One Warehouse to Another**

10.19.01 As per Section 67 of the Customs Act, 1962 the owner of any warehoused goods may, with the permission of the proper officer, remove them from one warehouse to another, subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.

10.19.02 Application for removal of goods from one warehouse to another will be presented in the prescribed form to the Bond department.

10.19.03 The Bond department will see that the particulars in the application agree with the entries in the Bond Register, note therein the receipt of the application and submit it to the Assistant Commissioner for his orders. The orders will be endorsed on the application, which will then be returned to the owner.

10.19.04 If permitted, the file will be forwarded to the Preventive Department to depute, on receipt of an application from the owner, an officer to supervise the transfer of the goods (if no Customs officer is posted in charge of that warehouse).

10.19.05 The owner will present the application to the Officer, in charge of the warehouse from which the goods are to be removed or to the officer deputed to supervise the removal. This officer will allow delivery of the goods, endorse the application and make a note in the stock list to that effect and the goods will be transported under the supervision of the Officer deputed for the purpose.

10.19.06 On arrival of the goods at the warehouse where the goods are to be deposited, the supervising Officer or the Officer in charge, will see that the goods covered by the application are duly stored in the warehouse and will make an endorsement to that effect on the application which will then be returned by the supervising Officer to the Bond department.

10.19.07 The Bond officer will make a note of the transfer of the goods in the Bond register and forward the application in the usual course to the warehouse keeper to be filed with the relative original into-Bond Bill of Entry.

10.19.08 In the case of bulk oil transfers the Bond Clerk will, on receipt of the file from the oil Appraiser, note the complete particulars of the transfer in the Bond Register and make necessary endorsements forwarded to IAD for scrutiny.

10.19.09 On receipt of the oil transfer files, the Bond officer will recover duty on the unaccountable loss and the transfer loss and if there be any gain, proceed with the refund when a claim is received from the Bonders.

10.19.10 He will finally note the amount of duty recovered in the Bond register with full particulars of the bill number and date and forward the file to records to be filed with relative Bond documents.

10.19.11 In case of goods to be shipped by Sea from Bond under the provisions of Section 67 of the Customs Act, the following procedure will be observed:

- (a) The owner will prepare a Shipping Bill in triplicate in the prescribed form with the words 'From Bond' written prominently in red ink at the top of each copy and present the documents to the Bond Clerk along with a Bond in the prescribed form. One Bond is sufficient for all goods shipped by the same Shipper by the same ship even though the goods are covered by more than one Shipping Bill (vide C.B.R. Letter D. Dis. No. 15-Cus.1/40, dated 29.1.1940). The Bond officer will –
  - (i) Satisfy himself that the goods are entered for shipment to a warehousing port and that the warehousing licence at the other end is valid and would accommodate the goods sought to be transferred. (A certificate to this effect should be obtained from the Asst. Commissioner of Customs/Central Excise/Superintendent

- (Customs)/Central Excise in charge of the warehouse and presented along with transfer application);
- (ii) Compare and record the particulars of goods entered for shipment against the entries in the Bond register;
  - (iii) Check the Bond to see that it is correctly prepared and stamped;
  - (iv) Take necessary action to recover charges, if any, leviable on the goods; and
  - (v) Endorse and initial the order in the Shipping Bill permitting shipment of the goods under Section 67 and submit the documents with the Bond to the Assistant Commissioner for signature of the order and acceptance of the Bond.
- (b) On receipt of the duplicate and triplicate shipping bills from the Export Department, the owner will obtain from the Preventive Department, the services of an officer to supervise the removal and shipment of the goods, and will present the documents to the warehouse keeper, or in the case of a private warehouse, to the officer to issue the goods therefrom.
- (c) The warehouse keeper or the officer deputed to issue the goods will allow delivery after satisfying himself that rent has been recovered, if leviable and that duty on deficient contents, if any, (found after examination of the outwardly defective packages) has been collected, note the clearance of the goods on the relative stock list and on the duplicate Shipping Bill and hand over the duplicate and triplicate Shipping Bill to the supervising officer.
- (d) The supervising officer should satisfy himself as to the condition of the packages before removal and if found to be in good order, he should make an endorsement to that effect on the reverse of the Shipping Bill. If, on the other hand, any package is found to be broken or tampered with, then he should open and examine the package in the presence of the shipper or his representative, prepare a list of the contents thereof and note therein the condition of the package and should sign and date the list and should also get the shipper or his representative to sign the list. He should thereafter proceed with the shipment. The list with the report as to the condition of the packages should be forwarded to the Bond department in the Import Department who

should obtain the invoice for the package to ascertain whether there is any shortage on which duty should be recovered under the Bond.

- (e) After the goods have been shipped under supervision, the supervising officer will make a note of the fact on the reverse of the Shipping Bill, hand over the triplicate copy to the ship's officer and send the duplicate to Bond Department.
- (f) The Bond officer will deal with the Shipping Bill as in the case of free goods and prepare an advice in the prescribed form (C.B.R. Cus.33) for despatch to the Customs officer at the port of destination after verifying whether the goods have been actually shipped.
- (g) On receipt of intimation regarding the due arrival and rewarehousing or clearance of the goods at the port of destination, the Bond officer shall—
  - (i) After audit put up the Bond to the Assistant Commissioner for cancellation;
  - (ii) Complete the entries in the Bond Register and submit the Shipping Bills with the register to the Superintendent Import & Bond Department, for check of the clearance posted and initial the register in token thereof;
  - (iii) Send the Shipping Bills to the IAD with the registers.

10.19.12 Removal of goods by inland carriage under Section 67 of the Customs Act, 1962 shall be as above with the following deviations:

- (a) The Customs Officer deputed for supervision will accompany the goods to the Booking Office and after they are consigned to the Officer in charge of the warehouse where the goods are to be deposited send the railway receipt with the application to the Bond department.

- (b) The Bond officer will despatch the railway receipt with a covering advice signed by the Assistant Commissioner to the officer to whom the goods are consigned.
- (c) On receipt of the intimation from the officer in charge of the warehouse to which the goods are consigned regarding the arrival of and rewarehousing of the goods, the Bond filed under Section 67 of the Act will be cancelled by the Assistant Commissioner.

10.19.13 The warehousing facility for petroleum and petroleum products is available only at the port of import, and no removal to inland bonded warehouses without payment of Customs duty is allowed except for goods exempted from payment of Customs duty in terms of relevant Customs notifications or to goods imported by EOUs, STPs, EHTPs and SEZs.

[Circulars No.8-Cus, dated 10.2.2005 and No. 9-Cus, dated 15.2.2005]

10.19.14 Removal of Warehoused goods: The importer (or owner) may clear the warehoused goods for home consumption on payment of duty warehouse rent, interest etc. (if any). For this purpose, he is required to file an ex-bond Bill of Entry under Section 68. This Bill of Entry will be filed in the Import Department. After assigning admission number and date it is transferred to the Bonds Department where the Bond officer verifies the declared particulars with the particulars already entered in the Warehouse Register. Thereafter, the Appraising Group assesses the

Bill of Entry. The importer pays the duty and obtains out of charge order on the reverse of the duplicate Bill of Entry from the Superintendent (Bonds). He then produces this duplicate Bill of Entry to the Bond Officer or Warehouse Keeper and clears the consignment from the warehouse. Under Section 15(1)(b), the rate of duty applicable to such goods is the rate prevailing as on the date of filing of ex-bond Bill of Entry. More than one clearance of a single warehoused consignment can also be effected by filing different bills of entry under Section 68. As far as the rate of exchange is concerned, the same rate that prevailed on the date of filing of the into-Bond Bill of Entry by the importer is applicable to all clearance ex-Bond.

*[Procedure of processing into Bond Bills of Entry / Shipping Bill under EDI is given in the Chapter 'EDI'.]*

10.19.15 Warehoused Goods (Removal) Regulations, 1963: These Regulations prescribe the conditions of removal of goods from one warehouse to another, as follows:

- (a) Where the goods are to be removed from one warehouse to another in the same town, the proper officer may require that the transport of the goods to be under the supervision of an Officer of Customs at the owner's cost.
- (b) Where the goods are to be removed from one warehouse to another in a different town, the proper officer may require the person requesting the removal to execute a Bond (with surety or security or both) for a sum equal to the amount of import duty leviable on such goods. The terms of the Bond shall require the production within three months (or extended period), a certificate issued by the proper officer at the place of destination that the goods have arrived at that place. If the certificate is not produced, an amount equal to the import duty leviable on the goods shall stand forfeited.

[Notification No. 59/63-Cus, dated 1.2.1963]

10.19.16 Remission of duty on legal breakage: When warehoused goods are lost or destroyed in transit from one warehouse to another so long as loss or destruction of goods takes place before the clearance of the goods for home consumption as specified in Section 23 of the Customs Act, 1962 remission of duty has to be allowed. 'Loss' for this purpose does not include pilferage, which is covered by Section 13 of the said Act. Further, transit losses are normally very nominal. For liquor bottles, breakage during transit do not exceed ½% and in the case of first importation at port losses should be much less. For purpose of establishing transit losses, the examination should be carried out under the supervision of Gazetted Officers and the necks of the bottles with pilfer proof-caps intact submitted to the Asst. Commissioners for destruction along with the examination report. Where breakages in excess of ½% for liquor bottles are noticed, such breakages should be properly looked into in order to check malpractice and the warehouse keepers should be asked to take steps to reduce the breakages. Where such cases of breakages persist steps should be taken to cancel the warehouse licence.

[F.No. 473/8/71- Cus VIII, dated 31.1.1972]

## **10.20 Transit Bond for Transfer or Bonds to Interiors**

10.20.01 Where the imported goods are stored in a private Bonded warehouse within the same metropolitan city, the regulations allow it to be sent under escort. In such cases, there is no need for a transfer Bond.

10.20.02 Where the goods have to go outside the city, a transfer Bond is required to be taken but where a transfer takes place within the territorial jurisdiction of the Commissioner of Customs and is within a reasonable distance say upto 50 kms, he may wave the bank guarantee if he is satisfied with the bona fides of the party and the goods are sent under escort;

14.20.03 In respect of sensitive goods, the duty should be secured by a transit Bond backed by a bank guarantee or a cash security for 50% of the duty involved. In respect of non-sensitive goods transit Bond would be covered by a bank guarantee or a cash security for 25% of duty involved. The Commissioners may demand bank guarantee/security up to the value of duty amount, if they consider it necessary in certain cases.

[Circulars No. 99/95, dated 20.9.1995 and No. 20/96, dated 4.4.1996]

## **10.21 Clearance of Warehoused Goods for Export**

10.21.01 Section 69 of the Customs Act 1962 stipulates that warehoused goods may be exported to a place outside India without payment of import duty if –

- (a) Shipping Bill or a Bill of Export has been presented in respect of such goods in the prescribed form;
- (b) Export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- (c) An order for clearance of such goods for exportation has been made by the proper officer.

10.21.02 If the Central Government is of opinion that warehoused goods are likely to be smuggled back into India, it may, notify such goods that shall not be exported without payment of duty or may be allowed to be exported subject to certain restrictions and conditions.

10.21.03 Section 88 of the Customs Act, 1962 stipulates that the provisions of Section 69 and Chapter X of the said Act shall apply to stores taken on board any foreign going vessel or aircraft as stores (other than those to which Section 90 applies) as they apply to other goods.

10.21.04 When goods are entered for shipment to a foreign port or as provisions, etc., for use on board a vessel proceeding to a foreign port, the procedure is as follows: -

- (a) The owner of the warehoused goods will present a Shipping Bill in triplicate in the prescribed form with the words "from Bond" written prominently in red ink at the top of each copy to the Bond department.
- (b) The Bond officer will see –
  - (i) That the goods are entered for shipment to a foreign port.

- (ii) Compare and record the particulars of goods entered for shipment against the entries in the Bond Register.
  - (iii) Endorse and initial the order in the Shipping Bill pertaining shipment of the goods to the Assistant / Dy. Commissioner (Bonds) for signature.
- (c) After obtaining Assistant / Dy. Commissioner's orders permitting shipment ex-Bond, the Shipping Bill is forwarded to the Export Department for numbering and date stamping and the original Shipping Bill is detained here.
- (d) On receipt of the duplicate and triplicate of the Shipping Bills from the Export Department the owner will obtain from the Preventive Department the services of an Officer to supervise the removal and shipment.
- (e) The duplicate Shipping Bill is forwarded along with the EGMs after shipment to Export Department. The triplicate Shipping Bills are received by Bond department from the Preventive Department who will finally note in the Bond register the particulars of shipment. In places where triplicate Shipping Bills are not filed, the duplicate Shipping Bill after shipment of the goods is received in the Bond Department from Export Department. The duplicate Shipping Bill is endorsed by the Export Department as "compared in the EGM" The particulars of shipments are entered in the Bond register.

10.21.05 Stores supplied ex-Bond to Government Vessels: Provisions and stores including wines, and spirits may be shipped ex-Bond to the following users:

- (a) Ships of the Indian Navy irrespective of whether their destination is a foreign port or otherwise.

- (b) Liquor and consumable stores may be supplied ex-Bond from the warehouses maintained by the Airline companies subject to the condition that the aircraft is proceeding direct to other foreign destinations. Further, such supplies will be made only when the plane is taking off on an onward flight for a foreign destination and will not touch an intermediate Indian Airport. The supplies will be kept under seal until the plane takes off and an endorsement that "the seals were found in tact at the time of departure" will be made by the Customs Officer.

[Ministry of Finance (R.D.) Letter No. 70(23)  
Cus 1/54 Cus III, dated 22.8.1955 ]

- (c) Warehousing of goods imported under Savings Clause 3 (d) of the Foreign Trade (Exemption from Application of Rules in Certain Cases) Order, 1993 should be permitted only for (i) bonafide ships stores; and (ii) items like provisions, liquors, cigarettes and tobacco. In no case should the imports of non-consumable items like air-conditioners, refrigerators, tape recorders etc. be allowed.

[F. No. 3/5/66-Cus. VII, dated 23.5.66 and 16.6.1966]

## **10.22 Shipment of Liquid Fuel Under Section 88**

10.22.01 The Oil Company will present in the Preventive Department the Shipping Bill, with Bond number and date noted therein or an application

requisitioning an officer for supervising shipment. The Preventive Department will obtain the Assistant / Dy. Commissioner's orders sanctioning the staff required.

10.22.02 The Shipping Bill will then be presented in the Bond Department for admission and for putting up endorsement to obtain the Assistant / Dy. Commissioner's orders for permission to ship the goods under Section 88 of the Customs Act. The Bond Clerk will make an entry in the Bond register and assign an issue number to the Shipping Bill. After the Assistant / Dy. Commissioner's orders are obtained, the Shipping Bill will be forwarded to the Export Clerk to be dealt with under usual procedure.

10.22.03 The Shipping Bill will thereafter be forwarded to the Preventive Officer concerned, who, after bunkering is completed, shall verify the quantity with the Chief Engineer's log book with that arrived at after measuring the tank and certify the quantity verified on the Shipping Bill.

10.22.04 The Bond officer will note in the register the actual quantity bunkered and transmit the Shipping Bill to the Export Department which will return the Shipping Bill to the Bond department after the usual check with the manifest.

10.22.05 The entries in the register will then be completed and the register submitted to the Superintendent for initials. The registers with the Shipping Bills will thereafter be forwarded to the Audit Department for checking the entries.

10.22.06 When vessels in coastal run are to be bunkered from Bonded stocks, the Oil Company shall in addition to presenting a Shipping Bill for the quantity of oil required in the Export Section, file in the Import Department a ex-Bond Bill of Entry

for this quantity. Duty shall be collected before the oil is allowed to be pumped. After bunkering, action should be taken for the recovery/refund of duty on any excess/short shipped quantity.

10.22.07 The expression “any vessel proceeding to a foreign port” in Section 88 of the Customs Act, 1962 should not be construed so as to disallow shipment of provisions or stores for use on board the vessel while in port before the commencement of the outward journey. The concession envisaged would be available when the vessel leaves an Indian port with a foreign port as its destination regardless of it calling on other Indian ports enroute or passing through the Indian waters for some time.

[F. No. 55 (16)-Cus.1/54, dated 11.10.1954]

10.22.08 There is no restriction on the quantities of Ex-Bond shipment under Section 88 the Customs Act, 1962. The only case where restriction on the quantity of goods sought as stores would be applicable is where the quantities are so large that they cannot conceivably be intended for use as stores and/or there is reason to suspect that these would be surreptitiously landed.

[F. No. 3/27/59-Cus III, dated 10.1.1969]

### **10.23 Waiving the Condition of Physical Warehousing**

10.23.01 There are cases where after landing of goods in the Docks, the importer seeks bonding of the goods, but before physically warehousing can take place, he seeks clearances for exports or for home consumption or even removal from the warehouse to another warehouse in another town. However, ex-post facto approval of waiver of the requirement of physical warehousing at the port of importation is not permissible.

[F. No. 473/16/88-Cus.VII, dated 15.6.1988]

10.23.02 In the following cases, Asstt./Dy. Commissioners of Customs may consider granting waiver of physical warehousing with the approval of the Commissioner, if necessary, ex-post-facto.

- (i) Merchanting trade i.e., goods imported for supply to other foreign countries, which is permitted by the RBI as per Chapter 13 of the Exchange Control Manual.
- (ii) Cases where duties are not collected i.e., stores, spare parts, fuel for vessels etc. or “stores” as defined in Section 2(38) of the Customs Act, 1962.
- (iii) Equipment, machinery and raw materials for EOUs located outside port city and in urgent need of equipment.
- (iv) Companies with manufacture-in-Bond permission under Section 65.
- (v) Bulky, heavy and dangerous and delicate items, which require special handling or air-conditioning.
- (vi) Goods belonging to reputed companies that have urgent reasons for immediate clearance.

**10.24 Cancellation and Return of Warehousing Bond under Section 73**

10.24.01 When all goods covered by a Bond executed under Section 59 have been cleared for home consumption or exported or are otherwise duly accounted for and when all amounts due on account of such goods have been paid, the proper officer shall cancel the Bond as discharged in full, and shall on demand deliver it, to the person who has executed or is entitled to receive it.

10.24.02 When a Bond is ripe for cancellation, all documents relating thereto original into-Bond Bill of Entry, ex-Bond Bill of Entry and Shipping Bills which should always be kept by the Bond department with the relative Bond, together with the Bond Register, should be sent to the IAD.

10.24.03 Audit should immediately scrutinise the documents and the entries in the Bond Register and, if these are in order, should impress the Department's stamp on the Bond and against the entries in the Bond Register and initial the documents in token of having audited them and return them to the Bond Department.

10.24.04 The Bond should not be cancelled by the Bond Department unless it bears the IAD stamp duly initialed by the Audit officer.

10.24.05 Superintendent, Bonds, will personally check the Bond Register twice a year in January and July and see there has been no undue delay in the disposal of completed Bond, and report to the Assistant Commissioner of his having done so.

### **10.25 Bond File**

(a) A Bond file consists of –

1. Bond under Section 59 of the Customs Act, 1962.
2. Original into-Bond Bill of Entry.
3. Original and duplicate ex-Bond Bill of Entry.
4. Original Shipping Bill in respect of goods shipped to a foreign port and Duplicate in case of goods removed to a Customs port.
5. Papers relating to the discharge of the Bond under Section 67 of the Customs Act, 1962.
6. Bonder's application for removing part contents of packages for home consumption or re-export or for operations under Sections 64 and 65 of the Customs Act, 1962.
7. Bonder's application for extension of the time limit for warehousing goods.
8. Bonder's application for removal of goods under Section 67 of the Customs Act, 1962.
9. Re-warehousing papers in duplicate.

(b) In the case of intimation received from other ports regarding re-warehousing or otherwise of the Bonded goods such papers should be filed separately if these refer to more than one Bond.

(c) Audit of Bond Files: Bond Files of the nature specified below should be forwarded to the IAD through the Assistant Commissioner, Bonds. All other files should be sent directly to the IAD by the Superintendent, Bonds, or the Preventive Officer in charge of warehouses. Bond files should ordinarily be sent for audit within two months from the date of last clearance from Bond.

- (i) Those containing inaccuracy of a serious nature or in which any document is missing.
- (ii) Those containing ex-Bond Bills of Entry involving short or excess charge above Rs.25/- in an individual Bill of Entry, and
- (iii) Those containing ex-Bond Bills of Entry involving short or excess charge below Rs.25/- in an individual Bill of Entry due to incorrect particulars having been furnished by the Bond Department when issuing them and detected at the time of sending the Bond file for audit.

## **10.26 Irregularities in Clearance of Goods from Bonded Warehouse**

10.26.01 On the basis of irregularities noticed in the past in respect of warehoused goods, the following precautions may be taken by the concerned officers to prevent misuse in the future:

- (a) The goods should be stored in Bonded Warehouses only after due examination. Reverse of the Bill of Entry must confirm the veracity of the declared description with the distinctive identification marks of the subject goods.

- (b) At the time of actual removal of the goods from the warehouse, the declared description of the goods recorded on the Warehousing Bill of Entry, should be tallied with the description declared on the ex-bond Bill of Entry.
- (c) There should be regular audit and inspection by the senior officers and the Customs House audit parties so that the nature, quantity, number and other relevant particulars with reference to the concerned documents are verified. The exercise could be once in six months for audit parties supported by surprise checks by senior officer.
- (d) The records of bonded goods in the Customs Houses, as far as possible, should be computerised.
- (e) It should also be made mandatory for the Central Warehousing Corporation and other warehouses to submit status report regarding consignments pending for one year and above. The position can then be cross checked in the Customs House where the warehousing Bills of Entry originated.
- (f) Action under Section 72 of the Customs Act, 1962 must be initiated on expiry of the warehousing period.
- (g) All cases where goods continue to lie in the warehouse after the expiry of warehousing period should be specially taken up for scrutiny by the audit parties and other checks in order to guard against deterioration, substitution or any other unlawful removal.

[Circular No. 52/98-Cus., dated 27.7.1998]

### **10.27 Check List For Working Of Bonded Warehouses**

10.27.01 The Directorate of Inspection & Audit, have drawn up and issued Check Lists on various warehousing procedures for the guidance of the staff. These

check lists cover procedures from inspections to be carried out before issuance of licence to auditing of documents.

10.27.01 Check list – I (Before a licence is issued):

- (a) Verify that the place where the warehouse is proposed to be licensed has been notified as a warehousing station under Sec. 9 of the Customs Act, 1962.
- (b) The application for licence has been made in the prescribed form.
- (c) The no. of commodities proposed to be Bonded in each warehouse should not exceed 5 or 6.
- (d) The warehouse building should be inspected and it should not be in the residential area.
- (e) It should be a pucca building (brick-built)
- (f) If the warehouse is on the top-floor, then the terrace should be well and strongly built.
- (g) All windows and sky lights should be well secured.
- (h) There should not be more than 1 door.
- (i) The door should be screwed and hinged from inside to prevent the fastening being removed from outside.
- (j) The premises must be secured against theft, pilferage, or other risks and must be easily accessible for the departmental officers for any inspection or checks.
- (k) The warehouse should be provided with adequate no. of fire extinguishers and other equipment such as buckets of water, sand etc., for putting out fire.
- (l) The warehouse building should be inspected by a Superintendent.
- (m) A report on the condition of the building shall be prepared and the questionnaire duly filled in should be submitted to the Asst./Dy. Commissioner.
- (n) The applicant shall give in writing his readiness to defray the expenses on account of Commissionerate's establishment employed at the private Bonded warehouse on a regular basis or occasionally.

- (o) The new applicants who are intending to store sensitive goods should produce a solvency certificate (not just a reference or a confidential certificate) from a scheduled bank of repute (other than a co-operative bank or a bank which has operations limited to a city etc.) for a value of not less than Rupees Fifty Lakhs (Rs. 50,00,000/-)
- (p) In respect of non-sensitive goods, the applicant should be solvent for Rs. Ten lakhs (Rs,10,00,000/-)

10.27.02 Check list –II (Issuing of a licence and allied steps):

- (a) Licence for a private Bonded warehouse should not be issued if the applicant's record is not clean and that the proprietor , or partner or any of the Directors are involved in any of the Customs duty evasion / smuggling offences and have been subjected to penalty or other action under the Customs or Central Excise Laws.
- (b) A licence shall be valid for one year and may be renewed annually.
- (c) Before renewal of the licence the check-list I may again be followed.
- (d) Before a licence is cancelled give one month's notice in writing to the licensee.
- (e) If the licensee has contravened any provisions of the Customs Act, 1962 or the Rules and Regulations or committed breach of any of the conditions of the licence then the licence may be cancelled after giving reasonable opportunity of being heard.
- (f) See that the "Proper Officer," in relation to various functions to be performed in respect of warehousing, is notified under Sec. 2(34) of the Customs Act, 1962.
- (g) Importer shall execute a Bond in the prescribed form.
- (h) The Bond may be for a single consignment or a general Bond.

- (i) In the case of a Bond for a single consignment the amount, for which the importer shall bind himself, should be equal to twice the amount of duty assessed on the goods intended to be Bonded. In respect of sensitive goods, the licence should give a cash deposit or bank guarantee equal to 25% of the duty liability for each consignment.
- (j) In the case of a general Bond the importer shall bind himself in such amount not less than twice the amount of duty estimated on the likely quantity of goods to be Bonded within a specified period.
- (k) After the licence has been issued and the Bond has been accepted the importer can be allowed to Bond dutiable imported goods.
- (l) The licensee shall pay the cost of purchasing a strong lock for locking the warehouse door.
- (m) One key of the lock shall be retained with the officer in charge of administration in a sealed cover.
- (n) The other key shall be kept with the 'Proper Officer' in charge of the warehouse.

10.27.03 Check List – III (Examination and Bonding of goods):

- (a) Examine all packages before Bonding.
- (b) Compare with the documents received from the dispatching Commissionerate.
- (c) Send an acknowledgement for receipt of the goods to the dispatching Commissionerate.
- (d) See that the goods are properly stocked.
- (e) See that the stock card is kept with each stock.
- (f) The importer has to file a set of into-Bond bills of entry.
- (g) Classify and assess the into-Bond Bill of Entry.
- (h) Hand over to the importer his copy of the Bill of Entry.
- (i) Do not allow similar type of goods produced indigenously or obtained locally in the same warehouse.

- (j) The goods deposited in the warehouse should be fully insured by the warehouse keeper against theft, pilferage, fire accidents, other natural calamities, risks against rioting etc. at least for a value equal to the Customs duty by a comprehensive insured policy drawn in the favour of the Commissioner of Customs.
- (k) Always lock the door before leaving the warehouse.
- (l) Never hand over the key to the importer or any other person.
- (m) The key shall be handed over only to the officer-in-charge of administration or to the 'Proper Officer' in-charge of the warehouse.
- (n) Maintain a Bond register in the prescribed form.
- (o) Draw a summary in the Bond register at the end of each month showing the no. of packages of each type of goods received in the warehouse, quantity of each type delivered therefrom and the balance in stock.
- (p) Put your full signature with date under the summary.
- (q) Endorse on the duplicate copy of into-Bond Bill of Entry, the date and location of the goods stored.
- (r) Empty cases shall not be allowed to be stored in the warehouse.
- (s) Empty cases shall be delivered to the Bonder under receipt on the reverse of the into-Bond Bill of Entry.
- (t) Check the period of storage to ensure that they do not remain warehoused beyond the period prescribed in Sec. 61 of the Customs Act.
- (u) If the warehoused goods are not removed at the expiration of the period, issue demand for payment of the full amount of duty chargeable thereon and interest payable under Section 72 of the Customs Act, 1962.

10.27.04 Check List-IV (before sanctioning manufacture and other operations in Bond):

- (a) The facility shall be sanctioned with prior approval of the Commissioner.
- (b) Facility shall be extended to export oriented manufacture units.

- (c) The total value of goods manufactured by using imported materials is significantly large.
- (d) The imported items shall not generally be similar to items produced indigenously which may be used for making export goods (this may not be applied to items which are technically identical e.g.copper)
- (e) Determine the number of officers of different cadre required to be posted for adequate control and supervision of manufacture in Bond.
- (f) Ensure that the manufacture and other operations in Warehouse Regulations, 1966 as amended are followed.
- (g) The Asst./Dy. Commissioner shall also provide a detailed procedure specifying manufacturing processes etc.
- (h) The procedure shall also prescribe the conditions to be complied with by the manufacturer as stipulated in Sec. 65(1) read with Rule 5 & 6 of the Manufacture and other operations in Warehouse Regulations, 1966 as amended.
- (i) The procedure shall also include a proforma of the register in which detailed accounts of all Bonded and other goods used in the manufacture are to be maintained.
- (j) Prescribe a form of statement in which details of all Bonded and other goods used in the manufacture and those remaining in stock are to be submitted.
- (k) In case such facility is extended to allow manufacture of goods from same type of materials as the Bonded materials, which are import duty paid and/or indigenous material in the same place, then (i) prescribe suitable conditions for such facility; (ii)the conditions so prescribed shall include that the manufacturing operations will not be carried out simultaneously;(iii) that proper accounts for verification of goods manufactured from different categories of materials i.e., (a) Bonded materials and (b) non-Bonded materials are maintained.

10.27.05      Check List-V (Removal of goods from one warehouse to another):

- (a) Check that the application has been made in the prescribed form in duplicate.
- (b) Check the particulars in the application to ensure that they agree with the entries in the Bond Register.
- (c) Submit the application to the proper officer for orders.
- (d) The proper officer shall require that the transport of the goods between two warehouses in the same town is made under the supervision and escort of an officer of Customs (the owner has to meet the cost of supervision and escort).
- (e) If the goods are to be removed to a warehouse in a different town, see that a Bond in a sum equal to the amount of import duty leviable on the goods has been executed by the person requesting the removal.
- (f) Check that the Bond has been furnished in the proper form.
- (g) Check that the terms of the Bond include that the person executing the Bond undertakes to produce a certificate issued by the proper Customs officer at the place of destination that the goods had arrived at that place.
- (h) Check that this term of the Bond also specifies the time (that is within 3 months or within such extended period as the Asst. / Dy. Commissioner may allow) within which the certificate shall be produced by the person.
- (i) Check that the Bond is backed by sufficient surety or security or both as accepted by the Asst. / Dy. Commissioner.
- (j) Check that the owner submits a Bond Shipping Bill in the prescribed form and presents from along with the above mentioned form.
- (k) Check that the Shipping Bills contain all the necessary information and the columns have been properly filled in.
- (l) Submit the documents to the Asst. / Dy. Commissioner for orders and acceptance of the Bond.
- (m) Before allowing delivery of the goods note the clearance of the goods in the godown register and on the duplicate Shipping Bill.
- (n) The goods shall be accompanied by a Customs Officer to the railway booking office.
- (o) The Customs officer shall obtain the railway receipt.
- (p) Immediately on return to the office arrange to send the railway receipt with the covering advice (in the prescribed form) to the officer to whom the goods have been consigned; get the advice note signed by the proper officer.

- (q) See that the railway receipt and the advice note goes under registered post with acknowledgement due.
- (r) Record the reference number of the advice note and date in the godown register; also keep the acknowledgement receipt posted suitably in the register.
- (s) In the case of transport by road verify that the carriers are of repute and standing.
- (t) Seek the permission of the Asst. / Dy. Commissioner to allow transport by a particular transport company.
- (u) Each package is sealed with wire and lead seal.
- (v) Record the fact of sealing and the lead seal number in the advice note number.
- (w) Follow the checks listed at 1 to 18 above relating to transport by rail.
- (x) Keep a watch regarding the receipt of intimation of the arrival of the goods.
- (y) Issue a reminder if the intimation is not received in 2 to 3 weeks time from the date of despatch and bring the fact to the notice of the Superintendent / Asst. / Dy. Commissioner.
- (z) On receipt of intimation submit the Bond filed under Sec. 67 to the Asst. / Dy. Commissioner for cancellation.

10.27.06      Check List-VI (Clearance of warehoused goods):

- (a) The importer shall present Bill of Entry in the prescribed form.
- (b) Check that the particulars of the goods given in the Bill of Entry agree with the entry in the Bond register.
- (c) Note the quantity to be cleared in the register.
- (d) Note the original and duplicate 'into-Bond' Bill of Entry, the issue number below the Bond number entered on the document by the Bonder.
- (e) Reassess the ex-Bond Bill of Entry.
- (f) If the goods are tariff value goods, the rate of tariff value shall be the one in force on the day of actual removal of the goods from the warehouse.

- (g) The rate of duty shall be the one in force as on the date of filing of ex-Bond Bill of Entry.
- (h) Doubly check and make sure that the provisions of exemption notifications are correctly applied. In case if doubt, get in touch with the concerned Custom House.
- (i) After duty has been paid, get the 'passed out of Bond' order from the 'Proper Officer' (designated for this purpose by the Commissioner under Sec. 2 (34) of the Customs Act) on the duplicate copy of the ex-Bond Bill of Entry.
- (j) Give delivery of the goods, ensuring that only those covered by the ex-Bond Bill of Entry are delivered.
- (k) After the goods have been delivered endorse the date and time of delivery on the duplicate ex-Bond Bill of Entry and retain it with other records for subsequent audit.

10.27.07 Check list – VII (Stock verification):

- (a) The Asst. /Dy. Commissioner shall verify the stocks every three months (in case the volume of goods warehoused is very large, the period may be raised up to one year with the concurrence of the Commissioner.
- (b) He shall satisfy that the contents of packages are in tact by examining 5% of the packages but limited a maximum of 25 packages of each consignment.
- (c) In the case of cargo in bags, such as cement, the check shall be effected by probing the bags.
- (d) Verify that the goods agree with the description given in the corresponding into-Bond Bill of Entry.
- (e) The stock shall be challenged and the actual number of packages found in the godown recorded in stock challenge register under signature with date.
- (f) The Bond register and other records shall also be verified and signed.
- (g) A report on the finding shall be submitted to the Commissioner for information.

**10.27.08 Check list – VIII (Audit of documents and registers):**

- (a) All documents and register relating to the Customs Bonded warehouse shall be audited regularly by an audit party (preferably once every month)
- (b) All duplicate ex-Bond bills of entry shall be forwarded to the Internal Audit Dept. of the major Custom House through which the goods were imported for post audit in batches once every month (address it to the Asst. / Dy. Commissioner, Internal Audit Dept. of the Custom House) by registered post.
- (c) Ensure that audited ex-Bond bills of entry are received back within a reasonable time so as to enable you to issue demands within time in case of any short-levy brought out as a result of audit scrutiny.
- (d) In case of delay in the receipt of audited documents, remind the Custom House for prompt return of the documents.

**10.28 Duties of Preventive Staff Deployed In Bond Section/Bonded Warehouses**

10.28.01 Bonded goods have to be under Customs control all the time till clearance. This Customs control is monitored by the Custom House through the Preventive Staff who are posted at these Warehouses and also in the Bond Department, to oversee the day to day functioning of these warehouses and movement of Bonded goods to / from them. Preventive Officers are posted as Bond officers in Public / Private Bonded Warehouses, and Superintendent (Preventive) in-charge of such warehouse administer supervisory control over the functioning of these Bonded warehouses.

10.28.02 Superintendent (Preventive) incharge Bonded warehouses: The Bond Superintendent (Preventive) in charge of the Bonded warehouse should pay frequent visits to Public and Private Bonded warehouses and should:

- (a) Inspect the stock of Bonded goods in the warehouse by challenging the stock with the Bond Register and vice versa and in token of his check should sign the checked entries in the Bond Warehouse Register and the stock cards.
- (b) Check the Bond Bills of Entry on which the goods have been warehoused into Bond.
- (c) Check the ex-Bond Bills of Entry for the goods cleared for home consumption on payment of duty, if any,
- (d) Check ex-Bond Shipping Bills on which Bonded goods are proposed to be shipped, as ship's stores or Bond cargo.
- (e) Wherever necessary he should examine the ex-Bond goods, in the Bonded premises or at the Gates, which are being taken out for shipment to docks; and should ascertain that the same are being properly removed from the Bonded warehouse and escorted by the Officers as laid down in the rules.
- (f) He should also check the expiry dates of the operating Bonds of various Bonded items; and submit to Assistant Commissioner / Bonds, the information regarding cancellation of Bonds according to their tenures.
- (g) He should record in his diary all the particulars of such checks carried out. If any irregularity is noticed, the same should be recorded in the Station Diary, and matter reported to the Assistant Commissioner /Bond and to the Asstt./Dy. Commissioner of Customs (Preventive).

10.28.03 Preventive Officer posted at Private Bonded Warehouse:

- (a) The Officer should check that the date on or before which the goods are to be passed into Bond, has not expired.

- (b) The officer shall check the packages to see that they are intact and the marks & nos. tally with those entered in Bill of Entry. If any packages intended for deposit in a private warehouse are found in broken condition, the work should be stopped and a report has to be submitted to Appraising Department for orders. After necessary action has been taken by the Appraising Department, the goods should be allowed for warehousing.
- (c) After depositing the goods in the Bonded warehouse, the Officer should obtain receipt from the Bonders or the warehouse keepers, on the reverse of the Bill of Entry, in token of having received the goods in the warehouse and should endorse the Bill of Entry as -

*“Supervised the removal of .....from  
.....to M/s..... Pvt. Ltd. Bonded  
warehouse and their actual storage therein”.*

- (d) The officer will then make suitable entries in the Bond Register maintained for the purpose and also in the Stock Card.
- (e) The Bill of Entry should be retained by the officer to be forwarded through transit book to the Bond Deptt.
- (f) He shall supervise removal from one warehouse to another and shall escort goods from the warehouse to Railway Booking office for being despatched in Bond by Rail.
- (g) He shall supervise manufacturing operations, under section 65, where such operations are permitted and carried out.
- (h) He shall supervise scrutiny, sorting, re-packing, and bottling in Bond when sanctioned by the A.C. Bond Deptt.
- (i) He shall escort goods from any warehouse to the place of shipment for the purpose of being exported under sec. 69 and 88 of Customs Act, 1962.
- (j) In all cases where records of warehouse are being maintained by the Preventive Officer, care should be exercised not to release warehoused goods after expiry of warehousing period.
- (k) Whenever there are changes in Tariff valuation or rate of duty, the Preventive Officer supervising the delivery of the goods will hold the delivery pending

recovery of excess duty, if any, due to such changes, between the date of payment of duty and actual removal of the goods from the warehouse.

- (l) The Preventive Officer supervising the removal of Bonded goods shall see that the Department has properly processed the Shipping Bill. He should see before shipment of the goods that the conditions of the packages are in good order. If any package is broken or found to be tampered with, he should open and examine the packages in presence of shipper or his representative, prepare list of contents thereof and note therein the condition of the package and should sign the list. The shipper or his representative should also sign the said list. The list with report should be forwarded to Bond Deptt. through the Bond Superintendent.
- (m) The Preventive Officer posted in the Bonded warehouse should prepare and forward through Supdt. (P) / Bond, such periodical statements as required by the Bond Department, like total quantity and value of goods Bonded, details of expiring / expired Bonds, details of active Bonds, amount of duty / interest involved, etc.

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## CHAPTER – ELEVEN

### 11. IMPORTS & EXPORTS UNDER CARNET / TRIPTIQUE

#### 1. INTRODUCTION

India has since long been one of the major tourist destinations in South East Asia. Thousands of foreign nationals from countries all over the world visit India every year for legitimate non-immigrant purposes, such as touring, recreation, sports, health, family reasons, study, religious pilgrimage or business. Some of these foreign tourists intend to travel the length and breadth of the country in their own vehicles and with their own travel and other equipment. For this, they often carry along or travel on their automobiles within the country throughout their stay in India.

Besides this, India has also emerged as a big participant in the international trade in the last few decades. The exports of goods and services from and imports into the country have a sizeable presence in the global commercial forum. In this sector too, there has been a marked increase in the diverse class of business travelers to and from India. For the purpose of display/ demonstration, procure orders for their products, personal & professional usage, they often have to temporarily import / export certain goods into and from India.

In order to facilitate the temporary importation/export of private road vehicles, professional equipment, display material, samples, etc., many countries in the world, through conventions, have resolved to allow and have devised procedures for the same. Modalities of clearances under these two procedures are included in the below mentioned two conventions to which India is a signatory.

The two distinct documents required in this regard are – 1) Carnet de Passages En Douane (CPD) for temporary import of private road vehicles and 2) the Admission Temporaire / Temporary Admission Carnet for temporary import of goods for display, etc.

#### 1.1 CARNET DE PASSAGES EN DOUANE (CPDs)

The **Carnet de Passages En Douane** (CPDs) [ often shortened to Carnet (pronounced “kar-ney”)] is a travel document facilitating temporary admission of

private road vehicles into India by the tourist free of duty. It is an integral part of the United Nations Vehicles Conventions of 1954 and 1956 as amended in 1992 (Annexure I). This is known as International convention on "Temporary Importation of Private Road Vehicles". The CPDs are issued by the authorized Automobile Associations and administered, through their member associations world-wide, by two Geneva based non-profit and non-governmental organizations - Alliance Internationale de Tourisme (**AIT**) and Federation Internationale de l'Automobile (**FIA**). They provide guarantee/security for the payment of any Customs Duty and import taxes chargeable, should the vehicles not be re-exported out of the country wherein they were admitted.

Persons claiming this concession should normally be resident outside India, who, during their temporary visit to India should not take up any paid employment or any other form of gainful occupation.

Carnet and Triptique are identical in purpose, except that the Triptique is meant for a single country while the Carnet de Passages En Douane is for more than one country.

The guarantier for Carnet de Passages En Douane (CPDs) / Triptique in India is the Federation of Indian Automobile Associations having their own member Associations in major Indian cities.

## **1.2 ADMISSION TEMPORAIRE/TEMPORARY ADMISSION (ATA) CARNET**

In December 1961, to encourage world trade, the Customs Co-Operation Council [*now World Customs Organization (WCO)*] adopted , the "Customs Convention on the ATA Carnet for the Temporary Admission of Goods". The purpose was to reduce the obstacles caused by varying Customs regulations of the various countries. The initials "ATA" are an acronym of the French and English words "Admission Temporaire /Temporary Admission."

The ATA Carnet is an international Customs document that permits duty free and tax free temporary import of goods during its validity period. The ATA Carnet covers Commercial samples, professional equipment, goods for presentation or use at Trade fairs, shows, exhibitions and the like. The facility is available to business

and sales executives, exhibitors at trade fairs and traveling professionals like film crews, architects, artists, engineers, entertainers, photographers sports persons, etc.

The guaranter for ATA Carnet in India is the Federation of Indian Chamber of Commerce and Industries.

## 2. *IMPORT/EXPORT OF MOTOR VEHICLES UNDER THE CARNET DE PASSAGES EN DOUNE*

Temporary import of private road vehicles into India by the tourists is allowed under the provisions of the Carnet Convention as India is a signatory to it. Government of India has issued Notifications, as amended from time to time, enumerating the terms, conditions, exemptions and modalities from Customs view-point in respect of such imports. Such imports are also exempt from Import Trade Control restrictions in terms of Foreign Trade (Exemption from application of Rules in certain cases) Order, 1993 under the Foreign Trade (Development & Regulation) Act, 1992.

### 2.1 **VEHICLES ETC.- IMPORTED BY TOURISTS UNDER TRIPTYQUE OR CARNET DE PASSAGE.**

The Central Government, vide Notification no. 296-Cus. dated 02-08-1976 has exempted goods specified in column (2) of the Table below when imported into India, from the duty of customs and the additional duty leviabale thereon to the extent indicated in the corresponding entry in column (3) of the said Table, subject to the conditions specified in the corresponding entry in column (4), thereof.

**TABLE**

<b>SI No</b>	<b>Name of the goods</b>	<b>Extent of Exemption</b>	<b>Conditions of Exemption</b>
<b>1</b>	(a) Vehicles as defined in Article 1	Whole of the Duty of	(1) The importer shall: (a) be a member of an Automobile

	<p>of the Convention.</p> <p>(b) Fuel and component parts referred to in Articles 3 and 4 respectively of the Convention.</p>	<p>Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the Additional Duty leviable thereon under Section 3 of the said Act.</p>	<p>Club or Association belonging to the Federation of Alliance Internationale De Tourisme;</p> <p>(b) produce to the proper officer for the purpose of the same being duly signed and stamped by him the triptyque or carnets de passages-endeouane issued by the Alliance Internationale De Tourisme in the form approved and issued to him by a Club or Association guaranteed by the Federation of Indian Automobile Association and in respect of which all the rules and conditions relating to triptyque or Camets de passages-endeouane have been complied with; and</p> <p>(c) satisfy the proper officer that the vehicles and component parts, which he has imported, correspond in all respects with those described in the triptyque or camets de passages-endeouane and for this purpose produce the said vehicles and component parts for examination and record of particulars by such officer.</p> <p>(2) The period of retention of the vehicle in India does not exceed six months:</p> <p>Provided that where a vehicle imported under triptyque or carnets de passages-en-douane is exported out</p>
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			<p>of India and is re-imported within the period of six months from the date of its exportation from India, then for the purpose of determining the total period of retention of the vehicle in India after such reimport will be added to the period of its retention in India after first importation.</p> <p>Provided further that where the Central Government or the Commissioner of Customs is satisfied that it is necessary in the public interest so to do, it may extend the period of six months by a further period of six months.</p> <p>(3) Generally subject to the provisions of the Convention.</p>
2	<p>Vehicle (including component parts) referred to in the Convention which is permitted to be imported in accordance with the conditions specified against serial number 1 above and which, on account of accident requiring repairs of the vehicle or due to the death or illness</p>	<p>Whole of the Duty of Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), and the Additional Duty leviable thereon under Section 3 of the said Act.</p>	<p>(1) The vehicle is garaged, except when it is being repaired in a premises approved by the Commissioner of Customs under a double lock, one of the owner and the other of the Customs, provided that where the holder of the temporary importation documents or the person accompanying him or his family members is hospitalized then this condition shall not apply.</p> <p>(2) The vehicle is re-exported before the expiry of six months from the date of its importation into India extended by the period of garaging or</p>

	of the holder of the temporary importation documents, or a person accompanying him or a family member, is not exported out of India within six months after the date of importation		hospitalization referred to in condition (1) above.
<b>3</b>	Vehicles and component parts referred to in the Convention, other than those specified in serial number 2 above, which are permitted to be imported in accordance with the conditions specified against serial no 1 above and which are exported out of India after six months and within one year of the date of importation.	So much of the Duty of customs and Additional Duty as is equal to the amount of drawback calculated by taking into account the use of the vehicle from the date of its first entry into India to the date on which the vehicle is finally re-exported	The holder of the carnet continues to remain in India during the period of retention of the vehicle in India.

*Explanation.* - In this notification "Convention" means the Customs Convention on the Temporary Importation of Private Road Vehicles.

2. Nothing contained in this notification shall apply to -

(a) legal persons referred to in article 1(e) of the Convention;

(b) persons normally resident outside India/ who on the occasion of temporary visit to India take up paid employment or any other form of gainful occupation.

## **2.2 ADMISSIBILITY OF IMPORT/EXPORT OF TOURIST VEHICLES**

In terms of India's Foreign Trade Policy, imports/exports under the Carnet are free from Import Trade Control restrictions provided the terms and conditions specified in the respective international conventions are not violated by the importers/exporters.

**a)** In terms of Section 3 (o) of the Foreign Trade (Exemption from application of Rules in certain cases) Order, 1993, vehicles as defined in Article I of the Customs Convention on the Temporary Importation of Private Road Vehicles or the component parts thereof referred to in Article 4 of the said Convention and which are exempted from payment of customs duty under the notification No. 296 dated the 2nd August, 1976:

The conditions for such import are that

(i) such vehicles or component parts are re-exported within the period specified in the said notification or within such further period as the Customs authorities may allow;

(ii) the provisions of the said notification or of the "triptyque or Carnet-De- Passage" permit are not contravened in relation to such vehicle or component parts;

Provided further that nothing contained in this item shall prejudice the application to the said vehicles or component parts of any other prohibition or regulation affecting the import of goods that may be in force at the time of import of such goods;

**b)** Further, In terms of Section 3 (o) of the same statute, goods imported temporarily for display or use in fairs, exhibitions or similar events specified in Schedule I to the notification No. 157/90-Cus. dated the 28-03-1990 against ATA

carnets under the Customs Convention on the ATA Carnets for temporary admission of goods.

The conditions being that

- (i) such goods are exported within a period of six months from the date of clearance or such extended period as the Central Government may allow in each case; and,
- (ii) the provisions of the said notification or of the ATA convention are not contravened:

Provided further that nothing contained in this item shall prejudice the application to the said goods of any other prohibition or regulation affecting the import of goods that may be in force at the time of import of such goods;

### 2.3 *FORMAT OF THE "Carnet de Passages En Doune"*

The Automobile Associations in the form approved by Alliance International De Tourist issue Carnet and each booklet bears a distinct serial number. The back cover shows the particulars of the subject and bears the signatures of the importers and officials of the issuing Automobile Association. This booklet consists of a number of sheets showing the name of the Carnet holder, the particulars of vehicles, Engine Number, Chassis Number, and Registration Number, value of the vehicle and validity of the Carnet. It is in French/English language.

Each sheet of document is divided in three parts, **Part I** is called "**Volet d' Entree**" which should be signed by the dealing Customs Officer on import and be retained at the port of importation. Customs House reference number should be shown in the lower portion of **Part II** called "**Volet de Sortie**". Import endorsement should also be made in the upper half of **Part III**, called **Souche**, at this stage.

At the time of departure, the "**Volet de Sortie**" should be signed and retained by the Customs formation from where the vehicle has been re – exported out of India and subsequently should be forwarded to the Custom formation from where the vehicle entered into India, to be matched with the "**Volet D' Entree**" and endorse exit particulars in the lower half of sheet **Souche**. This part of the sheet is bound in the Carnet and serves as the owner's proof of entry and exit of the vehicle. A separate sheet should be used for each entry / exit.

The Carnet de Passage en Douane is valid in India for a period of six months from the date of importation. If the validity period of the Carnet expires earlier than six months of the import of the vehicle, its validity can be extended to cover six months by an authorized Automobile Association in India.

#### **2.4 ISSUE OF NEW CARNET FORMS**

I am directed to say that Automobile Association of Upper Indian have informed that Federation of Indian Automobile Association will continue guaranteeing the AIT/FIA Carnet-de-passage, in new format,<sup>1</sup> a specimen copy of which is enclosed and to request that all field formations under you may be instructed to get themselves familiarised with the new document for smooth acceptance and to avoid confusions or inconvenience to the holder of such Carnets visiting India.

**[Circular No. 44/95 dated 1/5/95 from F.No. 575/2/95- L. C. ]**

[ **Note** : the format has not been printed here]

#### **2.5 *PROCEDURE FOR IMPORT***

On arrival in India, the importer of Vehicle should produce a valid Carnet / Triptique issued by one of the approved Automobile Associations abroad.

The importer of the vehicle is required to complete particulars in form 'X' and form FT (**Annexures II & III**). These forms shall be registered and particulars checked with reference to the Passport and Carnet.

The File shall then be forwarded to Intelligence Section along with the Passport to verify any information against the tourist or the vehicle. Incase, any information of smuggling is received, the Intelligence Staff shall examine the vehicle in the light of such information. In case, no such information exists, suitable endorsement shall be made by the Intelligence Section.

The vehicle shall then be examined by the dealing Customs Officer in the light of particulars shown in the Carnet Book. Extra fittings if any, shall be shown in the form 'X' and "Volet De Sortie" portion.

**While examining the vehicle, all the possible places of concealment for smuggling of contraband goods should be checked thoroughly.**

After examination, the dealing Customs Officer shall submit the examination report along with his comments to the Deputy/Assistant Commissioner and obtain orders for releasing or otherwise the vehicle under Carnet procedure. In case of additional fittings like Stereo, Refrigerator, etc. other than those mentioned on the Carnet, specific orders may be obtained to release the same under an undertaking / or Bank Guarantee according to the circumstances of the case.

Prior to release of the vehicle, the dealing Customs Officer shall endorse the Passport, Volet de Entree, and "Souche" of the Carnet de Passage suitably and retain the Volet de Entrée in file.

While endorsing Passport, special care shall be taken to indicate:-

- a) Carnet number and registration number of the vehicle
- b) The last date expiry of validity of the retention period of the vehicle.
- c) Probable place of last port of call in India prior to final exit of the vehicle.

and to make sure that the contact or permanent addresses of the Tourists are obtained.

After obtaining orders for release from Deputy/Assistant Commissioner, the dealing Customs Officer shall make suitable endorsements on the form 'X', Carnet de Passage and Passport for clearance of the Vehicle and advise the Gate Officer to pass out the vehicle. He shall also transcribe all relevant particulars of vehicle and Carnet and the name and other details of the Tourist and his journey on the Carnet Register maintained by him, and make endorsement of case file number, date of release order and place of importation on the last column of "Volet de Entree" and handover the Carnet and Passport to the tourist or his agent and obtain his signature on file in token of having received the same. The Gate Officer shall pass the vehicle and return the 'X' form and Volet de Entree to the Carnet Officer.

### **FORMATS OF FORM 'X' AND FORM 'FT'**

**FORM 'X'**      **Form 'X' (Annexure II)** has a function like a Bill of Entry in which the tourist gives a declaration to the effect that he will re – export the vehicle within its permitted retention period, failing which he would be liable to action under the provisions of the Customs Act. 1962. On the reverse of the Form 'X' there is a

column where the model, year of manufacture, period of use till the date of importation, mileage, etc., of the vehicle are to be shown for the purpose of valuation. In case, the vehicle is coming by road, then names and nationalities of other occupants are to be indicated. There is also a column for the remarks of Intelligence Section.

**FORM 'FT'** The form 'FT' (Annexure III) will have to be filled in by the tourist indicating all the particulars of the vehicle imported. This has to be done also for the purpose of road taxation under motor vehicles rules or similar rules.

### *CARNET REGISTER*

After the clearance of vehicle suitable entry shall be made in the Carnet Register and the Carnet Register shall be submitted to Asstt./Dy. Commissioner for his approval after filling the columns of the Carnet Register.

### **FORMAT OF CARNET REGISTER**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Particulars</b>	<b>Carnet</b>	<b>Particulars</b>	<b>Particulars</b>
<b>A.C.'s</b>	<b>A.C.'s</b>				
<b>&amp; Date</b>	<b>of vehicle</b>	<b>of Carnet</b>	<b>Value</b>	<b>of the</b>	<b>of re-export</b>
<b>orders</b>	<b>orders of</b>				<b>tourist</b>
<b>of vehicle</b>	<b>of re-export</b>	<b>import</b>			
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>8</b>					<b>7</b>

A separate Carnet Register shall also be maintained by the Customs Officer (Carnet) for those vehicles imported at Customs Port other than the port of clearance and such cases shall also be registered by the concerned clerk in the Baggage section.

### **2.5.3 NOTING OF 'X' FORM IN IMPORT DEPARTMENT**

The Officer in charge of Carnet of Baggage Section shall get the form 'X' noted in the Import Department so that I.G.M. shows that the vehicle has been cleared on Carnet procedure.

He shall send the case file for provisional audit to Internal Auditor after clearance of the vehicle under Carnet Procedure on importation.

**[D.R.I Letter F. No. 25/23 INT/75 dated 03.07.1974]**

### **2.5.4 PASSPORT ENDORSEMENT**

a ) The Passport of a Passenger who imports a car under the "Triptique" concession shall be endorsed with a capital 'C' and the entry signed in full by the dealing Customs Officer at the port of entry. Due care for such compliance will be necessary in the cases where the car arrives either before or after the arrival of the passenger himself. It will be necessary to find out at the time of departure of the passenger importing the car under the "Triptique" concession, whether he has already exported the car or is leaving the same behind. If it is found that there is no justifiable reason for the passenger leaving his car behind, the Custom House should ascertain full particulars of proposed shipment of the car from the passenger or present location of the car as the case may be and send prompt report to the port of clearance giving the following information.

1. Full name of the passenger,
2. Make and Registration number of the Car
3. Port of entry and date
4. Particulars of shipment (if the car is already shipped), **Or,**

5. Full address where the car is located and reasons for retention after the owner's departure.

[ M.F. (DR) letter F. No. 8/8/58 – CUs. VI dated. 09.11.1962 ]

b ) When a Vehicle is cleared under the Carnet de Passages En Doune / Triptique, the tourist's Passport shall be endorsed in indelible ink for having cleared a vehicle under the said procedure. Such endorsement on the Passport should also indicate the exact date by which the vehicle is to be finally re – exported out of India, so that the tourist does not plead ignorance of the need to re-export within 6 months. The tourist's Passport shall also be endorsed with a capital 'C' and the entry be signed in full by the Customs Officer allowing clearance.

[Ministry's letters F. No. 8/10/60–Cus. V dt. 11.10.60 and F. No. 575/66 – 71 Lc II dt.19.09.71]

#### **2.5.5 MEASURES FOR PREVENTION OF ABUSE OF CARNET SYSTEM –**

a) In case where the car is imported in advance of the passenger, Custom House should take general precaution to see that the car is not used by unauthorised persons pending the arrival of the passenger. It is, however, certainly not the intention that any complicated procedure like taking of bond / guarantee of garaging under Customs supervision, should be prescribed in this behalf.

b) No alteration of any details of the vehicle shown in the Customs Carnet should be permitted unless such alteration is considered by the Customs Commissioner to be of "bonafide" nature and is accepted by the Carnet issuing authority or is covered by a specific guarantee from the Guaranteeing Association.

c) No vehicle which has been first registered abroad and its registration papers cannot be produced should be passed under the triptique system.

d) When passenger leaves the country without the car, an immediate intimation should be sent (by the port of passenger's departure) to the port/and Customs Station where the car was imported so that the necessary action can be taken without waiting for the expiry of the period of validity of the Carnet, to see that the car is not left behind.

[ M.F. DR No. 8/10/61/Cus.VI dated. 07.04.61 inst. 11/61-Cus. VI ]

### **2.5.6 IMPORT OF TOURIST BUSES**

In the interest of tourist promotion, triptique concession may be granted to the tourist vehicles viz. tourist buses, coaches and trucks etc. subject to the following conditions:

- (i) The vehicle should be covered by a valid Carnet or a triptique issued by the Association affiliated to one of the recognised automobile clubs or institutions, an international Registration Certificate for motor vehicles and nationality plate.
- (ii) The driver should possess an international driving permit and valid third party policy insurance "Green Card".
- (iii) All the occupants of the vehicles (excluding the driver and a legal guide approved by the tourist Deptt.) should be bonafide tourists and able to produce proof of residence outside India.
- (iv) The vehicle should not be used for commercial purposes within the country but this should not bar any passenger (s) from leaving the vehicles in India nor should it prevent the organisers of the Cost tour from picking up tourist passengers in India for transporting them out of the country, the points where passengers are being discharged and new ones picked up for the return portion of the journey being determined beforehand.
- (v) The vehicle should be re – exported within the period stipulated in the triptique/Carnet, failing which action should be taken.

[ M.F. (D.R) letter F. No. 8/8/58-Cus. VI dated. 17.10.1960 ]

### **2.5.7 IMPORT OF MOTOR VEHICLE UNDER CARNET/TRIPTIQUE BY OTHER THAN THE CARNET/TRIPTIQUE HOLDER**

Importation of Motor Vehicle under Triptique procedure by a person other than the holder of Carnet may not normally be allowed. But in exceptional bonafide cases, the Commissioner in his discretion may extend this facility provided the actual importer is otherwise entitled to the triptique concession. It is also subject to his holding a proper authority from the holder of the Carnet/triptique. The Federation of Indian Automobile Association, Bombay or similar authorised Association should

also give a specific guarantee that although the vehicle has been imported by a person other than the holder of triptique/Carnet, the Association Guarantees the re-export of the vehicle in time, failing which they would be liable to pay duty leviable thereon.

[ M.F.(DR) No. 15/11/63-LC II dated. 08.10.1963

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### **2.5.8 TEMPORARY IMPORT OF MOTOR VEHICLE OTHER THAN CARNET/TRIPTIQUE PROCEDURE**

a) In case of foreign tourists who want to bring motor vehicles into India temporarily on their way to other countries but who can not produce any Carnet/Triptique due to the circumstances beyond their control, the concession of duty free importation on the motor vehicles will be extended to them on ad-hoc basis provided:-

- (i) they give valid reason for non-production of Triptique papers:
- (ii) their cases are strongly supported by either Indian Missions abroad or Missions of their countries in India and
- (iii) they also produce an assurance from the Missions of their country in India or a suitable Bank Surety for re-export of the vehicle within 2 months of the date of importation or on failure, for payment of duty fine and/or penalty leviable on the vehicle.

Non-possession of Triptique due to circumstances beyond the control of tourists is elucidated as follows:-

- (i) In some countries there is no organization competent to issue documents.
- (ii) In some countries motor cycle are not treated as motorized vehicle requiring registration.
- (iii) Some Associations stipulate, apart from membership, a minimum residence of years in the country which may not be possible to satisfy for a tourist.

[ M.F. (DR) letter F. No. 15/65/63-LC II dated 15.01.1964 ]

**b)** The Commissioners may in their discretion extend the facilities of clearance of vehicles imported without Carnet to the tourist on the aforesaid conditions. The form of Bond in such cases should clearly provided for re-export of the vehicle within a given period not exceeding 6 months or such extended period as may be permitted by the Commissioner and should also further stipulate that during its retention in India the use of the vehicle by the tourist shall be subject to exactly the same limitations as apply to a vehicle imported under the Convention on the Temporary Importation of Private Road vehicles. With the aforesaid limitations any extension of the period fixed as on date for re-export of the vehicle should be considered by Commissioner on merits as would have been done if the vehicle had in fact been imported under the regular Carnet.

**[ M.F. (DR) F. No. 15/87/64 LC I dated 26.10.1964 ]**

## **2.6 EXTENSION FOR THE RETENTION PERIOD OF THE VEHICLE**

The retention period of a vehicle imported under Carnet can be extended in exceptional cases on grounds of *Force Majeure* such as serious accident to the vehicle, death or illness and hospitalization of the Carnet holder or any accompanying family member, natural calamities, etc. In such cases, the tourist should approach the nearest Customs authorities before the expiry period of the Carnet with supporting documents augmenting his/her request.

### **2.6.1 POWERS OF EXTENSION OF RETENTION PERIOD**

**a)** The power to extend the Retention period of vehicles brought under Carnet Procedure vests only with Central Government in terms of the provisions of notification No. 296 dated 02.08.76 wherein it is stated that the Central Government if it is satisfied that it is necessary in the public interest so to do may extend the retention period of initial 6 months by further period of 6 months. The Commissioner of Customs do not enjoy the powers of extension retention period beyond initial 6 months.

**[ Ministry's Letter F. No. 575/62/79-LC II dated 18.02.81 and dated 01.06.1981 ]**

**b)** It is directed to say that in adherence to the Customs Convention of Temporary Importation of Private Road Vehicles, Notification No. 296/76-Cus., dated

02.08.1976 has been issued. Vide said Notification any person, who is normally not a resident of India can bring a vehicle duty-free for a period not exceeding six months on the strength of a carnet. Further extension upto a maximum period of six months can be granted by the Central Government in the public interest.

2. With a view to decentralise decision making for expeditious decisions on the requests of tourists for extension of retention period of vehicles brought under carnet, it has been decided that the power to grant extension may also be exercised by the Commissioners of Customs. Accordingly notification 160/94-Cus. has been issued on 08.08.1994.

3. It has also been decided that the Commissioners shall exercise the powers in the following situations:

- (a) Prolonged illness/death of the tourist or close relative rendering the tourist unable to re-export the vehicle;
- (b) Damage/accident to vehicle necessitating repairs; and
- (c) Requirement of vehicle for visiting historical/tourist interest places.

**[ Ministry of Finance (Department of Revenue) letter F. No. 575/14/93-L.C. dated 27.08.1994]**

For allowing any extension, it is necessary that Carnet should be valid till such time or the tourist gets the validity of the Carnet extended by Guaranteeing Association and also Guaranteeing Association agrees to extend the Guarantee till such time.

### **2.6.2 VALIDITY OF THE CARNET TO BE EXTENDED TILL THE EXPIRY OF THE RETENTION PERIOD**

Even in cases where the unexpired portion of the validity period of the Carnet is less than 6 months at the time of importation of the car, the car may be allowed to be retained for 6 months, provided that the validity of the Carnet is suitably extended and the liability during such extended period is assumed by Guaranteeing Association. In all such cases where, retention of car for 6 months under the Triptique concession will run beyond the original validity of the Carnet, the Custom

House must take necessary action to ensure that the validity of the Carnet is expended.

**[ M.F. (DR) letter F. No. 8/10/60 – Cus. VI dated 11.10.1960 ]**

### **2.6.3 RETENTION OF CAR BEYOND THE PERMITTED PERIOD**

There are tourists who had imported cars under the triptique procedure and who subsequently tried to obtain import licence for permanent retention of their cars in India and while his application for import licence were under consideration, the cars continued to be used by them. Irrespective of the outcome of the application of Import licence, the Customs Authorities concerned should seize the car immediately after the expiry of the permitted period of the Triptique / Carnet so that the concession is not abused in case of rejection.

However, confiscation of the car may be kept in abeyance, till a decision regarding Import Licence for the car is taken by the Chief Controller of Imports and Exports\*. Since the duty will have to be paid even if the car is finally retained in India, or re-exported out of India after the expiry of the permitted period under triptique, action on that account need not be delayed.

**[ CBR Letter No. 95/159/62 – LC II dated 20.12.62 and 26.09.1963 ]**

*\* ( now Director General Foreign Trade )*

### **2.7 PROCEDURE FOR RE-EXPORT**

The tourist or his representative shall file a Shipping Bill for export of motor vehicles imported under Carnet de Passages En Doune / Triptique in the Export Department. In case of motor cycles which were originally imported under the Carnet de Passages En Doune / Triptique and are shipped as unaccompanied baggage during the valid period of the Carnet, the Shipping Bill can be dispensed with.

The Export Department, after the necessary processing shall send the Shipping Bill to the Intelligence Section for 'No Objection' (i.e. verification of information, if any). At the time of re – export of the vehicle, the dealing Customs Officer will verify that the vehicle is being re – exported within the prescribed period of six (6) months, or such extended period as allowed by the Government of

India/Commissioner of Customs. The Customs Officer supervising the shipment will check the particulars of the vehicles with those shown in the Shipping Bill and Carnet with special attention on the extra fittings, if any. If satisfied of the identity and other particulars, he shall give 'let ship' order on the Shipping Bill.

**While examining the vehicle, all the possible places of concealment for smuggling of contraband goods should be checked thoroughly.**

The Shipping Bill duly passed shall be handed over to the representative of the shipper. The vehicle is to be re – exported in the same general state except the wear and tear. On the production of Mate Receipt or Bill of lading, the Customs Officer will sign the “Volet de Sortie” (Voucher No.2) of the Carnet de Passage and on the export part of the voucher No. 3 (Souche) in token of discharge of the Carnet.

The “Volet de Sortie” will be detached and sent to the dealing Officer for retention with the case file and for making entry on shipment of vehicle in Carnet Register and the Carnet returned to the tourist as proof of discharge of the Carnet.

In case where the tourist travels in the vessel in which the motor vehicle is shipped, the Customs Officer supervising the shipment will follow the same procedure as outlined in preceding paragraph.

The extra copy of the Shipping Bill and “Volet de Sortie” portion of the Carnet constitute a file of re – export of vehicle. The same is then filed in Baggage Section with relative file. If the vehicle was imported at same port, the re – export particulars will be entered in the same register in which the import particulars were entered. If the vehicle is re – exported from some other Customs station, then the re – export particulars will be entered in the other Carnet register maintained for that purpose.

The re-export file along with the Carnet Register is then submitted for Astd. Commissioner's approval.

In cases, where the vehicles under the Triptique are entered into India through other Customs Ports, 'Volet de Sortie' will be sent to the port of entry with an advice that the vehicle has been re – exported during the validity period of the Carnet, to enable that Custom House to close its case file. The Passport entry of the tourist regarding clearance of the vehicle under Carnet procedure will then be cancelled and the file forwarded to IAD (Internal Audit Department) for Final Audit.

**[ C.B.R Letter F.No. 45/B/59-Cus. IV dt. 02.04.1966 ]**

**2.7.1 FAILURE TO EXPORT VEHICLES IMPORTED UNDER CARNET**

It is the responsibility of the Carnet holder that the vehicle imported into India under the said Carnet should be exported out of India within the permitted retention period. Failure to re-export the vehicles within the stipulated period may result in payment of Customs Duty, fine and penalty as per the law or seizure and subsequent absolute confiscation of the vehicle.

**2.7.2 NON RE-EXPORT OF VEHICLES**

In case the re-export particulars of the vehicles are not received within the permitted retention period of the vehicle of any extended period, appropriate Duty Demand notice shall be served to the Guaranteeing Association. In accordance with the Article 26 of the Convention, the Guaranteeing Association can only be asked to pay Duty within a year from the date of expiry of validity of the papers.

The import file regarding the clearance of vehicle under the Carnet procedure (Form X , Form FT and Volte De Entree of the Carnet) will be first forwarded to the Appraising Department for favour for valuation of the vehicle imported. Duty demand notice will then be served on the Guaranteeing Association on the basis by the valuation. The period of one year after the expiry of period permitted by the convention is quite long and there is no reason why action to serve duty demand notice should not be taken earlier by the Customs Department. The importance of dealing with the Carnet cases speedily, after the Carnet period is over so that Government's right in the matter does not go by default, has to be borne in mind.

The concerned officer shall therefore ensure that proper Duty Demand notice is served against Guaranteeing Association for payment of duty and that it's acknowledgement is duly received and placed in the file, as early as possible.

**[ Ministry's letter F. No. 80/20/80 – VI dt. 11.10.1960 ]**

Guaranteeing Association, after acknowledgement of duty demand notice, may conduct necessary enquiry with the Carnet issuing Club. In case the vehicle has been left behind in India, Guaranteeing Association will communicate the same

to the Customs, on which action for effecting seizure under the Provisions of the Customs Act. 1962 could be initiated.

After the seizure of the vehicle, action regarding issue of Show Cause Notice, adjudication etc. shall be taken. In case the vehicle has not been re-exported out of India and the whereabouts of the vehicles are not available, then the Guaranteeing Association shall pay the duty as demanded, within the time limit specified in Article's of Convention.

### **2.7.3 GRACE PERIOD OF 14 DAYS ALLOWED**

When the vehicles are presented to the Customs authorities for re-exportation within fourteen days from the expiry of the Carnet and satisfactory explanations of the delay are given, no action would be called for.

### **2.7.4 CUSTOMS CLAIMS AGAINST VEHICLES IMPORTED UNDER CARNET**

a) In terms of Notification No. 296/76-Cus., dated 2.8.1976, vehicles can be temporarily imported into India for a period of six months without payment of Customs duty against a carnet-de-passage issued by a member of an Automobile Club or Association belonging to the Federation of Alliance International De Tourisme. This period can be further extended for another period of six months.

2. A representation has been received from the Federation of Indian Automobile Associations (FIAA) citing difficulties being faced in the matter of customs claims raised against vehicles temporarily imported into India by tourists under the Carnet procedure. It has been pointed out by the Federation that in case the vehicles are exported from a point other than the port/airport/land customs station of entry, intimation regarding such export is often not sent by the customs to the point through which the vehicles entered India. This leads to filing of claims by the Customs for payment of customs duty with the Automobile Associations in India and in turn with their international counterparts.

3. The matter has been examined in the Board. In order to streamline the Carnet procedure and as a measure to remove avoidable irritants, the following guidelines may be observed. Entries relating to Importation Vouchers and Exportation Vouchers

in the Carnet documents must be duly signed and stamped by the Customs at the ports/airports/LCSs of entry and exit respectively. Further, Customs at the point of exit shall convey the particulars of exportation of vehicles brought into India by the tourists under the Carnet to the port/airport/LCS of entry within one week of the date of exportation. This may be sent by e-mail/fax, with appropriate documents to be followed by post, to facilitate prompt reconciliation of Carnet documents.

4. At the same time, when a vehicle arrives for temporary importation under Carnet, the most likely exit point and point of export of the vehicle may be ascertained and kept alongwith other relevant particular in the register that may be maintained at the point of entry. It has to be appreciated that it may not be always possible for the tourist to furnish the exact details of exit point and/or point of export of the vehicle. Therefore, this information may be obtained from the tourist on a purely voluntary basis, and should not under any circumstance be made a ground for denying the benefits of the Carnet.

5. It is requested to inform the field formations in your jurisdictions suitably. A review of the pendencies in this regard may also be made in the Commissionerates and officers incharge of exit points for vehicles should be asked to send requisite particulars to the officers at the entry point, wherever not already done to help reconcile all pending cases on an urgent basis.

**[Circular No. 13/2001-Cus. dated 2<sup>nd</sup> March, 2001 from F.No. 575/1/2000-LC ]**

**b)** In terms of notification No.296/76-Cus. dated 2.8.1976, vehicles can be temporarily imported into India for a period of six months without payment of customs duty against a valid Carnet-de-passage issued by a member of an Automobile Club or Association belonging to the Federation of Alliance Internationale De Tourisme. This period can be further extended for another period of six months.

2. During a recent meeting held in the Board which was attended by representatives of the AIT and FIA, Customs Affairs, Geneva, Switzerland and Federation of Indian Automobile Associations, certain difficulties faced by the Carnet holders inside the country, have been brought to our notice. These mainly related to cases of reported harassment and delays in the clearance of Carnet vehicles and

also alleged indiscriminate issuing of demand notices on missing vehicles and confirmation thereof.

3. In order to solve the genuine difficulties faced by foreign tourists, field formations are hereby directed that passengers availing of the Carnet facilities for their motor vehicles, may be treated with proper respect and courtesy and customs clearance should be effected expeditiously. It is also reiterated that demand notices issued in cases of motor vehicles not figuring in the export records of the Indian Customs, may not be confirmed in a routine manner. In fact, in some cases, vehicles had already exited from the country, however, the information regarding the same had not been passed on to the Customs formation through which the vehicles had entered. In this way, for lack of proper communication between Customs formations, the Carnet holders have to face serious inconvenience. In view of this, henceforth, in cases of demand notices being issued, the FIAA should also be served with a copy of the said notice and efforts may be made to elicit their response before the demand is confirmed.

4. These instructions may be communicated to the field formations in your jurisdiction for compliance.

**[Board's Circular No. 77/2003-Cus. 28<sup>th</sup> August, 2003 from File No. F.No.575/7/2002-L.C. ]**

#### **2.7.5 NON RE-EXPORT OF THE VEHICLE WITHIN THE STIPULATED PERIOD DUE TO UNAVOIDABLE CIRCUMSTANCES**

Sometimes due to circumstances beyond the control of a tourist it becomes impossible or difficult for him to arrange re-export of the car within the period of 6 months or such extended period as might have been permitted by Commissioner or the Board. This is often attributable to non-availability of shipping space; sometimes some unforeseen circumstances necessitate the sudden departure of the importer from India, in which case it becomes impossible for him to arrange the re-export of the vehicle within the given time limit or at any rate before his departure from India. Sometimes the Board may have already granted the request for maximum permissible extension of retention period up to 12 months and further extension is not considered desirable, nevertheless for genuine reasons it may not be possible for the tourist to leave India say due to sickness of his own or his family members

and it might be a genuine hardship or uncalled for expenditure. In such circumstances, a constructive step would be to permit the tourist to surrender the custody of the car to Customs before expiry of the 6 months or extended period as the case may be and ensure that the car during its retention in India beyond the period of 6 months (or one year, as the case may be), is not used by the Tourist or in his absence by third parties etc. It should be noted that surrender in Customs Custody does not necessarily mean that the Commissioner should provide any garage or parking space. If no such space is available in the Custom House, it will be in order to ask the importer to arrange for garage or space as the Commissioner deems fit and ask him to surrender the keys of the door lock and ignition in Customs custody. As a further safeguard, a written declaration should also be obtained from the tourist in such cases that the car has been stored in the garage entirely at their own risk.

**[ M.F. (DR) letter F.No. 15/8/64-Cus. LC II dated 26.10.1964 ]**

#### **2.7.6 ACCEPTANCE OF ALTERNATIVE EVIDENCE OF RE-EXPORT OF MOTOR VEHICLE**

According to article 24(I) of the convention for temporary importation of Private Road vehicles, if temporary importation papers have not been regularly discharged, Customs authorities of the Country of importation shall accept as evidence of re-exportation of the vehicle or component parts, the presentation of a certificate issued by official authority attesting the facts that the vehicle or component parts in question have been presented to it and are outside the country of importation. The last sentence of clause (I) of article 24 provides that in the case of Carnet, account shall be taken, as evidence of re-exportation of the vehicle or component parts, if the visas entered thereon by the Customs Authorities of the countries subsequently visited.

In such cases before accepting alternate evidence of re-exportation of the vehicle under article 24 of the convention, the antecedents of the party should be checked up to ensure that the vehicle has not been used for contraband goods and further that the production of certificate prescribed in the said article should be insisted upon:

**[ M.F.(DR) F.No. 15/22/61-LC II dated 09.07.1963 ]**

### 3. *SURRENDER OF MOTOR VEHICLES IMPORTED UNDER CARNET*

Sometimes, during the retention period, a vehicle imported under Carnet may be damaged irreparably in an accident or require a major refurbishing. Such vehicles can be unconditionally surrendered to the Government of India through the Customs authorities, free of all expenses to the Government. The Carnet them should be discharged accordingly.

In such cases, particulars in the prescribed format (**Annexure IV**) shall be obtained.

**a)** Under Article 13 of the Customs Convention on Temporary Importation of Private Road Vehicle, the re-exportation of badly damaged vehicle, shall not be required, in the case of fully authenticated accidents, provided the vehicles:

- a) are subject to import duties and import taxes to which they are liable, or,
- b) are abandoned free of all expenses to the Exchequer of the country in which they are imported temporarily, or ,
- c) are destroyed, under the official supervision at the expense of the parties concerned, as the Customs authorities may require.

Apart from the above, surrender of vehicles imported under triptique concession shall also be accepted, provided such surrenders are made to the Customs Authorities free of all expenses to the Exchequer and without any condition whatsoever. This is, however, subject to the condition that such surrender is made within 6 months of the date of original entry, of the vehicle into India or such extended period as may be allowed by the competent authority and Commissioner of Customs (Govt. of India) in terms of the provisions referred to in para above.

**[Ministry's of Finance (Dept. of Revenue) No. 15/31/63-LC II dated 09.5.1963]**

**b)** Normally surrender of vehicle should be accepted after taking orders of the Commissioner or Addl. Commissioner and no reference need be made to the Board provided the date of entry of such vehicles is verified from the port of entry so as to ensure that the vehicles surrendered are within the period permitted for retention. A reference to the Board may only be made in such cases where due to peculiar

circumstances of the case, the Commissioner feels that it is necessary to take Board's Orders. However, such reference should be made sufficiently in advance of the tourists' departure from India so that no inconvenience is caused to him.

**[ M. F., D.R., No. 15/27/63-LC II dt.17.08.1964/F. 15/104/80 LC II dt. 01.04.1971 ]**

### **3.1 PERSON ENTITLED TO SURRENDER THE VEHICLE**

In every cases of surrender, the authority accepting the surrender will have to ensure that the person effecting the surrender is the owner of the vehicle. Hired cars can also be brought by hirers under the triptique system but such surrender, if effected by hirer will be bad in law.

As a matter of safety, therefore,

- (i) Where the Commissioner on scrutiny of such evidence as can be reasonably had, is satisfied about the rightful title of the person effecting the surrender, a formal confiscation is not necessary, but to avoid any dispute it would be advisable to obtain from the importer a letter stating the details of the accident and police report if any, or circumstances in which he is effecting the transfer and a formal documents effecting a valid transfer of the title should also be got signed from him.
- (ii) Where there is any doubt, the title of the person effecting such surrender, to be on the safe side, a formal order of confiscation should be issued.

**[ M.F. (DR) F.No. 15/50/65 LC II dated 16.11.1965 ]**

## **4. PROCEDURES / CLARIFICATIONS ON CERTAIN SPECIFIC ISSUES**

### **4.1 Definition of "Legal Persons"**

Article 1 (c) of the Convention says that term "Persons" shall mean both natural and legal persons unless the context otherwise requires. The expression "legal persons" is accordingly used in contract to "Natural persons". It would, therefore, follow that firms, corporation etc. on when juristic personality has been conferred by the status would be "legal Persons".

### **4.2 Carnet Holder may be Owner or Hirer**

A person normally resident outside India can temporarily import vehicle which is not his own and which he has borrowed or hired. Article 8 prescribes that the importation papers should be made in the name of the person who owns the vehicle temporarily imported or who has the “possession or control of the vehicle. If the vehicle has been hired the papers shall be made out in the name of hirer. The main restriction is that the vehicle should be used in accordance with Article 2(1) and Article II. Even if the owner of the vehicle is not a natural person the person who imports it for private use as defined, if he is a natural person, is entitled to the concession.

#### **4.3 Tourist should be in possession of vehicle abroad**

It will be permissible to import a car under triptique system for a tourist, say from Kenya who intends to visit India and buys a car in the U.K. and after registration there, the car is shipped to India.

In view, however, of the words “Imported and Utilised” appearing in Article II of the convention on the Temporary Importation of Private Road Vehicle, arrangements should be such that the tourist could be deemed to have been in possession of the car abroad before importing into India. A scheme in which the tourist formally takes delivery in India from hiring company would not qualify him for the concession.

[ M.F. (DR) letter F. No. 8/17/60-Cus. VI dated 08.02.61. ( Inst. No. 6/61-Cus. VI )

#### **4.4 Hired Vehicles**

A person other than “ legal persons” can hire a vehicle owned by a commercial organisation and Import if for the private use of himself and others if not normally resident in this country and who fulfill the other condition (Sec Article 1). The fact that these persons share the expenses of hiring the vehicle themselves would not be repugnant to the definition of Private use as given in articles 1 (c).

#### **4.5 Carnet in the name of Designated post**

Carnet which is issued in favour of designated post without mention of name of the holder shall not be valid for Temporary Importation of Private Road Vehicles under triptique concessions. (the Customs Concessions do not contemplate grant of

Carnets in favour of designated post in terms of clause 1 of Article 2. The preamble clearly provides that legal persons should be excluded from the categories of person to whom concession envisaged in Convention are applicable)

#### **4.6 Definition of “normally resident abroad”**

The meaning of expression “Normally resident outside its territory:

In relation to a foreigner, Its interpretation presents no difficulty, read particularly in the light of the reservation against person taking up paid employment or other gainful occupation. In the case of an Indian National who takes up residence abroad, it is a question of intention that is relevant for interpreting the above expression. The term "Normal" indicates some permanency of residence abroad, deducible from circumstances surrounding. For instance an Indian National may start a business in foreign country and may take up residence there for running that business. If it is clear that the running of the business requires his residence there, then he should be regarded as normally resident abroad. Such cases of Indian National who comes home temporarily should be judged on the merits of each case.

#### **4.7 Vehicle can be used during the period of Hospitalization**

Where the vehicle is not exported out of the country within permitted period of retention due to the illness of the tourist, who brought the car or a person accompanying him or a family member, the condition of garaging has been waived if the tourist or person accompanying him or a family member is hospitalised. This relaxation has been introduced to avoid hardship to the tourist if they were to be deprived of the use of the car in times of need due to the hospitalisation. Re-export of the car on the expiry of six months from the date of its importation into India extended by a period of garaging or hospitalisation is also allowed. In the event of death or illness of the tourist or a family member accompanying him, the above facility is given.

Even if the family member does not accompany the tourist but remains in India, this concession will still be available.

[ M.F. (DR) Letter F. No. 15/51/70-LC II ]

#### **4.8 Discrepancy In Engine Number In Carnet**

When the Chassis and engine numbers of the vehicle as recorded in the triptique pass or Carnet de passage are found to be different from those actually ascertained on examination, the Preventive Officer will endorse on the triptique pass/or Carnet de passage, the actual ascertained numbers next to the declared Numbers and draw a small circle round the numbers in dispute.

The endorsement should be initialed both by the Preventive Officer and the tourist or his representatives and the clearance of vehicle allowed by the superintendent. A separate Report giving full details of discrepancies should be forwarded to Preventive Deptt. for bringing it to the notice of concerned Association through Guaranteeing Association.

**[ Board's letter F. No. 8/15/58-Cus. VI dated 15.12.1958 ]**

#### **4.9 Taking Up of Gainful Employment in India by Carnet Holder**

a) If the owners of the vehicles imported under Carnet Concession commit offence such as taking up gainful employment etc. the full rigour of the law must be applied and surrender of the vehicle cannot be accepted.

**[ M. F. (DR) Letter No. 15/27/63-LC II dated 26.09.1963 ]**

b) Persons normally resident outside India when on the occasion of temporary visit to India take up paid employment or any other gainful occupation are excluded from the benefits of duty free Import of cars.

As such where a person who brings a car under triptique system, asks for extension for the retention period beyond the normal period of 6 months, discreet enquiries should be made as to whether the person has taken up any gainful employment, before granting extension.

**[ Ministry's letter F. No. 15/38/66 –LC - II dated. 18.10.1965]**

c) In cases where the person has come to India only to attend to some work in connection with his business interest in India should not be deprived of the facilities under Carnet procedure. Only those persons who take up paid employment or any other forms of gainful occupation have been excluded from the concessions of duty free importation of Motor Vehicles.

[ Ministry's letter F. No. 15/52/66-LC II dated the 5<sup>th</sup> Dec., 1966 ]

**4.10 Liability of duty on Carnet vehicles confiscated and allowed to be re-exported on payment of fine**

Whenever it is held that condition of the relevant notification have been infringed duty has to demanded even if the car is re-exported. In that case the drawback only can be allowed as admissible.

[ Board's letter F. No. 15/64/63-LC II dated 07.10.1963 ]

**4.11 No liability to pay the duty when the vehicle is confiscated**

If a vehicle is absolutely confiscated the party's liability to pay duty will cease and in such cases there will be no question of raising demand against the guaranteeing association.

[ M.F. ( D.R. & I ), F. No. 575/16/71- LC II dated 06.06.1972 ]

**4.12 Liability to pay Duty – Law Ministry's opinion**

**Subject :** Customs –Import of V/W No. 401-2-6836 (1969) by Mr. Jabbar through Hussainwala Check Post on 09.07.1969 under Carnet No. 639658-CR:

Please refer to CCE, Chandigarh's letter C. No. VIII IHQRS) 18/4/Cus./82/701, dated 27-1-1982 on the above subject.

2. The Law Ministry's opinion on this subject, dated 24-3-1988 is attached. You may take necessary action in the case on the basis of Law Ministry's advice, which has been accepted by the Board.

**Notes in the Ministry of Law & Justice,  
Department of Legal Affairs,  
Advice (b) Section**

The reference concerns realization of Customs Duty from the federation of Indian Automobile Association in terms of the Agreement made on 27-4-1977 between the Federation and the Government, on failure of condition relating to re-exportation of a vehicle covered by the Customs Convention on the temporary importation of private road vehicles, when the vehicle is absolutely confiscated under Section 122 read with Section 111 (o) of the Customs Act, 1962, and the amount received after its auction falls short of the Customs Duty leviable thereon on importation. In this connection, are also relevant the provisions of Clause 11 (l)(m) of the Imports (Control) Order, 1955.

2. The question was first considered by this Department, vide our U.O. note No. 21495/84(B), dated 11-4-1984, and it was opined that the Federation was bound to make payment towards the Customs Duty as its obligation did not end by confiscation of the vehicle.

3. The point seems to have been confused in further reference made to this Department. The cause of confusion appears to be the assumption of the administrative Department that "in cases where the goods are absolutely confiscated, the question of payment of Duty does not arise", vide their U.O. note no 575/II/82-LC.II, dated 08-01-1966.

4. The Supreme Court in the case of Union of India V. M/s Security and Finance (P) Ltd. – AIR 1975 SC 2288, as regards the dichotomy of Import Duty chargeable under Section 20 and the penal complex set out in Sections 182, 183 and 184. In the light of the provisions of the Customs Act, 1962, import/export Duty is an obligation cast by Section 12, it is a tax, not a penalty; it is an innocent levy once exigible event occurs; it is not a punitive import for a contravention of the law; confiscation, penalty and fine provided for under the Act are of the species of punishment for violation of the scheme of prohibition and control. The importation attracts Duty which any importer, licit or illicit, has to pay the moment Customs barrier is crossed. Import Duty has to be paid inevitably by the importer. Confiscation or fine in lieu thereof is an infliction on the offender or circle of offenders falling within the Act. Sometimes, the burden in both the cases falls on the same person. At other times, they may fall on different persons. In some cases, the importer as well as the confiscate may be identified and so the Duty and the penalty may be imposed validly. In other cases, it may be difficult to get at the actual person who imported or

was concerned in offence of importation contrary to the prohibition or restriction clamped down by the law. In that event only confiscation, alternatively, fine, may be imposed.

5. In short, the obligation under Section 12 fo the Cstoms Act, 1962 is independent of the liability under various provisions relating to the punitive scheme of the Act. Whether the goods concerned have been ordered to be released on payment of fine inlieu of confiscation under Section 125(1) or an absolute confiscation thereof has been ordered does not make any difference as regards payment of the Customs Duty leviabale under Section 12 by the importer concerned.

6. In the instant case, the Federation is liable under the agreement to pay the Customs Duty leviabale but for the exemption, as if the vehicle has been imported by it.

7. Accordingly, we reiterate our earlier opinion quoted above.

Ministry of Law & Justice,  
 Deptt. Of Legal Affairs,  
 Advice (B) Section  
 U.O. No. 20650/88, 25-3-1988

Sd/-  
 ( B. A. Agrawal)  
 Deputy Legal Adviser.  
 24-3-1988

[ F. No. 575/11/82-LC II dated 16.05.1988 ]

5. **DISPOSAL OF CONFISCATED VEHICLES UNDER CARNET/  
 TRIPTIQUE**

Sometimes prompt steps are not taken to dispose of motor vehicles initially imported under a Carnet/triptique and subsequently confiscated for contravention of Customs and other allied laws. Continued storage of such vehicles, besides considerable expenditure on maintenance of garaging facilities also lead to depreciation in the value of vehicles.

(i) Where the order of confiscation gives the option to redeem the vehicles on payment of fine in lieu of confiscation, period allowed should be only upto 30 days and not four months as is the usual practice for ordinary goods. Where an option to re-export the vehicle is given, the period allowed for re-export should normally be two months, if the party does not clear the motor vehicle by paying a fine in lieu of confiscation or does not arrange to re-export the vehicle within the permitted period, a final notice of a week or ten days should be given to him, after which the vehicle should be disposed of and

(ii) Where the motor vehicle has been confiscated absolutely steps should be taken to dispose of the confiscated vehicle straight away.

In disposal of motor vehicles, care should be taken to see that as far as possible such vehicles are not found suitable for departmental use, are sold at the best available market price so as to avoid any loss to the owner in the event of adjudication order being set aside on appeal or revision and to avoid any possible dispute with the owner regarding the adequacy of the price at which the vehicle was sold. In case the party succeeds in appeal or revision it can claim the sale proceeds and not the restoration of the seized vehicle, which may not be of such use to him after lapse of considerable time.

**[ F.No. 15/61/66. LC- II dated 25.01.1967 ]**

## **6. GOODS IMPORTED / EXPORTED UNDER ATA CARNET**

In order to facilitate the Indian and international manufacturers/traders to temporarily import/export their goods to various countries for display and demonstration to promote the international trade, Government of India have acceded to the "Customs Convention on A. T. A. Carnet for temporary importation of goods". Presently the temporary duty free imports (including re-imports) and exports (including re-exports) of the goods intended to be displayed at exhibitions/fairs in India and abroad as approved by the Government of India or by the Indian Trade Promotion Organisation as well as at meeting, conference or congress organized by any company or organization, are only allowed. The following goods are excluded from ATA Carnets procedure: -

1. Consumables and goods meant for distributions or sale which are not likely to be re-exported.
2. Goods imported through the medium of post.
3. Transit goods.
4. Goods for exhibitions organized for private purposes in shops or business premises with a view to promote the sale of foreign goods.

### **6.1 A.T.A. CARNET CONVENTION**

Its full name is "**Customs Convention on the A.T.A. carnet for the temporary admission of goods**" (done at Brussels, 6 December 1961). It is an international instrument designed to facilitate the importation, irrespective of the means of transport used, of goods which are granted temporary duty-free admission.

The Convention specifies a form of A.T.A. carnet (ATA = **A**dmission **T**emporaire/**T**emporary **A**dmission) and conditions for its use in lieu of national Customs documents. It also sets out the minimum facilities to be accorded in relation to the use of A.T.A. carnets. The Convention foresees that under certain circumstances A.T.A. carnets can, optionally, be accepted for application to goods in transit.

The application of A.T.A. carnets to trans-border movement (including transit, importation for home use and temporary admission) of all goods involved in the delivery of humanitarian assistance would be of considerable advantage as it means that only one and the same document would be filled in each time irrespective of the number of border crossings, differences in national Customs regulations and type of goods.

Another advantage of the use of A.T.A. carnets is that no national security for the payment of import duties and taxes has to be lodged with the countries in transit or temporary admission as this security is provided by an international guaranteeing chain.

The A.T.A. carnet may also be optionally used for temporary exportation from and re-importation into the country of issue of the carnet. However, it is important to note that the A.T.A. carnets can never be used for importation for home use, nor for the sole use as a transit or temporary exportation document.

### 6.1.1 *WHAT IS AN ATA CARNET*

The ATA Carnet is an international customs document that permits duty-free and tax-free temporary import of goods for up to one year. A Carnet dispenses of the need for raising bonds or depositing duty at customs posts.

The Carnet contains two vouchers from each foreign country one wishes to visit. One for the foreign Customs people when one enters the country and the other when one leaves.

ATA Carnets generally cover:

- Commercial samples
- Professional equipment
- Goods for presentation or use at trade fairs, shows, exhibitions, etc.

ATA Carnets do not cover perishable or consumable items or goods for processing or repair.

ATA Carnets are issued and guaranteed by national groups, which administer the ATA system under a set of conditions established by the International Bureau of Chambers of Commerce (IBCC). The IBCC is sponsored by the International Chamber of Commerce (ICC) in Paris.

Guaranteers for ATA Carnet in India is the Federation of Indian Chamber of Commerce and Industries.

### 6.2 **IMPORTS /EXPORTS THROUGH ATA CARNET**

The Govt. of India have issued Notification No. 157/90-Cus, dated 28.03.1990 which deals with the issue of imports/exports under ATA Carnet. In terms of this notification specified goods when imported into India for display or use at any event specified in the Notification, are exempt from the whole of Customs duty and the whole of additional duty leviable thereon. Further, Notification no. 158/90-Cus, dated 28.03.1990, exempts these goods from auxiliary duty.

However, nothing contained in the notification no. 157/90 shall apply to goods imported through the medium of post.

The Director General of Inspection, Customs & Central Excise has been designated as the “authorised officer” by the Ministry of Finance, Deptt. of Revenue, for the purpose of Convention on ATA Carnet. The Director General of Inspection, Customs & Central Excise receives approval of Exhibitions/Fairs by different Ministries. The centralised records of such approval is kept by the Directorate General. Such approvals are then promptly communicated by the DGICCE to the Custom Houses and Guaranteeing Associations.

The govt. of India vide their letter F.No. 528/220/91-Cus (TU), ICD, dated 23.06.1994, have conveyed its decision to allow import of jewelry free of duty under the Notification no. 157/90 – Cus, dated 28.03.90, through international Airports / Air Cargo Complex at Sahar Village, Mumbai, and Air Cargo Complex, New Delhi, subject to observance of certain procedures.

**6..2.1 EXEMPTION TO SPECIFIED GOODS IMPORTED FOR DISPLAY OR USE AT ANY SPECIFIED EVENT SUCH AS MEETINGS, EXHIBITIONS, FAIRS OR SIMILAR SHOW OR DISPLAY.**

Salient features of the Notification no. 157/90 are reproduced below –

The Central Government has exempted the goods described in Schedule I below, when imported into India for display or use at any event specified in Schedule II or Schedule III, from the **whole of the duty of customs** leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 and from the **whole of the additional duty** leviable thereon under section 3 of the said Customs Tariff Act, subject to the conditions that :-

(1) the event specified in Schedule II is being held in public interest and is sponsored or approved by the Government of India or the India Trade Promotion Organisation;

(2) the said goods are imported under an ATA Carnet issued in accordance with the Customs Convention on ATA Carnet for temporary admission of goods and the Carnet is guaranteed by the Federation of Indian Chamber of Commerce & Industry, which has been appointed as the guaranteeing association for ATA Carnet in India;

(3) the said goods in all respects conform to the description, quantity, quality, value and other specifications given in the ATA Carnet duly certified by the Customs authorities at the country of exportation;

(4) the said goods shall be exported within a period of six months from the date of importation:

Provided that where the goods are exported within the said period of six months and again re-imported, the period of six months shall be computed from the date of first importation;

Provided further that when the Deputy Commissioner of Customs or Assistant Commissioner of Customs is satisfied that it is necessary in the public interest so to do, it may extend the said period of six months by a further period not exceeding six months;

(5) in the event of failure to export the goods within the period specified in condition (4), the customs duty leviable on the goods as on the date of clearance shall be paid by the Federation:

Provided that the Federation shall not be liable to pay the customs duty in cases where the said goods are sold in exhibitions or fairs or otherwise disposed of in India in accordance with any law for the time being in force applicable to such goods and on payment of the duties of customs which are payable in respect of such goods.

## **SCHEDULE I**

(a) Goods intended for display or demonstration.

(b) Goods intended for use in connection with the display of foreign products, including -

(i) goods necessary for the purpose of demonstrating machinery or apparatus to be displayed:

(ii) construction and decoration material including electrical fittings, for the temporary stands of foreign exhibitors:

(iii) advertising and demonstration material which is demonstrably publicity material for the goods displayed, for example, sound recording, films and lanterns, slides and apparatus for use therewith :

(iv) equipment including interpretation, apparatus, sound recording apparatus and films of an educational, scientific or cultural character intended for use at international meetings, conferences or congresses.

## **SCHEDULE II**

### **(EVENTS)**

1. Trade, industrial, agricultural or crafts exhibition, fair, or similar show or display.
2. Exhibition or meeting which is primarily organised for a charitable purpose.
3. Exhibition or meeting which is primarily organised to promote any branch of learning, art, craft, sport or scientific, educational or cultural activity to promote friendship between peoples, or to promote religious knowledge or worship.
4. Meeting of representatives of any international group of organisations.
5. Representative meeting of an official of commemorative character.

*Explanation:-* The events specified in this Schedule do not include exhibitions organised for private purposes in shops or business premises with a view to promote the sale of foreign goods.

## **SCHEDULE-III**

### **(EVENTS)**

Display or demonstration before any department before any department of Central Government or a State Government or a Union Territory Administration.

Meeting, conference or congress organized by any company or organization.

### **6.3 GOODS UNDER ATA CARNET CARRIED AS PERSONAL BAGGAGE**

Many a times, passengers may carry goods as their personal baggage which are meant to be cleared under ATA Carnet procedure.

It is but mandatory to restrict this facility only to the goods and events described in the notification. It has been observed that in large number of cases, test

equipment's, instruments or other goods of high value imported as accompanied baggage by passengers have been cleared against ATA carnet for temporary importation of goods despite the clear instructions that this facility is restricted to specified goods imported for display or use at use at specified exhibitions/fairs and similar events covered under the Notification no. 157/90.

It is, therefore, notified to all concerned that henceforth as and when any passenger declares any goods covered by ATA Carnet papers and seeks clearance without payment of duty, the said goods should be cleared under carnet papers only if they are covered under the Notification no. 157/90. In all such cases, prior permission of the Asstt. Commissioner of Customs (AP) on duty must be obtained.

In the event any import claimed clearance under carnet but the said goods are not covered under the Notification no. 157/90-Cus, the same should be cleared under the prevalent Baggage rules, 1998, as amended, alongwith other prohibition and exemption under the law.

### **6.3.1 PROCEDURE FOR IMPORTS UNDER ATA AT AIRPORT**

The procedure for clearance of ATA Carnet goods carried as baggage but admissible otherwise is detailed below -

1. The ATA Carnet has four counterfoils and vouchers viz Exportation counterfoil and Voucher, Re-importation counterfoil and voucher, Importation counterfoil and voucher and Re-exportation counterfoil and voucher.
2. For monitoring and processing the imports / exports of goods cleared under Carnet, the Case File Office will maintain a register as prescribed by the Board.
3. Asstt. Commissioner (AP) / Air customs superintendent and one ACO will attend to clearance of imports under Carnet in addition to their normal duties.
4. In the event of imports under carnet, the ACS i/c Carnet will first confirm that the goods are imported for display or for use at Govt. approved Exhibitions/Fairs and/or similar events which are covered under notification no. 157/90.
5. Air Customs superintendent posted for Carnet clearance will verify the general list given on the reverse of the voucher with reference to the description, marks and

numbers and certify to that effect. On the face of the importation, counterfoil and voucher and re-importation counterfoil and voucher, as the case may be, will certify under his full signature with name & date and will retain voucher for departmental use. The verification report will be made in column (d) "other remarks" in the original and duplicate copy of the importation voucher. Since the imports will be under passenger's baggage mode, the classification CTH 98.03 will be mentioned in column 2 on the reverse side of the voucher. The Air Customs superintendent should also obtain the details of exhibition, i. e., name and venue of Fair/Exhibition, meetings, etc. and its sponsors. The details of exhibition will be mentioned on the reverse side of the voucher so as to keep track of the imports vis-à-vis sponsors. Air Customs superintendent Carnet should ensure that all the carnet papers which are retained in the batch are forwarded to CFO for entering in the Carnet Register and for further monitoring of its exports. In the event the goods are intended to be exported out of India from place other than the Airport of Import, the ACS i/c Carnet should ascertain the place of re-export and mention the same on reverse side of the voucher.

### **6..3.2            PROCEDURE FOR EXPORTS AT AIRPORT**

1.        The ACS i/c Departure should properly verify the description, quantity, marks and numbers and endorse the re-exportation voucher and counterfoils and the goods will be allowed to be re-exported out of India. ACS i/c Departure will indicate the flight number and date by which the goods are being re-exported. The endorsements will be given by ACS i/c Departure under his seal and full signatures with date. He will also mention details of Fair/Exhibition, meetings, etc. for which the goods were temporarily imported. Thereafter, ACS i/c Departure should ensure that all the Carnet papers are forwarded to ACS i/c CFO on the next working day for correlating the entry regarding the exports of goods. In the event the goods not initially imported at the Airport of departure but exported from the Airport, the re-export voucher should be sent to the concerned Commissionerate by the CFO for co-relating with the importation.

For monitoring the importation/exportation through ATA Carnet, one register indicating the following details such as Carnet voucher no./date of issue, Name of the pax/Sponsor's name and address, Description of the goods in brief, flight

number/date for all the batches will be maintained module wise by Arrival and Departure. PRO i/c Batch will ensure that all the Carnet papers are forwarded to CFO without any delay on the next working day.

The Directorate General of Inspection, being the monitoring authority for all the clearances granted by the Custom Houses, is to be kept informed through periodical statements from the Airport regarding description and value of the goods imported under carnet and subsequent re-export and amount of customs duty recovered thereon in case of failure to re-export of the goods. The following statements will be prepared by the CFO (Carnet Cell) and sent to Directorate General of Inspection, Customs & Central Excise, New Delhi, before 10<sup>th</sup> of the month following the quarter for which the statement pertains. The proforma of statements are enclosed at Annexure V.

#### **6.4 FORM OF BILL OF ENTRY & SHIPPING BILL FOR CLEARANCES UNDER ATA CARNET**

The formats of Bill of Entry or the Shipping Bill to be presented by an importer or an exporter of any goods for import or export under ATA Carnet has been prescribed in the ATA Carnet (Form of Bill of Entry and Shipping Bill) Regulations, 1990 issued Notification No. 14/90-Cus-(N.T.), dated 06.04.1990.

\* \* \* \* \*

## **ANNEXURE I**

### **CARNET CONVENTION**

In order to facilitate to the development of International tourism, the United Nations Conference on Road and Motor Transport was held in Geneva on 23<sup>rd</sup> August to 19<sup>th</sup> September, 1929. The Convention was agreed and drafted which is called “**Customs Convention On Temporary Importation Of Private Road Vehicles**”.

The text of Convention contains 44 articles explaining the provisions of issue of temporary importation papers, exportation of vehicles, surrender of vehicles, liabilities and function of Automobile Associations, Customs regulations, etc.

On 24<sup>th</sup> January 1958, the Government of India also signed the Convention.

**Some of the important articles are a under:**

#### **Article—2**

Each of Contracting States shall grant temporary admission without payment of import duties and import taxes and free of import prohibitions and restrictions subject to re-exportation, and to the other conditions laid down in this convention, to vehicles owned by persons normally resident outside its territory. Which are imported and utilised, for the private use on the occasion of temporary visit, either by the owners of the vehicles or by other persons normally resident outside its territory.

Such vehicles shall be covered by temporary importation papers guaranteeing payment of import duties and import, and if the case should arise, of any Customs penalties incurred, subject to the special provision of paragraph 4 of article 27.

**Note:** Notwithstanding the provisions of article 2 of this Convention, persons normally resident outside India who, in the occasion of a temporary visit to India, take-up employment or any other form of gainful occupation would be excluded. (Difference filed by the President of India for the above Convention).

#### **Article—5**

1. Subject to such guarantees and under such conditions as it may determine, each contracting State may authorise associations, such as those affiliated to an International Organisation to issue either directly or through corresponding associations the temporary importation papers covered by this Convention.
2. Temporary importation papers may be valid for a single country or Customs Territory, or for several countries of Customs Territories.
3. The period of validity of these papers shall not exceed a year from the date of issue.

#### **Article—9**

1. The weight to be declared on temporary importation papers is the net weight of the vehicles. It shall be expressed in the metric system. In the case of papers valid for one country only, the Customs Authorities of that country may prescribe the use of another system.
2. The value to be declared on temporary importation papers valid for one country only shall be expressed in the currency of that country. The value to be declared on a Carnet de passages endouane shall be express in the currency of the country where the Carnet is issued.
3. The articles and tool-kit which form the normal equipment of vehicles need not be specially declared, in the temporary importation papers.
4. When the Customs authorities so require, parts (such as wheels, tires and inner tubes) and accessories not considered as constituting the normal equipment of the vehicle (such as radio sets, trailers not declared on a separate document, or luggage carriers) shall be declared on the temporary importation papers with the necessary particulars (such as weight and value) and shall be produced on exit from the country visited.

#### **Article—11**

1. Vehicles admitted under the cover of temporary importation papers may be used, for their private use by third persons duly authorised by the holders of the papers provided that those third persons normally reside outside the country of importation and also fulfill the other conditions laid down in this Convention. The Customs authorities of the Contracting States have the right to require evidence that

such persons have been duly authorised by the holders of the papers and fulfil the aforesaid conditions. If this evidence does not appear sufficient the Customs Authorities may refuse use of the vehicle in their country under cover of the papers. In the case of vehicles which have been hired, each Contracting State may, in the case of fear of abuse, require that the holder of the temporary importation paper be present at the time of importation of the vehicle.

2. Notwithstanding the provisions of the proceeding paragraph, the Customs Authorities of the Contracting States may permit, in special circumstances and under conditions of which they shall be sole judges, a vehicle circulating under cover of temporary importation papers to be driven by a person who is normally resident in the country of importation, in particular when the driver drives the vehicle on behalf of or under instructions from the holder of the temporary importation papers.

### **Article—13**

1. Notwithstanding the requirement of re-exportation laid down in article 12, the re-exportation of badly damaged vehicles shall not be required. In the case of fully authenticated accidents, provided that the vehicles:

- (a) are subjected to the import duties and import taxes to which they are liable; or
- (b) are abandoned free of all expenses to the exchequer of the Country into which they were imported temporarily; or
- (c) are destroyed under official supervision, at the expenses of the parties concerned as the Customs authorities may require

2. When a vehicle temporarily admitted cannot be re-exported as a result of the seizure, other than a seizure made at the suit of private persons. The requirement of re-exportation within the period of validity of the temporary importation papers shall be suspended for the duration of the seizure.

3. The Customs authorities shall notify, as far as possible to the Guaranteeing Association, seizures made by or on behalf of these Customs authorities of vehicles admitted under cover of temporary importation papers guaranteed by the association and shall advise it to the measures they intend to take.

### **Article—14**

Vehicles imported into the territory of one of the Contracting States under cover of temporary importation paper may not be used even incidentally for transport against payment, reward or other consideration between points within the frontiers of the territory.

**Article—18**

When the Customs authorities of a country have finally and unconditionally discharged temporary importation papers they can no longer claim from the guaranteeing association payment of import duties and import taxes, unless the certificate of discharge was obtained improperly or fraudulently.

**Article—26**

Customs Authorities shall not have the right to require from the guaranteeing association payment of import duties and import taxes on vehicle or component parts temporarily imported when the non-discharge of the temporary importation papers has not been notified to the guaranteeing association within a year on the date of expiry of the validity of those papers.

**Article—27**

1. The guaranteeing associations shall have a period of one year from the date of notification of the non-discharge of temporary importation papers in which to furnish proof of the re-exportation of the vehicle or component parts in question under the conditions laid down in this Convention.
2. If such proof is not furnished within the time allowed the guaranteeing association shall forth with deposit or pay provisionally the import duties which became final after a period of one years from the date of deposit or provisional payment. During the latter period, the guaranteeing association may still avail itself of the facilities provided by the preceding paragraph with a view to re-payment of the sums deposited or paid.
3. For countries whose regulations do not provide for the deposit or provisional payment of imports duties, payments made in conformity with the provisions of the preceding paragraph will be regarded as final, it being understood that the sums paid may be refunded when the conditions laid down in this article are fulfilled.

4. In the case of the non-discharge of temporary importation papers, the guaranteeing association shall not be required to pay a sum greater than the total of import duties and import taxes applicable to the vehicles or component parts not re-exported, together with interest if applicable.

#### **Article – 28**

In the event of fraud, contravention or abuse the Contracting States shall notwithstanding the provisions of this Convention, be free to take proceedings, against persons using temporary importation papers, for the recovery of the import duties and import taxes and also for the imposition of any penalties to which such persons have rendered themselves liable. In such cases, the guaranteeing association shall lend their assistance to the Customs authorities.

#### **Article – 29**

The Contracting States shall endeavour not to introduce Customs procedures which might have the effect of impeding the development of international touring.

#### **Article – 31**

Any breach of the provisions of this Convention, any substitution, false declaration of facts having effect of causing a person or an article improperly to benefit from any system of importation laid down in this Convention, may render the offender liable in the country where the offence was committed to the penalties prescribed by the laws of that country.

**ANNEXURE – II****FORM – 'X'****Sr. No.****Year**

Application for the Import of vehicle components parts free of duty under the Carnet De Passage or triplicate

- 
1. Name and Nationality of the Applicant
  2. Name of carrier, date and place of arrival
  3. Passport No. date and place of issue
  4. Purpose of visit and duration of stay
  5. Details of the component parts and accessories (other than normal equipment) imported along with the vehicles \*

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Description *	Quantity	Value
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\* (Where possible the description should include the part number)

**Form of declaration and undertaking**

1. I hereby declare that the particulars given above are true and correct.
2. I also declare that it has been explained to me that as per the difference filed by the Government of India to the Customs Convention temporary importation of private road vehicles. I am not entitled to any of the concessions admissible under the said conventions, if I take up a gainful employment during my stay in India. I also

further declare that I am not gainfully employed in India. I also further declare that for breach of this undertaking, the vehicle will be liable to confiscation.

3. I also declare that the provisions of item (n) clause 11 of imports control order of 1955 have been explained to me that according to the same, the vehicle alongwith the Parts if any, must be exported out of India within 6 months from the date of importation, or on expiry of period of validity of the Carnet, whichever is earlier, and further that they shall not be sold in India. I further declare that if I fail to fulfil any of the above conditions, I shall pay the Customs duty on the vehicle, spare parts, and other articles, if any, not exported in time and also any fine and penalty which may be imposed, if I fail to obtain the necessary import Licence.

4. I hereby undertake that in the event of any occasion arising for surrender of any motor vehicle to the Customs Department, I shall surrender the motor vehicle myself personally to the Deputy/Assistant Commissioner of Customs (Prev.) of the Custom House through which I leave the country or to the Commissioner of Central Excise and Customs in whose jurisdiction I wish to surrender.

Signature of the Applicant or  
Authorised Agent.

**Note:** (i) The term "Vehicle" means all Road Motor vehicles (including cycles with engine) and trailers (whether imported with the vehicle or separately together with its component parts and normal accessories equipment, when imported with the vehicle.

(ii) The Motor vehicle is being passed without payment of duty on the understanding that it will be used only by the applicant or by a person who is normally not a resident in India. Persons normally resident in India may be employed as paid drivers by Carnet Holders. In no circumstances the use of the vehicle by person normally resident in India is permissible.

### **General Instructions**

The application form should be presented to the Baggage Officer in the Preventive Department alongwith the following documents, which are required to check the correctness of the value furnished.

- (a) Original receipts, if any showing the actual cost of the vehicle, extra fittings, special alterations etc.
- (b) Re-valuation certificate of an automobile Association.
- (c) Memo of freight and Insurance charges.
- (d) Registration Cards.

In case the Preventive Officer wished to examine the vehicle for the purpose of determining the value, notwithstanding the documents produced., it is open to him to do so.

**For Department use only.**

A report on valuation:

- (a) Model
- (b) Year of manufacturing
- (c) Period of use till date of importation
- (d) Mileage

In addition to the foregoing details checked and found correct the details shown in the import foil the Triptique as also at entry 6 on the application form subject to the following.

Name and Nationalities of other occupants.

- (i)
- (ii)

Prev. Officer/Inspector

Inspector/Dy. Supdt./Supdt.

- 1. Remarks of Intelligence section, if any.

Prev. Officer/Inspector

Inspector/Dy. Supdt./Supdt.

2. Passed out of Customs Control

Divisional Inspector/Prev. Officer

Inspector/Dy. Supdt. / Supdt.

**ANNEXURE – III****Form “FT”***(see rules 21 & 23 of Bombay Motor Vehicles Rules 1959)***Form of Declaration for Motor Vehicles Brought into The State.**

I.....residing at.....  
 (Temporarily) at..... (permanently) hereby declare  
 that I have brought the undermentioned motor vehicle into the State of  
 ..... on .....and that I intend to keep it in the State  
 upto .....for use.

\*a Solely within the limits of:

which has levied a tax):

\*b Both within and without the limits of.....

1. Class of Motor Vehicle
2. Registration Mark
3. Maker's name
4. Type of the body
5. No. of chassis
6. No. of Engine

- 7. Unladen weight.
- 8. Seating Capacity if plying for hire
- 9. Registered laden weight (if a goods vehicle)
- 10. (a) Date on which it has last removed from the State of .....
- (b) Date on which it has last removed from the State of Maharashtra.
- 11. The fuel used in the vehicle
- 12. Name of insurer
- 13. Insurance Certificate No.
- 14. Date of validity form .....to.....

Date:

Signature of the Declarant.

Tax token No. ....expiring on.....has been issued by me after recovering Rs.....being the tax dues.

**Taxation Authority**

- \* Strike out whichever is in applicable.
- \* Here mention local authority.

Municipality

Motor vehicle No. 6

.....

Name and address

Govt. Tax paid Rs. .... for the period  
 ..... from .....to .....for.....

Non-use accepted from .....to.....

**ANNEXURE IV****Form for Surrender of Motor Vehicles imported into India under Carnet/Triptyque system**

1. Name of the Importer
2. Passport No.
3. Nationality
4. Profession
5. Country in which the Importer normally resides and address
6. Importer's Permanent Address
7. Particulars of the Carnet de Passage under which the motor vehicle was imported into India
8. Description of Motor Vehicle Imported:
  1. Make:
  2. Model:
  3. Chassis No.
  4. Engine No.
  5. Present value.
9. Date of importation and Port through which the motor vehicle imported
10. Whether the vehicle is the Importer's own property or a hired one
11. If the vehicle is hired one, the particulars of the actual owner:
12. Name of the owner of the vehicle as given in the Certificate of Registration
13. Certificate of Registration No. date and place of issue
14. Reasons for non-re-exporting the vehicle out of India and circumstances under which the import is effecting the surrender:
15. If the reason is due to damage caused to the vehicle on account of accident
  - (i) details of accident in brief.
  - (ii) Particulars of Police report if any

I .....the importer above named hereby declare that the particulars furnished above are true and correct in every respect to the best of my knowledge and belief.

I .....the importer above named hereby transfer and surrender the motor vehicle/motor car, the particulars of which are given in Column 8 above for the reasons stated in Columns 14/15 to the Government of India unconditionally and free of all incumbencies and expenses and the title thereto shall vest in the said Government. I also agree for the disposal of the said motor vehicle/motor car by the Customs Authorities in a manner whatsoever under any law for the time being in force in India.

I ..... the importer above named hereby further declare that the aforesaid motor vehicle/motor car is my own property and that no one else either in India or abroad ha any claim whatsoever over the said vehicle/car, and undertake to settle all claims which may be made by any person in respect of the surrender in of my car and any compensation which may be demanded in respect thereof.

SIGNATURE OF IMPORTER

#### **Annexure V**

1. Quarterly statement regarding imports under the convention.
2. Quarterly statement of re-exports.
3. Quarterly statement of re-exports in respect of imports made through other Custom Houses.
4. Quarterly statement of exports under the convention.
5. Quarterly statement of re-imports under the convention ; and
6. Quarterly statement of re-imports in respect of exports made through other Custom Houses.

**(I) IMPORT**

<u>Sr. No.</u>	<u>I.T.P.O. No.</u>	<u>Passengers/Sponsors/Event's</u>	<u>Description of</u>	<u>C.T.H.</u>	<u>goods</u>	<u>No.</u>
			<u>(Indian Trade promotion</u>	<u>Name and address</u>		
			<u>Organisation)</u>			

(1)	(2)	(3)	(4)
(5)			

<u>Carnet No.</u>	<u>Value</u>	<u>Rate of duty</u>	<u>Amount of Duty</u>	<u>Thoka/Registration</u>
<u>Carnet issuing</u>				<u>No. &amp; Date</u>
				<u>authority</u>
(6)	(7)	(8)	(9)	(10)
				(11)

<u>Date by which</u>	<u>Name &amp; signature</u>	<u>Name &amp; signature</u>	<u>Remarks</u>
<u>Demand Notice</u>	<u>of A.C.O.</u>	<u>of A.C.S.</u>	<u>(if</u>
<u>any)</u>			
<u>to be issued</u>	<u>(Examining Officer)</u>	<u>(Appraising Officer)</u>	
(12)	(13)	(14)	(15)

**(II) EXPORT**

<u>Sr. No.</u>	<u>Date of Actual</u>	<u>Port from which</u>	<u>Export</u>	<u>Date</u>	<u>of</u>
<u>issue</u>	<u>Cash No.</u>				
	<u>Export</u>	<u>exported</u>	<u>voucher</u>	<u>of Demand</u>	<u>date</u>
			<u>No.</u>	<u>Notice</u>	
(1)	(2)	(3)	(4)	(5)	
(6)					

<u>Name &amp; signature</u>	<u>Name &amp; signature</u>
<u>of A.C.O.</u>	<u>of A.C.S.</u>
(7)	(8)

**(III) RE EXPORT**

<u>Date of Actual Export</u>	<u>Export through</u>	<u>Exportation</u>	<u>Demand</u>	<u>Notice</u>
	<u>Name and sign</u>			
		<u>voucher No.</u>	<u>issued</u>	<u>of</u>
<u>(E.O.)</u>				<u>A.C.O.</u>

(1)

(2)

(3)

(4)

(5)

Name and sign

Remarks

of A.C.S. (A.O.)

(if any)

(6)

(7)

\* \* \* \* \*

## CHAPTER –TWELVE

### 12. **SHIP'S STORES**

#### 12.1. **PRELIMINARY**

Stores has been defined under Section 2 (38) of the Customs Act, 1962, meaning as “goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting”.

By the above definition it is clear that anything which is going to be used or consumed in a vessel or aircraft is to be termed as stores or ship's stores. This also includes items intended for human consumption on board such as provisions, daily bazar, soft and hard drinks, tobacco etc.

The provisions governing the ship's stores have been laid down in Section 86 to 90 of Chapter XI of the Customs Act, 1962.

#### 12.2. **WAREHOUSING OF STORES WITHOUT ASSESSMENT**

Section 85 of the Act stipulates that if any imported goods are entered for warehousing and if the importer makes and subscribes to a declaration that the goods are to be supplied a stores to a vessel or aircraft without payment of duty under these provisions, the proper officer may allow such goods to be warehoused without the same being assessed to duty.

#### *TRANSIT / TRANSHIPMENT OF STORES*

Sub-Section (1) of Section 86 specifies that any stores imported in a vessel or aircraft, may remain on board such vessel or aircraft, without payment of duty, while it is in India. The Central Government has issued the following regulations in this regard. –

### **12.3. Imported Stores (Retention on Board) Regulations, 1963**

In exercise of the powers conferred by section 157 of the Customs Act, 1962, the Central Board of Revenue hereby makes the following regulations, namely: -

**1. Short title.** – These regulations may be called the imported Stores (Retention on Board) Regulations, 1963.

**2. Consumable stores on board to be sealed.** – Any imported stores on board a vessel arriving from a foreign port or an aircraft arriving from a foreign airport may remain on board such vessel or aircraft without payment of import duty leviable thereon during the period such vessel or aircraft is not a foreign-going vessel or aircraft, subject to the condition that where such stores are consumable stores –

- (a) in the case of alcoholic liquor, cigarettes, cigars and pipe tobacco, such stores are kept under Customs seal;
- (b) in the case of consumable stores other than those specified in clause (a) such of other stores are likewise kept under Customs seal:

Provided that if the proper officer is satisfied that it is not practicable so to do, he may, after taking inventory of such other stores, allow them TO remain on board without being put under Customs seal.

**3. Customs seal not to be broken.** – Where any stores have been kept under Customs Seal, such seal shall not be broken until the vessel or aircraft becomes a foreign-going vessel or aircraft.

[ **C.B.R. Notification No. 57-Cus., dated  
01.02.1963** ]

#### **12.4. Transfer of Stores under Section 86(2) of the Customs Act,1962**

Sub-section (2) of Section 86 of the Customs Act, 1962, permits the transfer of any stores imported in a vessel or aircraft, with the permission of proper officer as stores, to any vessel or aircraft for consumption thereon provided the latter is either a foreign going vessel or aircraft or such stores are for consumption on bond a ship of Indian Navy or are as per Section 90 of the Customs Act, 1962 or the Agents shall apply for the services of the officers required to supervise the transaction and shall pay the fees leviable under the overtime rules.

#### **12.5. CONSUMPTION OF STORES ON BOARD A VESSEL OR AN AIRCRAFT**

Section 87 of the Customs Act, 1962, stipulates that any imported stores, other than those meant for the Indian Navy on board a vessel or aircraft may, without payment of duty, be consumed on thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft.

The Section clearly prohibits consumption of imported stores, without payment duty on board a vessel or aircraft which does not have foreign-going character. The imported stores meant for Indian Navy have been dealt with in Section 90.

Section 90 (1) of the Act stipulates that imported stores for the use of a ship of the Indian Navy as well as imported stores supplied free by the Govt. for the use of the crew of a ship of Indian Navy, may, without payment of duty be consumed on board a ship of the Indian Navy.

In view of consumption of imported stores free on board a foreign going vessel and on board a ship of the Indian Navy, have a bearing on Section 69 and Chapter X of the Customs Act, 1962.

Section 88 and Section 90 (2) of the Customs Act, stipulates that provisions of Section 69 (which deals with the export of warehoused goods without payment of import duty) and of Chapter X (which deals with the Drawback of duty) if the Customs Act, shall apply to stores as they apply to other goods with slight modifications.

The modification prescribed under these two Sections are –

- a) for the words “exported to any place outside India” or the word “exported”, the words “taken on board any foreign going vessel or aircraft as stores” or “taken on board a ship of the Indian Navy” shall be substituted.
- b) the case of drawback on fuel and lubricating oil taken on board any foreign going vessel or aircraft as stores and in the case of Navy also, sub-section (1) of the Section 74, of the Act shall have effect as if words “ninety eight percent” have been substituted by the words “the whole”.

#### **12.6. Ship stores of daughter vessels engaged in lightening of mother vessels**

The Board has recently examined the issue of assessment of ship stores of “daughter” vessels engaged in lightening of “mother” vessels. After reviewing the practice at various ports and also various court cases and orders of the Tribunal on the leviability of duty on stores supplied to “daughter” vessels, it has been decided that in respect of “daughter” vessels which arrive from foreign ports for the purposes of lightening “mother” vessels and which go back to foreign ports thereafter, no duty shall be charged on ships stores consumed on the “daughter” vessels during their lightening operations. If the same vessel is, however, diverted to coastal run, it would then be treated as coastal vessels and duty would be chargeable on stores consumed by it.

**[ Ministry’s letter F. No. 450/109/92-Cus. IV, dated 24.12.1992 ]**

#### **12.7. Check on Stores of Foreign Going Vessels in Port**

(a) The Section Officer in whose Section the foreign going vessel has berthed shall place all arms ammunitions, explosives, spirits, tobacco, cigarettes and valuable stores under seal and see that no excessive stocks of stores such as liquor, tobacco, cigarettes etc. remain unsealed in the bars, lockers and store-rooms. A record of the lockers, store rooms etc., placed under seal and the Number and letter of the seal used, shall be recorded in the store-list. The stores required for immediate use of the personnel of the ship may be left unsealed. The quantity of such stores shall be decided by the Section Officer at his discretion on the basis of the number of Crew.

(b) If the vessel moves from the jurisdiction of one Section Officer to that of another, the store lists with records thereof shall be immediately sent to the latter.

(c) (i) On receipt of the store list, the Section Officer shall check the sealed stock. The issues already allowed should have been noted in the store list. All subsequently issues, shall be noted against the items in the Store list. The Section Officer shall also check a percentage of other stores. Wherever such checks are carried out, the Section Officer shall endorse the Store list accordingly.

(ii) After the necessary checks and verifications have been completed the Section Officer concerned shall sign the prescribed certificate on the Store list and endorse a similar certificate on the duplicate manifest of the Stores, filed if any, and shall submit special report to the Assistant/Dy. Commissioner with regard to any material discrepancies noticed by him. A note regarding the submission of such a report shall be made in the store list and the duplicate Manifest of stores if submitted.

(d) During the Vessel's stay in Port, the seals on the Bonded lockers etc. should be frequently checked by the Section Officers., and the fact indicated in the diary maintained in the Section. In case of suspicion that the seals have been tampered with or otherwise broken, the matter should be immediately reported to the Preventive Superintendent on duty, who shall order a complete inventory of the Store before initiating any action.

(e) The Divisional Preventive Superintendent should exercise control through a frequent check of the Section Diaries and check at least once during vessel's stay in port, the account of stock of bonded stores as maintained on Board and the store list of the vessel. The Divisional Superintendent should endorse the records every time

such check is carried out. Particulars of such checks should also be recorded in their diaries for information of Assistant Commissioner, Preventive.

(f) On the day preceding a vessel's departure for a foreign or customs port the Preventive Officer shall sign the certificates and the store list as to the stores, equipment and private property remaining on board after verifying the particulars of stores or other articles-

- (i) issued for consumption on board, or
- (ii) landed for home consumption or warehousing, or
- (iii) transferred to another vessel, and
- (iv) received on board during the vessel stay.

After the vessel's departure the copies of the store list duly certified shall be forwarded to the Manifest Clearance Department through the Divisional Superintendent.

#### **12.8. Issue of stores during the vessels stay in port--quantum thereof.**

All issues of stores should be made against the written requisition from the Master of the Chief Steward or the Ship's Officer in charge of the Stores.

During the vessel's stay in the port, the quantum and condition of issue of liquor, cigarettes tobacco from the sealed bonded stores may be determined by the respective Customs Houses taking into consideration the number of officers and crew of the vessel and restrictions imposed by the State Government and local authorities. It should be ensured that the issues at a time are in reasonable quantities for consumption of the ship's personnel. The bottles of spirits such as whisky, Brandy etc. should be issued in open condition after breaking the manufacturers' seals.

#### **12.9. Caterer's stores on Board – Check of**

On arrival of the vessel in the port, caterers on board, shall furnish to the Boarding officer or to the Preventive Officer in whose Section the vessel has berthed, a complete list of stores belonging to them. The officer concerned shall check a percentage of the stores as far as possible with the list and seal articles such as cigarettes, tobacco, liquor, wines etc., Prior to the vessel's departure, the Preventive Officer shall re-check the articles with the list and report discrepancies, if any, to the Assistant/Dy. Commissioner through the Divisional Superintendent for orders. The list shall finally be filed with Import general Manifest (store list) of the vessel.

**12.10. Serving of dutiable items during parties on board a Foreign/Indian navy vessels**

Duty is leviable on the quantity of dutiable stores served to persons not borne on the books of Indian Naval Ships, on the occasion of parties held on such ships. However, the information furnished by the Commander of the vessel with regard to the quantity served to non-entitled persons may be accepted without any check or verification. If it is felt that this concession is being misused, the matter may be reported to the Board/Ministry for further consideration.

As regards foreign naval vessels, though the duty is legally leviable on the dutiable stores served on board a foreign naval vessel to persons not belonging to the ship, yet in view of the practice being followed in some other countries and with a view to avoiding impolite strictness in enforcement, no objection may be raised to the serving of limited quantities of Bonded goods to persons not belonging to these vessels, on the occasion of parties held on board such vessels. Custom House shall keep themselves informed that there is no abuse of this courtesy.

**[ M. F. (DR) F. No. 21/9/56-Cus. IV/VI dated 25.6.57 ]**

**12.11. Cocktail parties on board Merchant vessels by Steamer Agents**

When shipping agents are permitted by the Customs House to hold cocktail parties on board the vessels under their agency, they shall be required to produce a Custom Clearance permit from I.T.C. authorities for bonded stores required for consumption at the party and also produce the requisite permits granted by local Excise authorities for excisable and/or prohibited goods. The stores consumed on such occasions shall be chargeable to duty.

In such cases the agents are asked to deposit with the Custom House, as revenue deposit, an amount which shall cover the duty leviable on the bonded stores intended for use during the party. Final duty on actual consumption shall be adjusted against the deposit on the Steamer Agents filing a bill of entry. The Preventive Officer in charge of the vessel shall intimate to Office Superintendent, the bonded stores taken out from the stocks for consumption and the stores actually consumed. The unconsumed stores shall be placed back into the Bonded store room. Part bottles shall be charged. In ports where any local prohibition and restrictions in respect of consumption of alcoholic liquors apply, the vessel's agents shall produce the requisite permission from the State authorities.

**12.12. Ship's stores and equipment – liability to import duty on transference from foreign trade to coasting trade**

a) When a vessel is transferred from Foreign Going trade to the Coasting trade, as defined Sec. 2 (21) of Customs Act, 1962, the consumable stores and other goods such as provisions, oilman's stores, liquor, tobacco, cigars, cigarettes, consumable articles (not forming part of vessel's equipment such as canvas, oil paints, varnish etc.) would be liable to payment of import duty. In the case of such transfers to Coastal Trade where a vessel, which has arrived with foreign cargo, after discharge, proceeds in ballast to a Custom Port for picking up coastal cargo, without being succeeded by a foreign voyage, and where a vessel after unloading the foreign cargo loads coastal cargo without any indication of the succeeding voyage being a foreign one, duty on stores would be charged from the date the vessel has completed the discharge of her foreign cargo at the first Indian Customs Port of arrival for her subsequent coastal run. The exact time of the completion of the

discharge of foreign cargo is the time when the last sling of the cargo is landed as recorded by the Port Trust/Port Commissioner's staff in charge of the section where the vessel is working. The Preventive Department shall furnish a list of all vessels reverting to coastal run to the Import Department once every week to enable Import Department to keep a watch on the vessels from which duty on ships stores is due.

- b) A NIL report shall also be furnished to ensure that no vessel has escaped scrutiny.
- c) The above principle is also to be applied for the purpose of shipping stores ex-bond. In such case, inventory of stores on board the vessel has to be taken by the Preventive Officer.
- d) At the time of transfer from foreign run to coastal run, however, articles forming part of the equipment of the vessel, upto the extent the vessel may reasonably have on board, should not be charged to duty. The articles forming part of the vessel's equipment should fall under any of the heads in the list below: -

Articles not covered by the list shall also be considered as ship's equipment and exempted from duty provided they are verified to be so and specific orders of the Assistant Commissioner of Customs. Appraising Department are obtained in each case.

Doubtful cases only shall be referred by the Assistant Commissioner, Appraising Department to the Commissioner.

#### **List of articles that ordinarily comprise Ship's equipment**

- 1. Telescopes, Binoculars and Sextants.
- 2. Barometers.
- 3. Direction finding apparatus including compasses.
- 4. Line throwing appliances.
- 5. Signals all kind i.e. storm danger., Distress, Fog etc.
- 6. Radio Telegraph installation.
- 7. Auto Alaram
- 8. Clocks
- 9. Logs.
- 10. Emergency Lights.

11. Lamps all kinds, viz. signaling masthead, etc.      12. Lights, green and red.
13. Fire fighting appliances.      14. Ensigns and flags.
16. Ropes, cables, hawsers, wires, and chains for ship's use.      17. Hatch wedges and Boards.
18. Cook's Gallery.    19. Parts of engines.      20. Fire arms (if declared in the stores list) including gunpowder, explosives and cartridges in sufficient quantities. 21. Spares anchors.
22. Medicine Chest. 23. Derricks. 24. Fire bars. 25. Tanks for oil, water etc.
26. Rafts and Boats.      27. Hardware, Ironmongery and tools in sufficient quantities.
28. Life saving appliances. 29. Deep sea sounding appliances.
30. Dunnage wood and mats (These shall be liable to duty if landed and cleared).

e) In addition to these articles, there would be spare articles of ship's furniture, apparels, etc. Any excesses over the normal requirements of the vessel should be subject to duty.

f) The personal property including arms and ammunition of the officers and crew of the vessel shall be dealt with in accordance with the Baggage Rules in force and duty levied, if any. In the case of restricted articles like arms and ammunition and wireless sets it should be ensured that articles are covered by the appropriate licences issued by Police authorities etc and are with the owners.

g) In the case of vessels stores landed either as condemned or for home consumption shall be liable to import duty unless bonded for re-export to a foreign port.

### **12.13. PROCEDURE FOR CONVERSION OF VESSELS FROM FOREIGN TRADE TO COASTING TRADE**

The following procedure is laid down for conversion of vessels from foreign to coastal run and vice versa:

- 1) Prior to applying for conversion of vessel from foreign to coastal, Steamer Agent should obtain necessary licence from D. G. Shipping as per Section 406/407 of Merchant Shipping Act 1958.
- 2) Whenever vessels in the foreign run convert to coastal trade, the steamer agent should present an application in triplicate to the Assistant Commissioner of Customs, Export Department, requesting for permission for conversion and also services of a preventive officer for inventorying the ship stores and the personal property of the crew members on board the vessel. The application should indicate the estimated period of coastal run, the itinerary of coastal voyage if possible, and also whether the steamer agent does not wish to pay duty on the entire quantity of ship stores carried by the vessel, he should indicate in the application the quantity of ship stores he wishes to withdraw for use on board the vessel.
- 3) At the time of conversion from foreign to coastal run, the steamer agent shall also file a Bill of Entry in the Export department for payment of customs duties on the full quantity of ship stores or the quantity of ship stores estimated to be consumed during the coastal run (as the case may be). If the duty is recovered not on the full quantity of stores on board but on a part quantity, the assessment of the Bill of Entry at this stage shall be provisional. Provisional assessment shall be at an amount which is 110% of the duty leviable on the quantity estimated to be consumed. If duty is being collected on full quantity, assessment of the bill of entry shall be done only after receipt of certified inventory from the Preventive department vide provisions of paragraph 5. On receipt of the Bill of Entry in the Custom House, the Export Department shall assess the bill of entry and return the same to the Steamer Agent for payment of duty.
- 4) The permission for conversion shall be granted only after the payment of amount assessed on the Bill of Entry vide paragraph 3. Permission for conversion can be granted prior to payment to those Steamer Agents who maintain a provisional deposit account with the customs and authorize the customs to debit their provisional deposit account with the amount assessed on the Bill of Entry. In other cases, permission for conversion without payment would be granted only by the Commissioner of Customs (Export). Adequate reasons should exist for permitting conversion without payment of dues assessed on the Bill of Entry.
- 5) The duplicate/triplicate copies of the application shall be forwarded by the Export department to the Assistant Commissioner (Preventive) for deputing a

preventive officer for taking the inventory as per the Steamer Agent's request. If the Steamer Agent in his application has indicated his desire to withdraw only a portion of the total stores on board the vessel, the Preventive Officer concerned should supervise the withdrawal and seal the remaining stores on board. The quantity withdrawn and also the quantity sealed should be clearly indicated in the inventory list prepared by the Preventive Officer. In regard to oils on board, the inventory of furnace oil, diesel oil, lubricant oil, etc. should be given separately. It should be clearly mentioned in the inventory whether the stock is duty paid or non duty paid.

Inventory of the private property of the crew would similarly be taken by the Preventive Officer. For liquor, cigarettes and other high value items, the brand names should also be mentioned in the inventory. The inventory list of ship stores and private property of crew members prepared by the Preventive Officer should be countersigned by the Master of the Vessel or his agent and by the Preventive Officer making the inventory.

Five copies of the inventory shall be prepared. The preventive Officer concerned shall forward one copy to the Export department, another to the Preventive department. One copy shall be handed over by Preventive Officer to the Steamer Agent and two copies to the Master of the Vessel – one for his record and second for handing over to the Preventive Officer at the port of reversion to foreign run.

6) After taking the inventory, the Preventive Officer should forward the triplicate copy of the Steamer Agent's application, with an endorsement that Port Clearance may be granted, to the Coastal Trade Establishment, for grant of Entry Outward to the coastal vessel.

7) As regards private property of the crew, the Steamer Agent would give an undertaking to the Preventive Department to the effect that the Baggage would be cleared as per the Rules. This undertaking shall be cancelled when a certificate from the Custom House, where the vessel is reverted to foreign run, is produced showing that all the private property of the crew inventoried at earlier Custom House has been duly accounted for.

- 8) If at an another Indian port, the vessel on the coastal run needs any further bonded stores, the Steamer Agent should make a similar application at the port concerned and pay duty on such stores as are taken out of the bond.
- 9) At the time of reversion to foreign run, the Master of the Vessel or the Steamer Agent should make an application to the Assistant Commissioner of Customs along with a copy of the application to the Preventive Department requesting for the services of a preventive officer for inventorying the stores and the private property of crew on board the vessel.
- 10) Five copies should be made of the inventory. On completion of inventorisation a copy shall be retained in the Preventive department, one copy would be forwarded to Assistant Commissioner of Customs to whom application was made for reversion of the vessel to foreign run, one copy shall be sent to the Export department of earlier Custom House and two copies shall be given to the Steamer Agent or the master of the vessel. On the basis of the copy of final inventory and the triplicate copy of the Bill of Entry the Steamer Agent would file a refund claim in the Export Department of the earlier Custom House.
- 11) The refund application so received shall be dealt with in the Export department in the usual manner after considering the same along with the copy of the final inventory forwarded by the Preventive Department of the port of reversion.
- 12) In so far as the private property declaration is concerned, the Custom House, at which the reversion to foreign run takes place, should verify that the private property has been properly accounted for, either by retention on board by the crew or by its clearance through Customs in that port or in any other intermediate port in India. A certificate to that effect shall be issued by the Preventive Department to the Steamer Agents so that the same could be produced by the Steamer agent before the Preventive Department of earlier Custom House in order to get his undertaking cancelled.

### **ANNEXURE 'A'**

#### **(On Steamer Agent's Letter Head)**

We, M/s ..... the local agents to the vessel ..... now lying at the port of .....hereby undertake that the private properties of the

officers/crew on board the said vessel now reverted to coastal trade at .....shall not cause to be landed without proper clearance from the Custom House through which the said officer/crew shall get signed off during the period of coastal voyage or the baggage of the crew members re-exported when the vessel reverts to foreign voyage, which ever is earlier.

A list officers and crew on board the vessel now under reversion is enclosed.

**(AS AGENTS)**

**PLACE:**

**DATE:**

**[ Standing Orders No. 7347 dated 20.01.1998 and No. 7484 dated 27.10.1999 issued by Commissioner of Customs (EP), Mumbai, In File No. S/6B-21585/97 EXP ]**

**12.14. Transfer of stores from a Vessel in the Foreign trade to a vessel in the coasting trade**

Transfer of stores from a vessel in the foreign trade to a vessel in the coasting trade shall only be permitted on production of a completed Bill of Entry showing that duty has been duly paid on such stores and on production of a Shipping Bill authorising shipment of the goods on board the receiving vessel.

In cases, however, where either of the vessels is due to depart within 48 hours of arrival of the other, the transfer of provisions and stores may be permitted in anticipation of payment of duty provided that the Agents have executed a standing guarantee on stamped paper undertaking to pay duty and to deliver a completed Bill of Entry, showing credit of such duty, in the Preventive Department within 48 hours in case of transfer of such stores. The procedure for dealing with such transfer applications shall be the same as described above. In addition to this –

- (a) the preventive officer supervising the discharge of the stores shall endorse against the relative items in the application or the accompanying list- the quantity, weight and value of each description of stores. He shall also make a note of such transfer in both copies of the Ship's store list after the stores have been discharged.
- (b) The Preventive Officer in charge of the receiving vessel shall certify shipment of the goods under his supervision on the transfer application and then forward the document to the Divisional Superintendent's Office for entry of the date of shipment against the relative item in the Register.
- (c) When the transfer has been effected, the Agents shall prepare a Bill of Entry and present it in the Import /Appraising Department for "noting" and assessment of duty leviable on the stores. After duty has been paid and credited to Government, the duplicate Bill of Entry shall be delivered in the Divisional Superintendent's Office. The officer concerned shall enter the cash number and date of payment of duty against the relative item in the special register of transfer applications. The Bills of Entry shall then be forwarded to the 'Manifest Clearance Department' for check and record for the relative ship's file. Any case in which duty is not paid within the prescribed time limit should at once be brought to Divisional Superintendent's notice for necessary action.

#### **12.15. Transfer of personal effects**

- (i) When the personal effect of a ship's officer or seaman are transferred from a vessel in the foreign or coasting trade to a vessel in the foreign trade or from one vessel to another in the coasting trade, special care should be taken to see that a note of the transfer of any restricted goods, e.g. arms and wireless sets, etc., is made in the respective store lists or in the case of arms or ammunition transferred from or to a General Pass Vessel, in the register maintained on board under Rule 4A of the General Pass Rules and to verify that such articles when transferred to vessels in the coastal trade are covered by the requisite licences or permits.
- (ii) (a) The instructions regarding transfer of personal effects of officers and seamen from a

vessel in the foreign trade to coastal trade shall be as per Baggage Rules applicable.

(b) When such transfer is effected at night or any other occasion, when duty leviable, if any, cannot be conveniently collected or when there is any doubt as to whether the vessel to which the owner is transferred is on coastal trade, a report of the dutiable articles, if any, included in the personal effects transferred from one vessel in the foreign trade to another which may or may not be in the coastal trade, shall be made to the Assistant/Deputy Commissioner (Preventive) through the Divisional Superintendent for further action.

(iii) In all cases in which articles are transferred necessary action should be taken to ensure that an entry is made on the store-list of the vessel on which the articles have been shipped and that note of the transfer is made against the corresponding entry, if any, in the store-lists of the vessel from which they have been removed.

(iv) When a Ship's officer on a foreign going vessel on transfer to another foreign going vessel in port wants to remove his personal effects with him, such transfer shall be effected on an application, countersigned by the Agent/ Master, to the Divisional Superintendent and that he shall be escorted by a Preventive Officer if the personal effects contain dutiable articles.

**12.16. Vessels in coastal trade which have reverted to Foreign Trade Temporarily and re-enter the Coastal Trade – Procedure regarding**

(a) In case a vessel (which, at the time of her transfer to the foreign trade, had duty paid stores on which no drawback was claimed ) re-enters the coastal trade, duty shall be levied on the articles shown in the foreign stores list after deducting therefrom the following: -

(i) The stores on board at the time the vessel left the coastal trade and entered foreign trade (without reference to the length of time that has elapsed between the vessel's entry into the foreign trade and her subsequent re-entry into the coastal trade).

- (ii) Shipments, if any, from duty paid stock made on Shipping Bills after the vessel left the coastal trade.

**Note:** Care should be taken to ensure that shipments of spirits etc. out of bond are not so set off.

- (iii) Local purchases of cigars, cigarettes, tobacco etc. for which cash receipts are produced.
- (b) When the vessel in the coastal trade is initially cleared for a foreign port, the Agent may apply to Assistant Commissioner (Preventive) at least 2 days before the vessel sails for such foreign port, for the services of a preventive officer to take inventory of the stores on board for the purpose of claiming exemption from payment of duty thereon at the time of vessels return to the coastal trade. The Preventive Officer shall take an inventory of the stores in triplicate in the prescribed store-list form which shall be applied by the Agents. He shall sign all the copies of the inventory and endorses them as follows:

“The stores mentioned in this inventory were on board the S/S .....before she sailed for .....(.....Preventive Officer’s signature.....) and forward to Preventive Office for obtaining counter-signature of Assistant Commissioner (Preventive). The original copy shall be delivered to the Agents on payment of the necessary fee and the duplicate and triplicate retained by the Preventive Department.

- (c) In the case of personal effects of the ships officers and crew of such vessels the latest Baggage Rules, shall apply.

**12.17. Unconsumed stores on board vessels reverted from coastal to foreign trade**

The Master or Agent claiming drawback on such stores shall apply to the Asst. Commissioner of Customs, Preventive Department, two days before the

departure of the vessel to foreign port for the services of a Preventive Officer to take an inventory of the stores remaining on board. The Preventive Officer deputed for the purpose shall examine all the stores on which drawback is claimed, enter them in the prescribed store-list form, in duplicate which shall be supplied by the Master or the Agent concerned and seal them with the customs seals. These seals shall be examined before the vessel sails and the Preventive Officer concerned shall then endorse both the copies of the store-list as follows:-

“Stores examined and sealed on ..... Found seals intact before the departure of the Vessel,” and forward them to the Preventive Department for the countersignature of the Asst. Commissioner (Preventive) and consideration of the claim of Drawback by the Drawback Department.

**12.18. Coastal Vessels with General Pass-touching a foreign Port and reverted to coastal trade- collection of duty:**

- (a) Vessels on coastal trade under “general pass” touching foreign port are allowed to bunker Fuel oil from bond, when proceeding direct to a foreign port and may also take bonded stores. These vessels may also take fuel oil and other dutiable stores at foreign ports.
- (b) On reversion to coastal trade which occurs at the first Indian Port, duty is leviable on all the bonded stores including fuel oil remaining on board and also on all the stores, taken at foreign ports, including purchases of dutiable goods by the officers and crew.
- (c) The Boarding officers should obtain from the Master of the vessel a list including fuel oil and private property of the officers and crew with all details for purposes of assessment. The list should be verified by a physical check of a few representative items, if it is not possible to check the entire stores.
- (d) The Import Department on receipt of the list from the Preventive Section shall ask the steamer agents to file a Bill of Entry in respect of dutiable items, which shall be assessed by the Appraising Section. The Superintendent shall see that the Boarding Officers take necessary steps for obtaining the store list, which should be forwarded with report to the Import Department through the Assistant/Deputy Commissioner (Preventive).

**12.19. Duty on Fuel Oil supplied ex-bond stock to vessels which are in the foreign run but which subsequently divert to coastal run**

The Import Department shall intimate the fact of reversion from foreign to coasting trade and vice versa to the Export and Preventive Departments, to enable them to take such action as such reversion may call for . A "FREE" shipping bill shall be filed in the Export Department to cover shipment of excise bonded oil as ship's stores, with duplicate and triplicate copies of AR-4 forms. The words "Shipment from excise bonded stock" may be superscribed conspicuously on the shipping bill. (In respect of shipment of warehouse goods, on the Customs side, (S.P.No. A R-4 No., Grade of oil, quantity shipped, source of supply) etc. shall be entered at the appropriate place in the vessel's store list, in the same manner as stores supplied from Customs bonded stocks are entered. These particulars should be entered in the copy retained in the Preventive Department and also in the "Circulating Copy" if the vessel is touching Customs Port (s) on route to a foreign destination. If the vessel is expected to touch any Customs Port (s) en-route to foreign destination, the certifying Preventive Officer should mention in the certificate the names of all such ports and in the same order as mentioned in the port clearance of the vessel, instead of mentioning only the foreign port of destination.

If a vessel reverts from foreign to coastal trade at any of the Custom Ports en-route to a foreign destination, the Custom Authorities at the port of reversion shall forthwith intimate the Central Excise Department which permitted supply of oil ex-bond under AR-4 procedure, any such change in the character of her voyage together with such particulars as grade and quantity of oil on which excise duty may be recoverable.

**[ Ministry's letter F.No.55/31/64-Cus IV dtd. 23.08.1965 ]**

**12.20. Indian goods supplied as Stores**

Section 89 of the Customs Act, 1962, prescribes that goods produced or manufactured in India and required as Stores on any foreign going vessel or aircraft may be exported free of duty. The quantity of such goods shall be determined by the proper officer depending upon the size of the vessel or aircraft, number of passengers and crew and the length of outward voyage or journey of the vessel aircraft.

**12.21. Stores unfit for Human consumption**

Stores certified unfit for human consumption by the Port Health Officer may be passed free of duty and destroyed by the city/port authorities under Preventive supervision.

**12.22. Removal of Refrigerated Ships Stores from the Vessel, whose refrigerating system has gone out of order, to cold storage in the city**

The steamer agents concerned should make an application for removal of such goods to the bonded freezer premises and storage there pending reshipment, attaching complete and detailed list of the stores which are proposed to be removed giving description, unit, quantity, weight and value (wherever possible). They should enclose along with the application a letter of guarantee Bond on necessary stamp paper, binding themselves to pay duty on such of the stores as are not re-exported within the stipulated time or are lost or missing or have deteriorated during storage in the bonded premises and any penalty leviable thereon. The Asst. Commissioner may allow the request, but before actual removal from the ship the Preventive Officer should check up the stores with the detailed lists furnished by the steamer agents and endorse the inventory to that effect and then escort the stores to the bonded premises for storage. Endorsement in token of receipt should be made by the Preventive Officer incharge of the Bond, if posted or by the bonder of the premises. In the bonded room these stores should be kept segregated from the other bonded

stores in the premises. As far as possible, a separate room should be provided for storing such stores.

At the time of removing the stores back to the docks for shipment, the officer posted for the job, shall check up the items again and see that they tally with those originally allowed to be kept noting down any discrepancies in the lists. He should then escort the goods to the docks and leave them in the charge of the Section officer who should supervise the shipment and make an endorsement to that effect. (If the shipment is effected out of office hours, the officer supervising the ship should supervise shipment). The letter of guarantee bond should be cancelled after pre-audit.

#### *REMOVING SHIP'S GEAR OR EQUIPMENT INTO TOWN FOR REPAIRS*

- (a) Articles forming part of Ship's gear or equipment shall be permitted to be removed into town for purposes of repair without payment of duty. The facility for passing such articles without payment of duty shall be allowed only in the case of:
- (i) The firms and merchants of repute who have a permanent deposit in the Custom House as security for payment of duty and who have executed a standing guarantee/bond in the prescribed form for due compliance of the Rules.
  - (ii) Other firms and merchants who execute a separate guarantee/bond in the prescribed form on the occasion of each application.
  - (iii) The local steamer Agents who are allowed to remove gear and equipment for repairs without payment of duty from vessels under their agency through their authorised firms have also to execute a guarantee bond in the prescribed form to pass out any articles or set of articles at one time.
- (b) The grant of this concession shall also be on condition that the articles being re-shipped normally within a period of 90 days. The time limits can be relaxed on the merits of the case by the Assistant Commissioner of Customs.
- (c) (i) Articles so passed on machinery passes/repair passes or guarantee/bonds are treated as part of ship's equipment and therefore, (unless the ship is broken up) are not liable to duty until it has been decided not to put it back on the ship. The decision not to replace the articles should be taken before the expiry of the currency

of the repair pass/machinery pass in which case the valuation and assessment to duty shall be done by the Appraising Department. During the currency of the repair pass/machinery pass, the articles shall be treated as goods that have been imported and recovery of duty on which is postponed and shall be entirely waived if the goods are reshipped in due course. The reshipment could be effected on the same vessel or other vessel under the same agency or belonging to the same owners.

( ii ) The amount of the permanent deposit shall be fixed by the Assistant/Dy. Commissioner keeping in view and value of the transactions of each firm or merchant and shall be liable to be increased or decreased in proportion to any corresponding variation in the volume of such transaction.

( iii ) Application from new firms for this concession on long term basis shall not be entertained until the firm concerned has worked for at least six months under the Individual Guarantee system as provided for in sub-para a (ii) above and if the bonafide of the firm do not come under question during this period of probation. For this purpose the firm be required to furnish a statement of its financial position. Confidential enquiries shall be caused to be made by the Custom House to verify the financial stability and turnover of the firm. Income Tax certificates may also be demanded and scrutinised. The firm should produce a promise of regular orders from at least two major shipping companies.

( iv ) Individual Guarantee should be extended by Assistant/Dy. Commissioner (Preventive), after satisfying himself as to the adequacy of the amount deposited as security.

( v ) When articles are entered for removal under Para a (ii), the guarantees shall be executed for an amount equivalent to twice the duty leviable on the value of the articles entered for removal, and shall be stamped with a Revenue Adhesive Stamp of the prescribed value.

( vi ) Any firm or merchant from whom a permanent deposit and a standing guarantee/bond have been accepted and who is duly authorised by the local Steamer Agent, executing a standing letter of guarantee with Customs allowing the firm or merchant to operate for them under this concession, may remove such articles into town for repairs under cover of a machinery pass in the prescribed form in Pink colour which shall be prepared in quadruplicate and shall contain an

accurate specification of the description, quantity, type, serial number, maker's name and value of the articles, to facilitate identification and show the name of the vessel and the I.G.M. No. and name of the Gate or Bunder through which they are to be passed. The original copy of the pass shall bear Court Fee Stamp as prescribed at the port.

( vii ) The removal of such articles by other merchants or firms may be effected under cover of the prescribed form of grantees in quadruplicate containing the particulars as those described above. Only the Original copy of the guarantee shall be stamped. In effect, however, in all 5 copies of the guarantee shall have to be prepared i.e. one with the Revenue Adhesive stamps to be preserved in the Custom House for observing the rules regarding custody of guarantee and 4 copies to serve the purpose of removal etc. on the same basis as of machinery pass.

The disposal of the four copies of the machinery pass shall be as follows:

The original should be retained by the Section Officer or the Boarding Officer the despatched to the Custom House after the vessel sails.

The duplicate should be taken from the party at the time of passing of the machinery etc, by the Gate Officer or the Bunder Officer and sent to the Custom House for registration.

The triplicate should accompany the machinery etc. at the time of reshipment and should be returned to the Section Officer by the party. The Section Officer shall then forward the triplicate and the original together to the Custom House (Preventive) Department.

The quadruplicate shall be retained by the party.

#### (d) Removal of Articles

Before removal of items for repairs from a vessel, the firm shall make out a repair pass/machinery pass in the prescribed form in quadruplicate. After the pass has been duly completed by the firm and countersigned by the Ship's officer it shall

be presented to the Preventive Officer in charge of the Section where the vessel is lying. The Section Officer shall satisfy himself that the details have been correctly given on the pass or guarantee by check of the goods and then allow and supervise landing. He shall endorse on all copies and impress the Custom Rubber stamp on the duplicate and triplicate copies. He shall then return three copies to the applicant retaining the original copy in the section with the other papers of the vessel concerned. The section officer shall be constantly on the alert to ensure that no items are landed and removed for repair unless necessary prior permission has been accorded by him as indicated above. If the officer has reason to believe that altogether inadequate value has been entered against an item for the purpose of passing it into town, he shall detain the articles for appraisalment. Articles declared as 'Condemned' in the pass or guarantee shall be sent for assessment of duty at once and allowed to be cleared on a Bill of Entry. If any of the articles specified in the pass or guarantee are not landed to the passed out, the Preventive Officer shall score out of the entry of the items under his initials with the consent of the applicant or his representative. When he is satisfied that the documents are in order, he shall endorse all four copies to show the items covered by them are allowed to be passed into town.

When any articles or ship's parts are required to be landed for the purpose of being shown as samples, templates or models, for purchase or manufacture of similar parts, they may be landed on a Machinery pass but should be declared as such on the Machinery Pass. On completion of the work, the parts so removed should be reshipped as provided in the Machinery pass Procedure.

(e) The Gate Officer shall entertain a Repair Pass/Machinery Pass only after verifying that the Section Officer has properly allowed landing of the articles and duly endorsed and stamped the pass. He shall also check the signature of the applicant against the list of authorised persons maintained at the gate. He shall carry out a physical check of the goods in the lorry or other conveyance to satisfy himself that they correspond with the declaration in the pass. He shall see that in the case of gear or equipment which do not bear any marks, numbers or other distinctive feature for easy identification, suitable mark or seal should be affixed to them. Where this is not possible, it should be ensured that the same are fully described in the

covering machinery pass. The gate officer shall endorse the duplicate, triplicate and quadruplicate copies. The duplicate copy shall be retained by him and be sent to Office of the Preventive Department for registration and further action.

(f) Reshipment of Articles

On return of the goods for reshipment after repairs, the Gate Officer shall check the details with the Machinery Pass and the validity of the pass, before allowing the items to pass in. The Gate Officer shall make necessary endorsement on the triplicate and quadruplicate copies, but return them to the applicant.

The Section Officer who shall, as far as possible, supervise the shipment or otherwise verify by check on board that the goods have been duly reshipped. The firm shall, after shipment, endorse the pass and obtain the signature of the ship's officer in token of receipt. The two copies of Repair Pass/Machinery Pass shall then be presented to the Section Officer for endorsement. The quadruplicate copy duly endorsed, shall be returned to the firm. The triplicate shall be retained. This copy along with the original pass from the ship's file shall be endorsed and returned to the Preventive Officer to enable cancellation of the entry in the register. Should the articles be reshipped on a vessel other than from which they were landed, or on the same vessel on a subsequent voyage, the Preventive Officer incharge of the receiving vessel shall endorse the triplicate and quadruplicate pass accordingly.

(g) Part Shipment of Machinery Pass items

In the case of part shipment or if the goods have not been returned at all before the vessel sails, the Section Officer shall send the original copy to the Office with a report regarding part shipment or non-shipment of the goods. On receipt of the report an entry shall be made in the register and special watch maintained, for reshipment. Should such reshipment not take place before the validity of the pass expires, the party should be called upon to pay the duty involved forthwith. In the case of part shipment, the Section Officer after his endorsement shall return both the triplicate and quadruplicate copies to the party.

The duties of the Section Officer as laid down in the above paragraphs, shall also be performed outside the office hours by the officer posted on O.T. Basis in charge of the ship, if the ship is working and by a special officer posted for this

purpose on prior application from the party, if the ship is not working otherwise. In the event of vessel is not working or is in dry dock and any machinery items are to be landed for repairs after office hours, services of a special Preventive Officer may be obtained on application to the Divisional Superintendent on payment of usual O.T. Fees.

After the check of the original repair pass/machinery pass or guarantee, the special officer concerned shall forward the same to the Section Officer concerned to be retained in the Section along with the ship's papers.

*Items landed from Vessels in stream*

The articles may be landed from vessels in stream and taken to prescribed Bunders and gates for passing with prior permission of the Boarding Officer/attached Officer in the same way as to the Section Officer in the Docks. The Boarding Officer/Preventive Officer shall retain the original copy of the machinery pass and endorse the duplicate, triplicate and quadruplicate copies. These copies shall then accompany the goods to the place of landing, serving as boat-note. Meanwhile, the Boarding Officer shall send an advice to the gate through which the goods are to pass out. The Original Pass shall be retained with the ship's papers and dealt with in the usual manner at the time of sailing of vessel. If the vessel moves to the Docks, the original machinery pass shall be sent to the concerned Section Officer along with the other papers of the vessel.

The Machinery Passes/Repair Passes shall be of distinctive pink colour. All firms on approved list and concession are required to have these forms printed and bound in booklets. These pass-books or repair pass books with printed serial numbers in reasonable quantity as per requirement of the firm shall be presented in the Customs House where the same shall be signed by a Preventive Officer and thereafter returned to the firm for use. Proper record of issues and returns of these books shall be kept by the firms and should be subject to surprise check by Customs Officers. Each firm shall submit quarterly statement of the passes issued. These statements shall be approved for such purpose by the Asst./Dy. Commissioner and whose specimen signatures shall be kept at all gates with the Section Officer for the purpose of check.

*Supervision and checks by Divisional Superintendents*

The Divisional Superintendents shall exercise proper checks on vessels, on gear and machinery moving in the docks and also at the gates. The Superintendents should see that the procedure is properly understood and followed by both section and gate officers. The list of authorised persons should be maintained carefully at each gate. Superintendents should frequently carry out examination of goods passing out under Machinery Pass at the Gates themselves, and record the same in their diaries for information of Asstt. / Dy. Commissioner.

No articles shall be permitted to be reshipped after lapse of the period of currency of the relative passes or guarantees, until the import duty leviable has been paid.

An extension of the period of currency of Machinery Passes/Repair Pass or guarantees required in special cases may be granted by the Asst./Dy. Commissioner on receipt, within the normally permitted period, of an application accompanied by the triplicate and quadruplicate passes or guarantees from the firm or merchant concerned, provided the articles are first examined and their condition and value certified by the Appraiser, specially deputed for this purpose. When an extension is granted all the four copies shall be endorsed accordingly and triplicate and quadruplicate copies returned to the applicant.

*Assessment and Recovery of Duty*

Action to recover duty on articles not shipped is ordinarily taken on the expiry of the period of the currency of the repair pass/Machinery Pass or guarantees. In the case of condemned articles or of articles about which it has been decided not to reship owing to their having been found unserviceable after removal or for any other reason, it shall be incumbent on the firm or merchant to apply for the services of a Customs Officer to check the valuation and to assess the duty leviable immediately.

When any article has not been reshipped before the expiry of the period of currency of the pass, the Prev. Deptt. shall issue a memorandum in the prescribed form calling on the firm or merchant concerned to arrange for check and valuation of

the articles and assessment of the duty within three days. A copy of this memo shall be addressed to the Divisional Superintendents concerned to send the original pass or guarantee if not already returned. In dealing with the application for assessment of unserviceable articles, the Appraiser shall on being satisfied of the validity of the claim, note the word 'condemned' against the relative item on the triplicate and quadruplicate copies of the Machinery Pass, appraise the articles, enter the value and assess the duty under the appropriate items of the tariff.

(i) On the articles being entered for assessment by the firm or merchant the Appraiser concerned shall assess the articles to duty on the basis of value declared in the relative documents or upon such increased value as may be estimated by him on examination of the goods at the place where they are stored. No claim for assessment on a value than that stated in the relative machinery pass or guarantee shall be admitted in such cases except when the vessel from which the articles were landed has not left port before the expiry of period of currency of the covering document. After examination of the articles and verifying the particulars required for purpose of assessment the officer concerned shall enter value and the rate of duty applicable against the relative item in the triplicate and quadruplicate copies of the machinery Pass to the party for payment of duty through Preventive department where the Machinery Pass clerk shall calculate the duty involved and endorse all the four copies of the machinery pass entering the particulars in the machinery pass register.

(ii) The date of delivery of triplicate and quadruplicate passes or guarantee, for assessment of any item included therein shall be noted on the document as soon as it is received by the Appraiser concerned. All entries relating to the valuation or the rate of duty shall be made in red ink and shall be initialled and dated by the Appraiser on all the copies of the pass or guarantee dealt with by him.

(iii) The triplicate and quadruplicate copies of Machinery pass or guarantee assessed under the procedure described in above shall be presented by the owner within a week from the date of assessment to the Machinery Pass Clerk in Preventive Department who shall compare them with the relative original and duplicate copies and see that the details relating to the value of the articles and the rate and amount of duty are correctly entered in the document. After the document are found to be in order and if the duty assessed is recoverable by debit to the firm's

deposit account all the four copies of the machinery pass shall be forwarded to the Accounts Department for adjustment. When, however, the duty is to be paid in cash the four copies of the pass shall be sent to the cashier through a transit book in charge of a Sepoy who shall be accompanied by the firm's representative.

(iv) After the duty has been paid or recovered by debit to the firm's deposit account, all the four copies of the pass, bearing the oval stamp in token of credit of the amount shall be returned by the accounts Department to Preventive Department where the clerk concerned shall enter the cash number and date of credit of duty against the relative item in the register., and return quadruplicate copy of the pass or guarantee to the owner and retain the other three copies.

Machinery passes shall be entered in a special register in the prescribed form wherein all the particulars of Machinery pass shall be registered immediately on receipt of the duplicate pass or guarantee in Preventive Department and assigned serial No. of an annual series.

When the original and triplicate copies are received the papers shall be submitted to Assistant / Dy. Commissioner (Preventive) for information and cancellation of the item through supervisory head of the Department. The register should be periodically checked by Assistant / Dy. Commissioner (Preventive) to ensure that all items are duly accounted for and that necessary action is taken against the firms in respect of goods not re-shipped in time.

The internal audit department shall audit all the machinery passes and guarantee covering articles which have been reshipped or otherwise accounted for with the respective entries in the register. It shall also see that the procedure laid down has been followed in all respects and that necessary action has been taken on all items which have not been re-shipped before the expiry of the currency of the Machinery pass.

The concession of passing articles of Ship's gear or equipment on Machinery passes or guarantees into town for repairs without payment of duty shall be liable to withdrawal without previous notice for any serious or frequent breaches of these rules.

*Articles forming part of ships stores, equipment and private property belonging to ship's crew*

Such articles and articles like band instruments and wireless sets whether belonging to the ship or officers and crew of the ship may be landed for repairs and passed without payment of duty on repair passes or guarantees in accordance with the above procedure after making due notes in ship's store-list/private proper list of the repair pass number. In the case of wireless sets so landed for repairs the usual application to import wireless receiving apparatus need not be demanded so long as the sets are returned to the ships before the latter leaves the port and are not used during their temporary import into India. A declaration to the effect that the sets shall not be used should be taken on the relative machinery pass or guarantee.

**Form of standing guarantee**

To,

The Asstt. Commissioner of Customs,

Preventive Department,

.....Custom House.

Sir,

In consideration of Commissioner of Customs allowing to us to remove into town articles forming part of ship's gear and equipment for purpose of repairs payment of duty under the Machinery Pass Repair / Pass Concession, we hereby undertake.

1. to abide by all rules and regulations under the Machinery Pass / Repair Procedure,
2. to pay duty, fine and / or penalty that may be imposed upon us by the Customs Commissioner and to forfeit the amount of Revenue Deposit for any breach of the rules for the time being in force or which may thereafter be

made from time to time by the Customs Commissioner in this respect and also,

- 3. to allow any Customs Officer to enter Workshop and / or office at any time to check the articles lying therein with our office stock books.

Yours faithfully,

Proprietor.

ORIGINAL (with stamp)

Duplicate

Triplicate

Quadruplicate

(Name of the firm)

(Address of the firm)

File No.....

The President of India.

Know all men by these presents that we.....Ship Repairs of S. S. / M.V.....are held firmly bound to the PRESIDENT OF THE REPUBLIC OF INDIA, the sum of Rs.....to be paid, to the said President of the Republic of India, his successor or assigns for which payment shall and truly be made. We,.....do hereby bind ourselves, our legal

representative and assigns by these presents dated the .....day of.....(year).....

Description	Quantity	Weight
Value		

Signature of the firm's

Proprietor.

The particulars of the items mentioned in the above sheet.

The ..... above bonden,.....having applied to the Commissioner of Customs, and obtained his permission for the removal into the town of outside the limits of the harbour docks without payment of Customs Duty for the purpose of repairs of the articles described in the schedule above and which articles are parts, fixtures or instruments belonging to the above named vessel. Now the condition of this bond is that if the said.....or their legal representative or assigns shall submit the said articles for inspection to the proper Officer of Customs at the time of landing thereof and also at the time of reshipment. The said.....or their legal representatives or assigns shall re-ship or cause to be re-shipped all or any of the said articles within Thirty days from the date on which each of such articles is landed and shall forthwith pay to the said Commissioner of Customs on demand the full and proper duty leviabale according to the value, and rate of duty in force on the day following that of departure from the port of the above named vessel or on expiry of the guarantee whichever is earlier on all or any of the articles which are not re-shipped as aforesaid. This obligation shall be void otherwise on beach of failure, in the performance of any part of this condition the same shall be and remain in full force and virtue.

And it is agreed that any amount becoming due by us under this Bond. Inst., may be recovered in manner laid down under such section I of section 142 of the Customs Acts, 1962 without prejudice to any other mode of recovery.

Signed in the presence of:

Signature of the Firm's  
proprietor

Original Bond accepted by: -

Particulars	Quantity
Date	Signature of Ship's Officer.
Time	
Date	Check and Landing Permitted
Time	
Date	Section Officer
Time	
Date	Passed out in full
Time	
Date	Gate Officer
Time	
Date	Passed in Full
Time	
Date	Gate Officer

Time

Date

Articles Reshipped in Full

Time

Date

Ship's Officer

Time

Certified that the articles have been checked and identified by me at the time of shipping:

Section Officer

**MACHINERY PASS/REPAIR PASS**

Serial No.

(Articles for Repairs only shall be entered on this form).

Original (for section Officer)

Name of the Company..... Duplicate (to be handed to Gate Officer and sent

by him to Customs House).

No. and date of the Custom House authority admitting the goods and to be

firm to concession or removing goods for repair. handed to Section Officer on reshipment.)

Amount of permanent deposit  
 Rs.....Quadruplicate (Company copy)

To,

The Asstt. Commissioner of Customs, Court Fee  
 Stamp  
 Preventive Department. 20  
 Paise.  
 .....Custom House.

Kindly permit the following articles to be removed for repairs from the  
 S.S..... which is in the Foreign/Coasting vessel is lying  
 at.....dock.

Description of articles showing marks & numbers, Value (Rs.)	Quantity	Weight	
		Tons	kgs.
If any gms			
1	2		3
4			

Date  
 representative for M/s.

Certificate

Signature of Firm's

.....

Signature of Ship's Officer

.....

.....

.....

items checked, Landing permitted.

Time .....Signature and stamp of

Date .....Customs Dock Section  
Officer

Description, number and value verified by physical examination passed out in full in  
part through .....gate.

Time :

Date : Signature of Customs Gate  
Officer

Gate Officer's endorsement on passing in of goods through Gate.

Articles shown obverse identified, and checked by physical examination.

Passed in full/in part through .....Gate. In  
case of part passes, the items not brought in shall be clearly indicated on the reverse  
by note against each item).

Time :

Date :

Signature of Customs Gate Officer.

**CERTIFICATE OF RE-SHIPMENT**

Certified that the articles detailed above have been shipped on board S. S.

.....

..... in the  
foreign/coasting trade, lying at

.....Dock.

Date :  
representative

Signature of Firm's

for

M/s.....

**Received on Board**

Date :

Signature of ship's officer

S.

S.....

Certified that the articles have been checked and identified by  
me.

Reshipped in full/in part

Time :

Date :

Signature of Custom Dock

Section officer

Custom's Appraiser's assessment of condemned value and Duty

Condemned Value .....

Signature .....

**ANNEXURE – VI**

Preventive Service Office

..... Custom House,

Date :

With reference to the **Machinery / Repair Pass No. / Guarantee**

..... dated ..... filed by Mr./Messrs.

.....

the period of currency of which expired on

.....

Mr./Messrs. .... is/are informed that as the articles covered by it have NOT yet been reshipped he/they should arrange with the Preventive Department of Divisional Superintendent Appraising Department for check of the Valuation of the articles and assessment of duty thereon within three days from the date hereof.

Assistant Commissioner of  
Customs,  
  
Preventive Department

Copy forwarded to D.S. and S/Appraising, for information.

ANNEXURE – VII

**Machinery Pass Repair Pass/Register**

S. No.	Date of Registry	Name of Co. removing	Name of the vessel
	Serial No. of the	the	gear or equipment
	Machinery Pass		
1	2	3	4
5			
Date of Expiry of reshipment of	Date of receipt of Section	Whether item's	Date of
Validity of pass subsequent	Officer's report and Original	reshipped or not	effected
before expiry of	Pass		but
pass			time of
6	7		8
9			



**ANNEXURE – VII**

**GUARANTEE TO BE FILLED ON STAMP PAPER**

In consideration of being allowed by the Commissioner of Customs .....to remove more articles of Ship's equipment such as mattresses and pillow for re-stuffing and linen etc., washing and repairs from vessels under our Agency without payment of duty, and I.T.C. licence, 'we undertake that goods shall be covered on each occasion by passes in triplicate as appended here to which shall be signed by duly authorised persons, specimens of whose signature are attached herewith. We further undertake to produce such linen to Customs Officer at the prescribed Gates for registration to whom the original copy of the pass shall be delivered after all the three copies of the pass have been duly endorsed by him and that the linen shall be taken back board for reshipment to the same vessel before she leaves the port, after such articles are again produced to the gate duty officer for registration covers by the duplicate and triplicate copies of the aforesaid pass before such reshipment, the triplicate copy duly endorsed being returned to us.

Failing satisfactory registration at the time of reshipment we bind ourselves to pay the duty on the linen and such other fines and penalties as may be levied and it is agreed that any amount becoming due by us under the Bond Instruments may be recovered in the manner laid down under sub-section (1) of Section 142 of the Act, 1962, without prejudice to any other mode of recovery.

The guarantee shall remain in force for one year from 1<sup>st</sup> January, ..(year)....and must then be renewed if it is desired that the concessions contained therein should continue.

Signature of

Agents.

*Passing out the Ships Linen for Washing*

(a) Linen of Vessels in port may be passed out for washing on execution of a general guarantee in the proforma by the Steamer Agents, valid for the duty and fine/penalty involved on the linen. The guarantee to be registered in the Preventive Department shall be renewed every year in January if the Steamer Agents desire that the concession should be continued. Copies of specimen signature of those empowered to sign the Gate Passes should also be furnished by the Steamer Agents along with the guarantee.

(b) Linen of vessels in port shall be passed out on a Pass triplicate (in the proforma appended to guarantee) which shall be presented to the Preventive Officer at the Gate or to the Section Officer at such ports where gates are not manned by Preventive Officers, who shall retain the original copy. The duplicate and triplicate copies shall accompany the linen passed out.

(c) The linen should be reshipped on the same vessel before she leaves the port. At such ports where Preventive Officers are posted at the Gates, the duplicate and triplicate copies of the Pass shall be presented to the Gate Officer who shall examine and allow the linen to pass in. In all cases, the duplicate and triplicate copies of the pass prior to shipment shall be presented to the Section.

The Section Officer, after supervising the shipment, shall endorse the copies accordingly, retain the duplicate copy and forward the same to the proper gate through which the linen was originally passed out or to the concerned Section Officer, as the case may be, where the original copy of the Pass shall be endorsed accordingly.

In case the vessel calls at the port for brief period and it is not possible to reship the mattresses, pillows, linen etc. after washing repairs on the same vessel, then the Repair pass / Machinery pass procedure should be adopted.

(d) The 'Letters of Guarantee' executed by the Steamer Agents shall be registered in the Preventive Office and a register for the same shall be maintained in Annexure 'A' appended by the clerk dealing with Machinery Passes. The dealing clerk shall keep a watch at the end of every year, as the guarantees are to be renewed every January, and obtain fresh 'letters of guarantee' from those agents who desire that the concession should be continued.

(e) In order to ensure due reshipment of linen, a register in proforma at Annexure 'B' shall be maintained by the Gate Officers. In the case the linen is not reshipped, a report should be made to the Assistant/Dy. Commissioner / Preventive Department through the Divisional Superintendent for taking action in terms of the letter of guarantee executed by the Agents.

(f) The Divisional Superintendent shall check the Registers once a fortnight. He should satisfy himself that all the entries therein made upto a month previous to the date of his visit have been accounted for by reshipment of the linen or otherwise that a report as envisaged in sub-para (5) above has been sent to the Assistant / Dy. Commissioner / Preventive Department for taking further action.

Annexure 'A'

**Register of 'Letter of Guarantee' for removal of linen for washing from ships in port.**

---

Sr. No.	Date of acceptance of Remarks 'Letter of guarantee'	Date of expiry of letter of guarantee.	Steamer Name.	Agent's
1	2	3	4	5

---

Annexure 'B'

**Gate Register for ship's Linen**

---

Date No. of	Application No. & Date.	Vessel's & Agent's Name.	Washing Company's	Description & articles
----------------	----------------------------	-----------------------------	----------------------	---------------------------

passed out.

Name.

1	2	3	4	5
<u>Clause</u>				
		<u>No. of Articles reshipped</u>	<u>Date of Reshipment</u>	
<u>Remarks.</u>				
6	7	8	9	

### **12.23. Empty Aerated Water Bottles from vessels- for re-filling**

The following procedure shall be adopted for the removal of empty aerated water bottles from vessels for re-filling.

(1) The firms concerned in passing out empty aerated water bottles shall present a Gate Pass in duplicate of Yellow Colour in the form at Annexure "A" to the Section Officer. The pass shall clearly indicate whether the vessel, from which the empty bottles have to be landed, is in the foreign trade or in coasting trade. After satisfying himself, the Section Officer shall stamp and endorse the Gate Pass. The pass and empty bottles shall be presented at the Gate. After check, the Gate Officer shall pass out the bottles and retain the original pass. These passes shall be kept company wise and separately for coasting vessels and foreign vessels, and sent weekly to the clerk in Preventive Service Office.

(2) In the case of shipment, the filled bottles shall be passed in on a pass as in form at Annexure "B". The Gate Officer shall endorse the pass but not retain the same. The pass shall then be presented to the Section Officer who shall certify on both copies shipment of the bottles onboard the vessel after check. The Section Officer shall retain the original and file the passes in two bunches (Coasting and Foreign separately). The passes shall be sent to the clerk in Preventive Service Office weekly.

(3) In order to ensure that the bottles landed from vessels on the foreign trade are accounted for by an equal number of similar bottles shipped on vessel on the foreign trade, the clerk in the Preventive Service Office shall maintain a register

as in proforma at Annexure "X" which shall show company wise the bottles passed in and out. A separate page or pages shall be kept for each company and an abstract prepared at the end of the month. The companies shall also furnish monthly statements showing separately items landed and shipped on (a) Foreign vessels and (b) Coasting vessels. The account maintained in Preventive Service Office shall be checked against these statements each month and put up to the Assistant Commissioner(Preventive) through Dy. Superintendent. The register shall be forwarded to Internal Audit Department for check. Any discrepancies noticed should be reported separately.

**[ Mumbai Custom House File No. S/50-55-P.]**

At the end of every six months a consolidated statement shall be prepared showing the total number of bottles passed out and passed in company wise. This shall be subject to audit.

**ANNEXURE "A"**

**OUT**

	Serial No.
	Original (For Customs Gate Officer)
copy)	Duplicate (Company

**Gate Pass for Empty Bottles**

(Yellow Colour)

(Name of Company)

M/s. \_\_\_\_\_

To

The Customs Officer,

.....Docks.

Kindly allow the following to be landed and passed out for re-filling from the s.  
s. \_\_\_\_\_ in the Foreign/Coasting Trade.

---

Description

Quantity

.....dozen

Empty ----- aerated bottles

(Firm's representative)

M/s. -----

Steward

s. s. -----

---

Allowed.

Time .....

Date .....

Customs

Stamp and signature of

Dock Section Officer.

---

Checked, Passed out.

Time .....  
Officer

Signature of Customs Gate

Date .....

.....Gate.

**ANNEXURE "B"**

**IN**

Serial

No.....

Gate Pass for Filled Bottles

(Yellow Colour)

Original, (Dock Section

Officer)

Duplicate (Company

copy)

To

The Custom Officer,

.....Docks.

Kindly allow the following to be passed in for shipment on s. s. -----in  
the foreign/coasting trade against empty bottles passed out.

Description.

Quantity

Full Aerated bottles

.....dozen.

(Firm's representative)



M/s. ....  
 .....(year)...

Month

Date	Gate Pass	Vessel	For Foreign Vessels		For Coastal Vessels	
			Passed out	Passed in	Passed out	Passed in
1	2	3	4A	4B	5A	5B
Total						

Abstract (at the end of the month for each company)

As per above entries.  
 Difference

As per company's  
 statement

Empty bottles passed out }  
 from vessels in foreign .....dz.  
 .....dz.

trade.

Filled bottles passed in }

and shipped on vessels ..... ..dz.  
 .....dz.

in foreign trade.

**Remarks regarding shortage, if any, and action taken.**

**Audit Stamp Initials.                      Initials of Clerk and Dy. Supdt.                      Signature of  
 Asstt. Commissioner.**

Filled / empty gas cylinders- taking in/out of Docks

**Certain marine supply companies of repute have been granted permission for taking out empty cylinders from vessels berthed in Docks area and in stream for refilling on exchange basis.**

**The following procedure should be adopted for the same:**

- (1) The supply of gas cylinders on exchange basis under challan should be carried out between 10.00 A.M. and 6.00 P.M. against an order received in writing from the shipping company.**
- (2) the suppliers shall present the Cylinder Pass, as per proforma given below, in quadruplicate showing the number of cylinders intended to be landed with their description, identifying particulars and value and the vessel's name, to the concerned Section Officer. After granting lading permission, the Section Officer shall retain the original copy.**
- (3) At the gate, the Gate Officer shall endorse for 'passing out' and retain the duplicate copy.**
- (4) In the case of filled bottles/cylinders, the triplicate and quadruplicate copy will be presented at the Gate. After 'passing in' endorsement, the said copies will be presented to the concerned Section Officer, who will permit the reshipment after satisfying himself.**
- (5) The original and triplicate shall be sent by the Section Officer and duplicate copy shall be sent by the Gate Officer to Preventive Service Office without delay.**
- (6) Regarding the shipment of gas filled in, the suppliers shall follow the rules in force.**

**(7) The accountability of the cylinders shall rest with the suppliers.**

IN & OUT FILLED / EMPTY GAS CYLINDERS PASS

**(Articles for Cylinders only shall be entered on this form)**

**NAME OF THE SUPPLYING COMPANY**

**No. and Date of Custom House Authority, permitting**

**the company for taking in/out, filled / empty gas cylinders :**

**Amount of permanent BOND :**

**TO,**

**THE ASSISTANT COMMISSIONER OF CUSTOMS,**

**PREVENTIVE DEPT.,**

**.....Custom House.**

Kindly permit the following empty Gas Cylinders to be removed for refilling from M. V. \_\_\_\_\_ which is in the foreign / coasting Trade.

The items will be returned within 30 days. The vessel is lying at \_\_\_\_\_ Dock.

Description of Cylinders with Nos. & Makes if any	Quantity	Weight in kgs.	Value Rs.

**Date: \_\_\_\_\_ Certificate**

**Representative**

**Signature of Firm's**

**Stamp of the**

**Company**

**Signature of ship's officer**

---

**Items Checked, Landing permitted.**

**Time:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**and stamp of**

**Signature**

**Custom Dock Section**

**Officer**

**Description, number and value verified by physical examination,**

**passed out in full / part through \_\_\_\_\_ gate.**

**Time:** \_\_\_\_\_

**Signature of Customs Gate**

**Officer**

**Date:** \_\_\_\_\_

(Reverse)

Gate Officer's endorsement on Passing in of goods through Gate

**Articles shown obverse identified and checked by physical examination**

**Passed in Full/Part through \_\_\_\_\_  
gate**

**(in case of in part passed, the items not brought in shall be clearly indicated  
on the reverse by note against each item)**

**Time:** \_\_\_\_\_

**Signature of**

**Custom**

**Date:** \_\_\_\_\_

**Gate**

**Officer,**

Certificate of Reshipment

**Certified that the articles detailed observe have been shipped on board M. V. / M. T. \_\_\_\_\_ in the foreign / coasting trade lying at \_\_\_\_\_ dock.**

**Date \_\_\_\_\_  
representative**

**Signature of Firm's**

**Date \_\_\_\_\_ Received on board,**

**Signature of Ship's Officer**

**Certified that the articles have been checked, identified by me. Reshipped in full /part**

**Time \_\_\_\_\_  
Dock**

**Signature of Custom**

**Date \_\_\_\_\_**

**Section Officer,**

Clearance of excisable goods without payment of Excise duty for supply as stores for foreign going vessels / aircrafts from the Pvt. Bonded / public Bonded warehouses

In order to exercise effective control over the storage, accountal and removal of excisable goods like Cigarettes, Aerated Water, prepared and preserved for in Public Bonded Warehouse under Section 57 and Private Bonded Warehouse under Section 58 of Customs Act, 1962, the following procedure is laid down.

The party shall apply for this facility in the prescribed proforma to the Commissioner of Customs, who shall them separately notify the warehouse wherein the excisable goods can be received without payment of duty. The Bond Department shall issue a certificate to the said party to the effect that they have been permitted to receive excisable goods without payment of duty in Bond for supply as

stores to foreign going Vessels/Aircrafts, within a period of six months or such extended period. A copy of the certificate duly certified by the Customs Officer incharge of the warehouse, shall be sent of the Central Excise Officer-in-charge of the factory from where the goods are intended to be cleared. Before giving certificate to the party, Superintendent (Bond) shall inspect the warehouse and shall submit his report to the Asst. Commissioner of Customs, Bond Department regarding separate compartment for storing these excisable goods. Regarding the movement of the excisable goods from factory to the Customs Warehouse following procedure is laid down.

- (i) Each package intended for supply as stores shall be clearly marked and stamped with the following words :-  
“EXCISABLE GOODS FOR SHIP STORES TO BE STORED IN CUSTOMS WAREHOUSE”
- (ii) Any manufacturer desiring to avail of this facility shall have to execute the necessary bond in the prescribed form in terms of rule 153 of the Central Excise Rules, 1944.
- (iii) Movement of goods from the category and their receipt at the warehouse etc. shall be governed by the procedure prescribed under chapter VII as amended by Chapter VII-A of the Central Excise Rules, 1944. The procedure is at Annexure `B.’

It shall be the prime responsibility of the Preventive Officer in-charge of Private Bonded Warehouse and the Warehouse Keeper in the case of Public Bonded Warehouse under Sec. 58 and 57 respectively to receive the excisable goods in the Customs Bonded Warehouse. All these excisable goods shall be stored in a separate compartment with a notice board “Excisable goods for ship stores to be stored in Customs Warehouse.” The Preventive Officer incharge shall ensure that no other goods/package are kept in the premises. The Preventive Officer incharge shall maintain a separate Bond Register for such excisable goods in the same form that of under Sec. 58. The owner of the excisable goods who has warehoused the goods in the Customs Warehouse shall have to maintain the account and statement of the receipt, supply and balance of the goods and shall send the statement to the Central Excise Officer in-charge of the factory with a copy

to the Bond Department. The Preventive Officer in-charge/Warehouse Keeper shall also send a monthly statement showing the total quantity of receipt and supply and the balance remaining to the concerned Central Excise Officers at the factory with a copy to the Bond Department. The clearance of these excisable goods specified above shall be allowed directly from the factory of production to the Customs Warehouse and in any case the further movement shall not be permitted. For the purpose of this facility under Notification 180/79 CE dtd.5.5.79 the Customs Officer in-charge of Warehouse have been conferred with all the powers of the Central Excise Officers referred to in chapter VII intending amendment made thereto by Chapter VII-A of Central Excise Rules, 1944.

If the excisable goods, cannot for any reason be supplied as stores within the prescribed period of six months from the date of warehousing, the owner of such excisable goods shall :-

Either ask for the extension of this prescribed period of six months, subject to clearance by Health or other authorities concerned.

OR, return such goods to the factory of production and follow the same procedure for the return of the goods as was followed at the time of removal of such goods from the factory of production. The relevant procedure is at Annexure C.

**12.24. Supply of bonded Stores, i.e. liquor, Cigarettes etc. to supply vessels and Rigs Chartered by O.N.G.C. by local Ships Chandlers – Instructions regarding**

In order to exercise control over ex-bond supplies of liquor, cigarettes and tinned food stuffs that are drawn by Vessels/Rigs and other vessels chartered by O.N.G.C. for operation in the Bombay High area; the following procedure shall be adopted.

1. The preventive Officer posted in the Bonded Warehouse from which supplies are to be drawn shall maintain a register in respect of each supply vessel/rig indicating the total number of crew and technical persons working on board the vessel.
2. The P. O./incharge shall scrutinise the supply order signed by the Master of the vessel and counter signed by the owner of the vessel, and compare it with the ex-bond shipping bill presented to him for issue thereof and make sure that the quantity ordered is not in excess of the quantities worked out in accordance with the following scale: -
  - (a) **Liquor:** One bottle per crew per week. Liquor should not be supplied to any of the Rigs, since O.N.G.C. does not permit the use of liquor on drilling Rigs.

Such goods as are not fit for consumption shall be destroyed with prior permission of the officer-in-charge of Customs Warehouse.

Clearance of all Excisable goods from the Customs Warehouse for supply as stores shall be governed by the provisions of the Customs Act, 1962.

- (b) **Cigarettes:** One carton (200 cigarettes) per crew per week.

**(c) Beer, Tinned Food And Other Consumable Items:**

In reasonable quantity, if the Preventive Officer feels that the quantity requested for is in excess of the normal requirements, order of A.C. (Incharge Bond) should be obtained before the supply of the same.

3. The quantity of items supplied should be shown in the Register mentioned at para 1 above, supply vessel-wise/rig-wise in addition to the entries made in the Bond Register normally maintained .
4. If requests for additional supplies are made by the Master of any vessel, order of the A.C. Incharge Bond should be obtained before the issue.
5. Supdt. of Customs (P) Bond should verify the Register once in a month and satisfy that no excess supplies are made by the Preventive Officer.

6. A monthly statement showing the quantity of liquor, Cigarettes and other items supplied to the various Supply Vessels and Rigs should be sent to the A.C. Incharge Bond by the 5<sup>th</sup> of every month without fail.

### **ANNEXURE 'B'**

Movement of goods from the factory and their receipt at the Warehouse etc. shall be governed by the procedure as laid down below.

1. On production of Bond in the prescribed form in terms of rule 153 Central Excise Rules, to the Officer in-charge of Warehouse of removal or of the Warehouse of destination, accordingly as the Bond is executed by the consignor of the consignee.
2. Such Bond shall not be discharged until such goods are produced to the Officer at the Warehouse of destination and are duly warehoused or otherwise accounted for to the satisfaction of the officer having jurisdiction over the executor of the Bond nor until the duty due upon the deficiency in such goods not so accounted for has been paid
3. For purpose of such a discharge, if the Bond has been furnished by the consignor, as essential condition shall be the prior receipt by the Officer in charge of the warehouse of removal, of the duplicate application from the Officer-in-charge of the warehouse destination with re-warehousing certificate recorded thereon, as hereinafter provided under sub-rule (3) of 156-A)
4. 154 Remover may enter into a general bond – The Commissioner may permit any person entitled under these rules to remove warehoused good from warehouse to another to enter into a general bond with such surety or sufficient security, in such amount, and under such condition, as the Commissioner approves for the removal from time to time, of any goods from one warehouse to another, and for the due arrival and re – warehousing thereof at the warehouse of destination within such time as the proper officer directs.

(Provided that, in the event of death, insolvency or insufficiency of the surety, or where the amount of the bond is inadequate, demand a fresh bond

and may if the security furnished for a bond is not adequate demand additional security.)

- 5. 155. Bond under rule 140 and rule 164 to continue in force not –withstanding removal. Every bond executed under rule 140 and 164 in respect of such goods shall, unless the Commissioner in any case deems a fresh bond to be necessary, continue in force notwithstanding the subsequent removal of such goods to another warehouse.)
- 6. 156. Certificate regarding consignee to be produced along with his application for the removal of the goods, the consignor shall produce before the proper officer a Certificate in the proper form stating the particulars of the Central Excise Licenses held by the consignee and the bonds, if any, executed by him.

**ANNEXURE ‘C’**

While returning such goods the Bonder/Owner shall file with the proper Officer for approval the list) in triplicate) of the goods showing the following details.

- 1. Date of manufacture.
- 2. Date of warehousing.
- 3. Full description of the goods.

The owner/bonder, should also state the reason for non-disposal of the goods as “Stores” within the prescribed time-limit.

After scrutiny of the above forms, the proper officer may approve the request for return of the goods to the factory. The P.O. in charge shall endorse all the copies of the form after making entry in warehouse Register, P.O. shall retain the original copies and handover the duplicate copies for removal of the goods under preventive escort of the factory.

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## **CHAPTER – THIRTEEN**

### **13. COASTAL TRADE**

#### **13.1. PRELIMINARY**

India is a vast sub-continent, which is having an extremely long coast line of over 3,500 Kms. Owing to this, transportation by waterborne vessels whether riverline or lying in the sea, constitutes the cheapest mode of transportation of bulk cargo, as compared with any other form of transportation.

Bulk items like coal, salt, building materials etc. are transported from the areas wherein they are mined/manufactured, to the consuming centres on the coast, by coastal vessels both sailing as well as mechanised. Another major important bulk item, which constitutes a sizeable proportion of coastal traffic, is transportation of petroleum products from the refineries located on the coast, to the storage tanks/depots as well as sales and distribution outlets, located at various points on the coast. Thus, it is but obvious that movement of coastal goods by sea is an extremely important day-to-day activity.

It is clear that coastal traffic of normal and bulk cargo is important to the country's economy as it reduces the pressures on other modes of bulk transportation, which are not only expensive but already over-stretched. As the coastline of India is vast, there are large number of coastal ports, bearing importance and quantum of coastal traffic, depending on their locations as well as size.

Accordingly, controls of each of such minor ports and the traffic entering as well as emanating from the them, vary from port to port. Procedures for transactions of work from the Customs point of view, have been laid down and defined. The movement of coastal goods and vessels carrying coastal goods, which is mostly through Bunders/Minor ports, is monitored by the Coastal Trade Establishment (CTE) section of the Custom House.

### **13.2. DEFINITION OF COASTAL TRADE:**

The expression “Coastal Trade of India” should be taken to mean the conveyance of goods (other than imported goods) or passengers from one port of India to another port thereof, but a vessel engaged in a voyage starting from or ending at port outside India or which in the course of a voyage between two ports in India touches a port outside India for the purpose of embarking or disembarking passengers or goods should not be regarded as engaged in the coastal trade in India.

Provisions relating to Coastal Vessel and Coastal Traffic have been made in Chapter XII of the Customs Act, 1962.

Section 91 of the Customs Act, 1962, stipulates that provisions of Chapter XII of the Act, relating to coastal goods and vessels carrying coastal goods, shall not apply to Baggage and Stores.

### **13.3. Entry of Coastal goods-**

Section 92 of the Customs Act, 1962, prescribes that the consignor of any coastal goods shall make an entry thereof by presenting to proper officer a bill of coastal goods in the prescribed format duly endorsed of its truthfulness.

The prescribed Bill of Coastal goods requires, inter alia, a description of the goods and remarks whether they are inland goods or foreign merchandise. The declaration has to be elaborate, the consignor has to declare value, “sort”, specification, quantity, composition and description to the best of his knowledge, and belief, and further certify that the goods are in accordance with the contract entered into with the buyer. The proforma is similar to that of import and export goods, in respect that consignor has to make a declaration as to the truth of the contents.

**13.4. Bill of Coastal Goods (Form) Regulations, 1976**

In exercise of the powers conferred by section 157, read with section 92, of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely: -

**1. Short title and commencement.** – (1) These regulations may be called the Bill of Coastal Goods (Form) Regulations, 1976.

(2) They shall come into force on 1.1.1978.

**2. Bill of Coastal Goods.** – The Bill of Coastal goods to be presented by the consignor of any coastal goods under sub-section (1) of section 92 of the Customs Act, 1962 shall be in the Form appended to these regulations.

**13.5. Bill of Coastal Goods**

**(Original/Duplicate )**

Consignor's Name ..... Date of  
 Presentation.....  
 Address.....

Name of vessel: Port of Loading Master or Agent Colour Port at which  
 goods to be discharged

Rotation No.

Year:

---

Packages

(Details of goods to be given for each class of description).

---

Number and	Marks and	Quantity	Description	FOB	Remarks whether inland
goods or foreign					

Description numbers and weight of goods value merchandise.

(in words and  
figures)

---

Total :

Total No. of Packages (in words)

I/We declare that:

(For Customs Use only)  
quality, composition and

(a) the value, sort, specification,

description of goods mentioned in this Bill are stated to the best of my/our  
knowledge and belief and I/We certify

that they are in accordance with the terms  
of contract entered into with the  
buyer/consignee in pursuance of which the  
goods are being loaded and transported;  
and,

Custom House  
true.

Passed for Loading (b) the particulars given above are

Seal

Proper Officer

Signature of the Consignor/Agent if acting

for consignor.

Place and date

---

---

.....Packages landed

.....Packages short landed  
of Customs Control.

.....Packages passed out

Proper officer

Proper Officer.

**[ Notfn. No. 424, dated 23.10.1976,as amended by Notfn. No. 224-Cus., dated 22.10.1977. ]**

### **13.6. Loading / Unloading of Coastal goods**

Section 93 of the Customs Act, 1962, stipulates that loading of any Coastal goods on the vessel shall not be permitted by the Master of the vessel unless a bill relating to such goods has been passed by the proper officer and has been delivered to the master by the consignor.

Section 96 of the Customs Act,1962, prohibits loading/unloading of coastal goods from any vessel at any port other than a Customs Port or a coastal Port appointed under Section 7 of the Act for the purpose

Similarly, Section 98 (1) of the Act prescribes that Sections 33, 34 and 36 shall also apply to the Coastal goods as they apply to the imported goods or export goods. Section 98 (2) of Act stipulates that Section 37 & 38 shall also apply to Coastal vessels as they apply to vessels carrying imported goods or export goods. Section 98 (3) empowers Central Government may make rules regarding application of all or any of the provisions of Chapter VI & of Section 45 of the Act, to coastal goods or vessels carrying coastal goods.

Section 99 of the Customs Act, 1962, empowers the Central Government to make rules for preventing the export of any coastal goods which are dutiable or prohibited under the Act or under any other law in force. Further the Government can also make rules for preventing the substitution of imported or export goods by goods in the case of a vessel carrying coastal goods as well as imported or export goods.

### **13.7. Rules Relating To Coastal Trade**

Rules have been framed under the provisions of Sec. 98 of the Customs Act, 1962, for regulating the coastal trade by coastal crafts, that is, vessel with sails or motor. The same are reproduced hereunder:

With the approval of Government, the following Rules have been framed by the Chief Customs Authority under Sections 158-162 of the Sea Customs Act, 1878, ( **Note** : Sections 158 to 162 of the Sea Customs Act, 1878, correspond to Sections 94 to 98 of the Customs Act, 1962 ) for regulating the coasting trade carried on in native craft I.e. vessels other than squire rigged or propelled by steam :

i) The Export General Manifest shall be in the same form as that prescribed for other vessels under Sec. 63 and 158 of the Sea Customs Act, 1878. It shall contain, besides the required particulars, the following information.

a) In the case of a vessel to which cargo from another Customs port has been transhipped from another native craft, a note should be made opposite each item of transshipment cargo to the following effect:

“Originally manifested at the port of .....for transhipment to the port of .....

or

“Subsequently manifested at ..... for transhipment to .....

according as the goods were originally manifested at the port of export for transhipment at the port in question or their destination was changed on arrival there.

b) It shall include all goods brought from another port and not landed or transhipped and also all arms and ammunition, on board.

ii) If the vessel has arrived originally from another port, the manifest prepared as above, shall be presented in duplicate along with the document on which the cargo has been discharged endorsed by the Officer who supervised the landing to the effect that all the cargo manifested for the purpose has been discharged and inward clearance obtained.

iii) Both the copies will then be presented to the proper officer together with the original Transhipment Permits for goods for which Tranship Permits have been granted all Shipping Bills with endorsements showing the quantity of goods actually shipped. The Master shall also produce the following documents: -

- a) the clearance certificate from the Port Office
- b) vessel's register
- c) port and light dues, if any
- d) certificate that the vessel is furnished with side lights; and
- e) Health Certificate in the case of vessels arriving from infected places.

iv) If any of the goods for which Shipping Bills or transhipment permits have been granted are not shipped, the master shall, at the same time, put in a certificate in the form of an endorsement on the reverse of the Shipping Bills or the duplicate transhipment permits to the effect that the goods have not been shipped or transhipped as the case may be.

v) One copy of the manifest will be returned and signed by the Proper Officer together with the Shipping Bills and transhipment permits and it shall be the port clearance for the vessel.

vi) In the case of native craft clearing in ballast for a Customs Port, port clearance will be granted in the form attached. The form shall be filled in counterfoil by the master or agent, and, after inward clearance has been obtained in the manner above described, the Proper Officer who will sign the original and return it to the master as his clearance.

vii) In the case of native craft, entering and leaving a port in ballast it shall be entered and cleared like other vessels and shall take a port clearance in the same form as in the case of a vessel entering with cargo and clearing in ballast.

viii) Within 24 hours of the arrival of any native craft at any Customs port the master must obtain a certificate of entry from the Port Office and present it at the Custom House along with the following documents:

- a) the port clearance from the last port of call
- b) extract from manifest and Shipping Bills for all cargo to be discharged at the port
- c) a list of the vessel's stores
- d) port and light dues receipts, if any;
- e) the original manifest of which the above is only an extract; and
- f) an application to enter the vessel towards if the dutiable goods on board.

ix) After the vessel has been entered, the Export General Manifest will be signed by the Proper Officer who entered the vessel and returned to the master and will be his authority to break bulk, except in the case of free goods intended for transshipment which shall not be discharged until a transshipment permit has been prepared and completed by the owner and presented, along with the document on which the import cargo is to be discharged, to the Officer deputed to supervise the Transshipment.

x) If free goods originally manifested for importation are subsequently required to be transhipped for another port, the Export General Manifest shall be presented to the Proper Officer for amendment before a permit is granted.

**[ Board of Revenue (Sept. Rev.) Notfn. Dtd.9.10.1908 and Notfn. No. 93/50 dtd.9.9.1950 ]**

### **13.8. Export General Manifest**

Manifest of all goods exported per  
 ..... of tons, .....  
 Commander, to ..... under ..... colour.

Marks and number of packages	Number and kind of packages	Description of goods	By whom consigned	To whom considered	Index number of Shipping Bills	Remarks
1	2	3	4	5	6	7

Cleared outward the ..... of .....

I do hereby declare that the contents of the above Manifest are truly stated, Madras, this

Assistant Commissioner of Customs

day of .....

Commander

Note: The Manifest should also contain full particulars of all arms and ammunition kept on board whether they form part of the ordinary equipment of the vessel or are the personal property of the master, the officers or the crew working on board.

**Form of Empty Port Clearance for Native Craft**

No. ....

Cleared inwards general manifest No.

Name of Vessel	Tindal's Name	Painted No.
Burthen in Tons	Colours	To what place
Cargo		

I hereby declare that the foregoing information regarding cargo and destinations is truly stated.

Port,

Dated ..... Tindal

Port Port Clearance granted.

Dated ..... Customs

Commissioner.

**Form of Export General Manifest for Native / Coasting Craft**

No. of Export General Manifest  
(Native Coasting Craft)

Vessel's Register No. ....

Manifest of Goods exported per  
.....of.....ton  
s, Tindal  
.....under.....  
..... colours .....to .....

Port Dues Certificate No. Cleared Inward as per General Manifest Register No.	No. and kind of packages	Description of goods	Weight or Quantity	Real value of goods	By whom shipped	Shipping Bill No.	Remarks
1	2	3	4	5	6	7	8

I do hereby declare that contents of this Port-clearance granted at the Manifest to be truly stated.

.....Custom House for

on the .....(date)...

Assistant Commissioner of Customs

Marks of Tindal

Note – Port-clearance granted at .....on ..... subject to the counter-signature of the Preventive Officer at the Bunder before departure.

**Note** : if any goods are landed from a coasting vessel which has touched at a foreign port or which has on board goods brought from a foreign port in contravention of Section 82 of the Sea Customs Act, 1878,

*(this corresponds to Section 32 of the Customs Act, 1962 ), i.e. without being entered in the original or an amended or supplementary manifest, the Commissioner may impose a penalty under Section 167(33) of the Sea Customs Act, 1878 (Sections 167 (1) to ( 81 ) of the Sea Customs Act correspond to Sections 111 to 119 of the Customs Act, 1962) and a note of the fact of such landing shall be endorsed on such manifest by such Customs Officer as the Commissioner may from time to time direct.*

**[ G.O. No. 3629 –Rev. dtd. 5.12.1911 ]**

### **13.9. Coastal Vessels – Masters Responsibilities**

The Masters of coastal vessels are, directly responsible for complying with the statutory requirements imposed on them by the provisions of the Customs Act, though there is no objection to their employing licenced Custom House agents for the preparation and delivery in the Custom House of any documents or other papers prescribed in connection with the entry or clearance of any vessel. Such documents of other papers must however be signed or otherwise duly attested by Master who is designated in some ports as a “Tindal”.

Section 95 of the Customs Act, 1962, stipulates that the master of every vessel carrying coastal goods shall be supplied by the Customs authorities with a book called " advice book " and master of such vessel shall carry the advice book on board the vessel. The proper officer at each port of call shall make such entries in the advice book as he deems fit, relating to the goods loaded on the vessel on that port.

### **13.10. Imports by Coastal Vessels**

The provisions regarding clearance of coastal goods at destination have been outlined in Section 94 of the Customs Act, 1962.

As per Section 94 (1) of the Act, the master of a vessel carrying any coastal goods shall carry on board the vessel all the Bills relating to such goods and shall immediately on arrival at any customs or coastal port , deliver to the proper officer all bills relating to the goods to be unloaded at that port.

Further, Section 94 (2) of the Act stipulates that where any coastal goods are unloaded at any port, the proper officer shall permit clearance thereof if he is satisfied that they are entered in a bill of coastal goods delivered to him.

The following working procedure is followed in respect of coastal vessels in coastal trade-

i) Coastal vessels arriving from Customs Ports will on arrival, anchor at the discharging line of the Free Anchorage or at any of the Bunders or wharves/jetties at which they are permitted by the local Custom House to land any part/full of their cargo. Within 24 hours of arrival of the coastal vessel, the Master/Tindal will report to the Preventive Officer in-charge of CTE. The Master/Tindal on reporting will deliver the following documents in connection with the entry inward of his vessel;

- a) the copy of Export General Manifest tendered by him at the previous port;
- b) duplicate copies of all Shipping Bills relating to the items indicated in the Manifest;
- c) the vessel's register;
- d) port dues receipt (if the vessel is of 10 tons and above)
- e) light dues receipt, if any;
- f) list of vessel's stores and such other documents as required.

ii) In case of coastal vessel arriving in ballast, the Tindal will present in lieu of Export Manifest and relative Shipping Bills, an I.G.M. in the prescribed form together with empty port clearance issued at the port of the departure.

The officer-in-charge of wharf/ jetty/bunder etc., or CTE where the Master/Tindal reports, shall as soon as the E.G.M. from previous port and the duplicate copies of Shipping Bills and the other documents stated above, are received, check up whether the same are in order in all respect and shall enter the requisite particulars of the vessel in the Inward Entry Register and give the entry a serial number such as C1, C2, C3 and soon of annual series, note the serial nos. and date of entry on the Export Manifest from previous port (which shall become the Import Manifest) and duplicate copies of Shipping Bills or empty Port Clearance and return the documents to the Master/Tindal with suitable

direction for payment of the port dues/wharfage charges involved. As soon as Tindal submits the same E.G.M. (i.e., now I.G.M.), after the payment of port dues/wharfage charges, the officer concerned will note the payment for port dues receipt No. and date in the Inward Entry Register. Thereafter, he shall permit the Master/Tindal to land the goods for granting delivery to the various consignees. While being passed out from the Bunder/wharf/jetty, the Preventive Officer should occasionally scrutinize a few items to see if they agree with the manifest. This scrutiny is not for the purpose of accounting for all the cargo, but merely a check against the smuggling of other good. After landing of all the goods is completed, the officer-in-charge of the wharf/Bunder/jetty shall endorse the landing certificate issued to the Master/Tindal by the Customs Officer at the previous port of shipment for resubmission to him. He shall also make necessary landing endorsement on both, EGM from previous port and the duplicate copies of Shipping Bills. If any short landing to the previous port of shipment. He should also issue a notice to the Master/Tindal calling upon him to explain as to how short landing took place. In respect of such case of short landing, the officer concerned shall after obtaining the explanation of the Master/Tindal, submit a report to the Assistant/Dy. Commissioner of Customs (Preventive). After all formalities in respect of the cargo brought by the sailing vessel are over and after the statistical returns are prepared the officer concerned shall ensure the proper filing of the EGM and all the connected duplicate copies of the Shipping Bills and other documents.

### **13.11. REGISTER OF ONWARD/INWARD ENTRY OF VESSELS**

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Clearance Rotation		Date and hour of entry		If prior to
Vessel	Nationality	Date	Hour	arrival
No.				

---

1	2	3	4	5
6				
<hr/>				
Tonnage Agents		Port or Ports		Commander General
Remarks				
			Description Cargo	
7	8	9		10
11				
<hr/>				
<hr/>				

### 13.11. EXPORTS BY COASTAL VESSELS:

i) Any Master/Tindal of sailing vessel intending to carry goods to other Indian ports, shall obtain entry outwards on presenting to the clerk-in-charge in C.T.E. a landing certificate issued at the time of entry inwards of the vessel. After noting down the requisite particulars of the vessel in the Outward Entry Register and assigning a rotation No. to it, the clerk shall grant outward entry.

### 13.12. REGISTER OF VESSELS CLEARED OUTWARDS

Date and No. of Export General Register.	No. of Vessel's Register	Burthen	Description of Vessel and Name as per Register
1	2	3	4

Tindal's Name	Colours	Destination	No. of Export Entries granted for the shipment of goods	Date of Port Clearance granted.
5	6	7	8	9

ii) Any person desirous of effecting shipment of goods to other coastal ports by the vessel for which an outward entry has been given and duly notified, will be required to file a Shipping Bill in duplicate. Shipping Bills so filed shall be carefully scrutinized by the dealing clerk. If everything is found to be in order, he shall pass the Shipping Bills. Shipping Bills in respect of restricted goods shall be signed by the officer-in-charge C.T.E. The original copies of the Shipping Bills shall thereafter be returned to the party for effecting the shipment.

iii) After all the goods allowed for shipments are loaded on to the vessel, the Tindal/Master of the vessel shall apply for port clearance by presenting Export General Manifest in duplicate along with the original Shipping Bills and landing intimation. The clerk concerned shall carefully scrutinise both the copies of the EGM and other documents and after making sure both the copies correctly reflect the particulars of goods indicated in the EGM, shall grant port clearance after entering the requisite particulars in the Port Clearance Register and assigning a serial number. The original copy of the Export General Manifest together with the duplicate copies of the relative Shipping Bills and the landing intimation should thereafter be returned to the Master/Tindal of the vessel for submission at the next port of call. The return of the original E.G.M., duly signed, to the Tindal shall itself constitute the port clearance. Thereafter, the Tindal will present these documents to the Bunder Officer or the department concerned, as the case may be, for countersignature on the reverse of the Export General manifest.

iv) If no cargo is taken by the vessel, an empty port clearance shall be issued against an intimation to that effect by the Master/Tindal and after verifying the necessary documents required under the rules.

v) The original Shipping Bills which are retained will immediately thereafter, be utilized for preparing statistical returns. On receipt of landing intimation from the port

of destination, the duplicate EGM should be closed and properly filed together with all the relative documents.

vi) Prior to granting the port clearance, it shall be the responsibility of the dealing clerk to make sure that the Indian Coastal light dues and other dues if any have been paid.

### **13.13. Steamers arriving at and departing from enclosed docks of the Ports**

i) In so far as imports of coastal goods by steamers are concerned, the same procedure as stated above should mutatis-mutandis be followed. The Master of the vessel or the local steamer agents, will file within 24 hours of the arrival of the vessel, a copy of the EGM presented at the previous port of shipment together with duplicate copies of all relative Shipping Bills. The out of customs charges shall be indicated on the separate delivery order issued by the steamer agents to each consignee.

ii) In cases where the above procedure is not followed, the usual procedure in force shall be followed, i.e. the steamer agents shall, within 24 hours of the arrival of the vessel, file an Import General Manifest in duplicate in respect of all the goods brought by the vessel, in coastal Trade Establishment or in concerned departments as directed by the local Custom Houses. In such cases it will have to be ensured that copies of the EGM with relative Shipping Bills filed at previous ports have been received and on receipt of which the earlier Import General Manifest filed by the Agents/Master shall be verified and compared with the same to ascertain (i) that no discrepancy or short landing are involved, (ii) that the coastal goods cleared on bills of entry are coastal goods only and (iii) that no transshipment cargo has escaped payment of duty.

iii) On receipt of the IGM the clerk dealing with coastal (imports) shall carefully scrutinize the same and enter their requisite particulars in the entry Inward Register and give the entry a serial number of an annual series, note the register serial no. and date of entry and the No. of receipt for the payment of dues, in the IGM and grant entry inwards to the vessel after making sure that all dues have been paid. After entry inwards is given, a serial No. assigned to the IGM shall be duly notified. Thereafter, bills of entry in duplicate filed in Coastal Trade Establishment/Import

Department by or on behalf of the respective consignees shall be received, numbered stamped and scrutinized to see that they agree with all the material particulars in the Import General manifest. If everything is found in order, the same shall after nothing (in the manifest) be put up to the officer-in-charge Coastal Trade Establishment or clerk concerned in the Import Department for giving which will be returned to the consignees for effecting clearance of the goods through Port Authorities after payment of port dues. The original copies of the duplicate bills of entry and the outturn statement from the Port Trust, the IGM should be closed and filed together with all the relevant documents.

iv) Country craft/sailing vessels which arrive with coastal goods from Customs ports and take berth in the enclosed docks in the port, where the steamers engaged both in the foreign trade and coastal trade are berthed, shall observe the same procedure as indicated in sub-para (iii) above the clearance of coastal goods in the town.

#### **13.14. Export by Steamers**

i) Any Master or agents of a steamer intending to carry goods to other coastal ports will be required to make an application in the prescribed form in Coastal Trade Establishment or Export Department as directed by Local Custom House for obtaining entry outwards. After obtaining the necessary orders of the proper officer (as directed by the Local Custom House) on the application so received to each such outwards entry granted after noting down the requisite particulars No. of each outward entry should be notified.

ii) Shipping Bills filed in respect of goods proposed to be shipped in the steamer for which outward entry has been granted shall be numbered, stamped and carefully scrutinized by the dealing Clerk/Superintendent/Export Department. If everything is found to be in order, he shall pass the Shipping Bills in respect of restricted goods and ship's stores should be signed by the officer-in-charge Coastal Trade Establishment or such other officer as directed by the local Custom House. The duplicate copies of Shipping Bills should thereafter be returned to the party for effecting the shipment. After payment of port dues, if any, the Shipping Bills then be straightway presented to the Section Officer for supervising the shipment.

iii) After all the goods are loaded on to the steamer, the Master or the Agents, will apply for port clearance in the prescribed form together with two sets of Export General Manifest, and all the duplicate copies of Shipping Bills. The clerk dealing with coastal goods (Exports) shall carefully, scrutinize the application for port clearance and the two copies of Export General Manifest and after making sure that both the copies of the Shipping Bills correctly reflect the particularity of goods indicated in the Export General Manifest, grant port clearance in the prescribed form, after obtaining signature of the officer-in-charge Coastal Trade Establishment or such other officers as directed by particulars and assigning a serial no. one copy of Export General Manifest together with the submission.

iv) The original Shipping Bills retained will be passed on to the clerk preparing statistical returns. The other copy of the EGM and the original copies of the relative Shipping Bills should thereafter be filed and recorded after formal closing of the Export General Manifest.

v) In cases when the Master or the agents is/are not able to produce the Export General Manifest and relative copies of duplicate Shipping Bills at the time of Port clearance, the steamer agents will after the goods are loaded in vessel apply for port clearance in the prescribed form together with requisite documents. After making sure that all the documents are in order, the proper officer will grant port clearance in the prescribed form, and after entering the requisite particulars in the Port Clearance Register and assigning a serial number.

vi) The steamer agents shall within seven days of the due departure of the vessel, file an Export General Manifest in duplicate, along with the duplicate Shipping Bill. On receipt of the Export General Manifest and duplicate copies of Shipping Bills, the latter should be passed on to the clerk preparing statistical returns. One copy of export general manifest, should be forwarded to the port of destination and the other together with original copies of Shipping Bills filed and recorded after formally closing the Export General Manifest.

### **13.15. Transhipments**

If the IGM of the previous port of shipment or IGM of this port, as the case may be, include any items involving transhipment, filing of a transhipment permit in

duplicate in the prescribed form will be necessary. The transshipment permit so presented should be checked, to make sure that the particulars in the manifest are the same and should thereafter be put up to the Superintendent-in-charge of the Division or other officer or department concerned for allowing transshipment. After these orders are passed, the original copy of the transshipment permit should be returned to the party for effecting the transshipment and the duplicate filed along with the EGM of the previous port or the IGM of this port, as the case may be. In cases where the on-carrying vessel has been granted outward entry by the Export Department, both the copies of the Transshipment permit should be returned to the steamer agents for arranging the transshipment. In such cases after the transshipment permit has been processed by any department other than the coastal trade establishment or concerned department, the duplicate transshipment permit should be returned to the officer-in-charge Coastal Trade Establishment or the clerk of the department concerned, dealing with the coastal trade, as the case may be, after signing the "Let Tranship Order" for filing the same with the relative Import General Manifest.

### **13.16. PORT CLEARANCE OF COASTAL VESSELS**

Section 97 (1) of the Customs Act, 1962, stipulates that the master of a vessel which has brought or loaded any coastal goods at a customs or coastal port shall not cause or permit the vessel to depart from such port until a written order to that effect has been given by the proper officer.

Section 97 (2) of the Act outlines the conditions for grant of such order which are-

- a) the master should have answered the questions put to him under Section 38 of the Act,
- b) all the charges and penalties due in respect of such vessel or from the master have either been paid or the payment has been secured by guarantee to the proper officer,
- c) the master should have satisfied the proper officer that no penalty is leviable on him under Section 116 of the Act, or the payment of any penalty has been secured by a guarantee to the proper officer,

- d) all the provisions, rules and regulations relating to the coastal goods and vessels carrying coastal goods have complied with.

As per Notfn. No. 93 / 50 dated 9.9.1950, the Board has prescribed that the Port Clearance granted to the Coasting vessels other than native craft shall be in the same form as that prescribed under Section 65 of the Sea Customs Act, 1878 ( **Note:** Sections 62 to 66 of the Sea Customs Act, 1878, correspond to Sections 41 and 42 of the Customs Act, 1962 ).

**Form of Port Clearance**

No. ....

Port ..... clearance  
 .....fo  
 r the .....burthen .....  
 Tons.....Captain  
 ..... under .....Colours bonded for .....

This is to certify, to whom it may concerns, that the agents/owners of the above-mentioned .....have rendered an account of her import and export cargoes, and have complied with all the regulations of this port.

Crew .....

Passengers..... Custom House, .....  
 Commissioner of Customs has ..... cargo/no cargo.

**13.17. Irregularity in tonnage declared – check of**

Whenever Customs Officer dealing with sailing vessel has any good reason to suspect any material discrepancy between the tonnage stated in the relative certificate of register and the actual tonnage of a vessel, they should notify in writing to the nearest Port Trust/Port Commissioner office who will take necessary action for detention of the vessel and cause it to be re-measured if necessary.

**13.18. Issue of passes to Sailing Vessels**

a) Sailing vessels, which sail from one coastal port to another, will be issued with passes in prescribed form valid for a period of 12 months. These passes should ordinarily be issued immediately after the monsoon is over. The passes so issued should bear the condition that the Tindal of the vessel shall get it checked up by the Officer-in-charge or any other officer entrusted with this work as the case may be, once in every calendar month. It should be made clear to the Tindal that the pass will become automatically invalid if the same is not got checked up in this manner.

b) Before any goods are discharged, notice of intimation to discharge shall be given to the Customs Officer on duty at the wharf/jetty/bunder where they are to be discharged and/or the department/officer concerned.

c) If the vessel arrives in ballast or with passengers only the pass must be produced to the Customs Officer or department concerned for endorsement before the vessel leaves port.

d) Special care should be taken by all officers dealing with such vessels to see that no vessel is allowed to discharge cargo or to leave port with expired passes and to require such passes to be renewed before permitting any operation.

e) The Master of a vessel plying under such pass is required on arrival in port to deliver to the concerned officer on duty where the cargo is to be discharged or to the department concerned, the pass held by him together with a Kutcha Import Manifest for the cargo. After verifying that the Port Trust/Port Commissioners fees have been paid he will permit to discharge the cargo and when discharge has been completed, this officer will sign an endorsement to the following effect on the passes and on the manifest, if any.

“Landed at .....Bunder/Wharf/Jetty from  
..... Port”.

f) The pass will then be returned to the Master as his authority to leave the port in ballast. When any provisions and stores which are liable to export duty are taken on board a vessel plying under such pass, the concerned officer will enter the quantity so shipped on the pass. The import manifest if any delivered will be

forwarded on the following day to the Statistical Department for registration of Trade Statistics.

g) When the Master of a vessel plying under such a pass wishes to load cargo for Customs port, he shall enter his vessel outward and obtain port clearance in accordance with the ordinary procedure.

**Proforma of pass**

No.

To,

Signature

The Asstt. Collector of Customs

Sir,

Please permit my vessel

.....

Tindal..... P No. ....of Tons employed in bringing .....from the port of .....to discharge the said goods at the port of .....for 12 months before entry inwards.

Port.....

Toney No.

Signature or the Mark of Left Hand Thumb

Impression of

Tindal.

Permitted on the conditions prescribed in the Central Board of Revenue Notfn No. 57 of 9<sup>th</sup> July, 1927

L.C. No.

D. B. C. No. PH

P. D. No.

..... Assistant Commissioner of Customs

Note:

1. A special pass shall be granted to sailing vessels/ country craft only when they are employed in bringing from Customs Port Chunam, sand stones for building purposes green grass, poultry, fresh fruits, vegetables or other market produce.
2. To such vessel a special pass may be granted to be in force for 12 months. But before any goods are discharged notice of intention to discharge them shall be given to the Customs Officer on duty at the wharf where they are to be discharged.
3. The Tindal of the vessel shall get such pass checked up by the officer-in-charge, once in every Calender month.
4. The Pass will become automatically invalid if the same is not get checked up in the manner at (3).
5. The Master of the vessel plying under such pass is required on arrival in port to deliver to the officer on duty where the cargo is to be discharged the pass held by him together with a Kutcha Import Manifest for cargo consisting of building material and other market products.

### **13.19. Cargo jettisoned during the voyage**

When the Master of a Tindal of a coastal vessel reports on arrival, that he has jettisoned some cargo during report in the form of a statement and shall obtain the Tindal's signature or the left hand thumb impression if he is an illiterate. The officer concerned shall then closely question the Tindal concerning the facts and also whether he has touched at any port having jettisoned the cargo.

The vessel shall then be inspected with a view to ascertain whether she bears any indications to support the Tindal's statement. The result of the officer's examination should then be noted at the foot of the statement which should be sent on to the Divisional Superintendent for acceptance of such action as he considers fit to take.

After the Divisional Superintendent has dealt with the report, entry inward shall be completed and report sent to Coastal Trade Establishment or concerned department in the Custom House.

**13.20. Landing and shipment of perishable produce like fresh fish, fruits and vegetables**

a) Fresh fish caught within port limits may be landed and passed from any authorised bunders/place of landing at any time without documents.

b) Sailing vessels plying under monthly/yearly passes may land their daily market produce of fresh fruits and vegetable at any time where the Port Trust/Port Commissioners collect their fees at all hours of the day or night.

c) Consignments of fresh or frozen fish, fruits and vegetables by steamers from Customs Ports may be passed by the Preventive Officer on duty/department concerned at any time including Sundays and holidays without the Asst. Commissioner's order on presentation of an incomplete bill of entry in duplicate signed by the owner containing full particulars of goods. No supervision fee will be charged for such operations which will be carried out by the preventive staff posted at the Docks gates as per local orders.

Note: Potatoes, onions are not considered as perishable for the purpose of these orders.

**13.21. Store list for coasting vessels**

Vessels in the Coasting Trade arriving via a port/ports outside India should furnish a separate list of stores taken (with details of brand/type and quantity for each kind of article) and quantity of each type of stores remaining unconsumed on arrival. Vessels engaged in regular sailing trade other than plying under

general pass, need not file an Import Stores List in the prescribed form provided that :

- a) Details of the stores on board for consumption of tindal and the crew as well as the articles owned by the crew are endorsed on the manifests both import and export.
- b) A list of arms and ammunitions carried by such vessels is included in the cargo book or presented with the vessel's manifest, and
- c) When a vessel has touched a port/ports outside India, a statement showing all the stores, if any, taken at such ports and remaining unconsumed on arrival is submitted.

Note 1: If the store list has not been prepared when the Boarding officer boards the vessel, he should obtain a list of arms and ammunition forming part of ship's equipment and private property declaration of the officers and crew members as in the case of vessels in foreign trade, seal up all the stores and arms and ammunition for check when the store list is submitted.

Note 2 : If any sailing ship proceeds direct to any port, outside India, she may be given ex-bond

supplies of stores on the clear understanding that on reversion to the sailing trade, duty will be leviable on the entire stores brought by the vessel (and not merely the unconsumed portion of ex-bond supplies taken by her at the first Indian port on her return journey).

### **13.22. Sailing of Vessels (Statement of Crew) Rules, 1960 attestation by the Customs officer in the prescribed statement of crew forms**

Under the sailing vessels Rules the Tindal or the owner of a sailing vessel is required to maintain an up-to-date statement of crew in the prescribed proforma which is required to be produced by him for inspection on demand by the Registrar of the Port, the Regional Officers (Sails) or by any other officer appointed in this behalf. The Ministry of Shipping and Transport vide their Min. Notification No. 9 MT (6)/61 dated the 23<sup>rd</sup> July, 1964 issued in pursuance of Rule 4 of the aforesaid Rules have appointed officers of customs are officers

competent to exercise the powers under the sailing vessels (statement of crew) Rules, 1960.

**13.23 Contravention of statutory provisions under Sailing Vessels (Inspection) Rules, 1952 by the owners of sailing vessels**

All the sea-going sailing vessels/fishing vessels should be in possession of valid Inspection Certificates in the interests of safety of life and property at sea. The non-compliance of the statutory provisions is a punishable offence. It is, therefore, necessary that all the officers should strictly ensure that no port clearance is granted to any sea-going sailing vessels/fishing vessels which does not fully comply with the rule requirements pointed out above except the cases where the specific permission of the Directorate has been obtained.

**13.24. Implementation of The Merchant Shipping (Sailing vessels) Rules, 1997**

Attention of all Officers and Staff is hereby drawn to the 'The Merchant Shipping (Sailing Vessels) Rules, 1997 issued by the Ministry of Surface Transport, published in the Gazette of India, March 1, 1997. As per Part III, Para 43(3) under Sub heading 'Crew and identity card' of the said rules "No Officer of Customs may clear outward any vessel unless the vessel thereof is in possession of permit and the other crew members of the crew thereof are in possession of valid identity card issued by Regional Officer (SAILS)."

This Order is issued on the basis of the Gazette of India, March 01, 1997, and Regional Officer (SAILS), Mercantile Marine Department, Director general of Shipping, Ministry of Surface Transport letter No. 57-MURD (1)\98 dated 18.9.98.

This Order takes immediate effect and should be adhered to scrupulously.

**[ Standing Order No. 7414 dated 24.11.98 issued by Commissioner of Customs (Gen.), Mumbai ]**

**13.25. ISSUE OF PASSES TO MECHANISED FISHING VESSELS-FIXING OF VALIDITY PERIOD**

In supersession of Ministry's instruction contained in circular F. No. 574/5/77-LC-II dated 1.1.79 and F. No. 581/8/92-LC dated 30.11.92 regarding issue of passes to mechanised and non-mechanised fishing vessels, I am directed to say that it has now been decided that the periodicity for renewal of fishing passes should be as under.

- (i) Non-Mechanised/Mechanised Fishing vessels – 6 months from the date of issue
  - (ii) Fishing trawlers (both small & large) - 3 months from the date of issue
2. Necessary instruction to this effect may please be issued to all concerned immediately. They should also be instructed to ensure that renewal of the seasonal fishing passes is as far as possible completed on the same day on which the renewal is requested, without giving any cause or complaint of harassment or delay. Further at the time of renewal full verification may also be carried out.

[ Circular No. 18/95-Cus. dated 6/3/95 in F. No. 581/8/92-LC ]

3. Fishing passes should be issued to fishermen as before till a Nodal Agency is created for the issue of passes to fishermen.

[ Ref: Board's Letter F. No.: -394/116/2005-CUS(AS) dtd. 04<sup>th</sup> December, 2007 ]

### **13.26. VESSELS CARRYING COASTAL GOODS – RELAXATION IN CUSTOMS PROCEDURES**

Section 98-A of the Customs Act, 1962, empowers the Central Government to grant exemptions generally, either absolutely or subject to certain conditions, to the coastal goods or to vessels carrying coastal goods from all or any of the provisions of the Chapter XII of the Act.

(A) Please refer to Notification 43/97-Customs (N. T.) date 11<sup>th</sup> September, 1997 issued under Sec. 98 A of the Customs Act, 1962 to exempt vessels from the provisions of Section 92, 93, 94, 97 & 98 (1) of the said Act.

2. The relaxations are applicable to the vessels which exclusively carry coastal goods and ply as coastal vessels. It will not be applicable for vessels which

convert the status from foreign run to coastal run & vice-versa. The loading & unloading operation by coastal vessels must take place at separate & exclusive berths in the ports where both coastal and foreign traffic is handled. The provisions of Section 95, 96 & 98 (2) will also remain operative in case of such vessels. In terms of section 95, the master of vessels is required to maintain "advice book" and the proper officer of customs can inspect the book and make entries as deemed fit, relating to goods loaded at the port.

In terms of section 96 the coastal goods can only be loaded or unloaded at places notified under section 7 of the Customs Act, 1962. In terms of section 98 (2), the provisions contained in section 37 & 38 are applicable for coastal goods as applicable to vessels carrying import and export goods.

Accordingly, the Customs Officers would continue to have powers to board and vessels carrying coastal goods and can require the person incharge of Vessels to produce any documents & to answer any question. They should devise selective checks of coastal vessels, at random both at the ports, of loading and unloading so that there is effective check and the impression that the department has abdicated its responsibility, does not gain ground.

The light dues charges leviable on such coastal vessels may be collected by the customs till alternate arrangements are made by Ministry of Surface Transport.

In case of the vessels which change their status from foreign to coastal or vice versa, the existing provisions contained under Chapter XII of the Customs Act, 1962 shall continue to be operative.

**[Circular No. 40/97-Cus.dated 19/9/97 in F.No. 450/86/92-Cus. IV ]**

**(B)** Please refer to circular No. 40/97-Cus (NT), dated 19.9.97 on the above subject. In continuation of earlier measures, the following further relaxations have granted in the case of vessels carrying coastal goods exclusively.

2. By notification 14/98 Cus. (NT) dated 27.2.98, the earlier notification No. 52-Cus, dated 1.2.63 has been rescinded. The earlier notification 52-Cus, dated

1.2.63 required the vessels carrying coastal goods to file IGM/EGM in terms of the provisions contained in section 30 and 41 of the Customs Act., 1962, Consequently the vessels carrying exclusively coastal goods will not be required to file IGM/EGM.

3. In terms of notification 15/98-Cus. (NT) dated 27.2.98, vessels carrying exclusively coastal goods have been exempted from the delivery of Advice Book on arrival at each port of call to the proper officer of Customs at that port, as required u/s 95 (1) and 95 (2) of Customs Act, 1962. However, the master of each vessel shall carry the Advice Book on Board the vessel, and the proper officer of customs may, whenever the deems necessary, call for the Advice Book for his inspection or inspect the same on board the vessel.

**[Circular No. 16/98-Cus. dated 11.3.98 in F. No. 405/86/92-Cus.IV ]**

( C )       Apropos Govt. of India Notification No. 43/97-Customs (N.T.) dated 11.09.97 and followed by Ministry of Finance, Department of Revenue Circular No. 40/97 in F.No. 450/86/92 Cus IV dated 19.09.97 issued under Section 98 of Customs Act, 1962, the vessels carrying coastal goods exclusively are hereby exempted from the provisions of Section 92, 93, 94, 97 and 98 (1) of the said Act.

Henceforth

1. The consignor of coastal goods need not make an entry for the goods being shipped nor file any bill as prescribed in Section 92 of Customs Act, 1962, with the customs authority.
2. Master of such vessel need not obtain permission from Customs authorities for loading and unloading.
3. The mater of such vessel need not carry or deliver the bill pertaining to the goods carried by the vessel.
4. The master of such vessel need not obtain permission for clearance of the cargo at the destination from the customs authority.
5. No written permission from customs authority is required for the master of such vessel to cause or permit the vessel to depart from the port.
6. No customs supervision is required for loading and unloading operation of such vessels at the designated place.

7. No customs restrictions will be there on such vessels for loading and unloading operations on Sundays, holidays and after working hours.

These relaxations are applicable to the vessels that exclusively carry coastal goods and are engaged in plying as coastal vessels only. These relaxations are not applicable for the vessels that convert the status from foreign run to coastal run and vice-versa.

The loading and unloading operations must take place at a separate and exclusive berth in the port, notified under section 7 of the Customs Act 1962 for this purpose, so that mixing of the coastal goods with foreign goods is prevented. A Shed in the Docks has been nominated as a place for loading and unloading of the coastal cargo by Port Trust, which is now notified as a designated place under Section 7 of the Customs Act, 1962.

Such coastal vessels berthing at the designated place as above are exempted from the provision of the Section 92.93. 94. 97 and 98 (1) of the said Act. However, they are not exempted from the provisions of the Section 95 and 96 of the Customs Act. As such the customs officers in-charge of the respective shed/section in the Docks would continue to have powers to board these vessels and require the person in-charge of the said officer shall carry selective checks on such vessels, at random. The checks as a matter of routine would no longer be necessary. If any discrepancies are noticed suitable endorsement will be reported to Assistant Commissioner of Customs (Docks)/(Preventive General). As such it becomes imperative on the master of the vessel to maintain advice book on board and produce the same to the customs officer for inspection whenever demanded as laid down under Section 95 of the Customs Act, 1962.

The light dues may be collected by the customs authorities until alternate arrangements are made by the Ministry of Surface Transport.

The carting and delivery of the coastal goods will be carried out through the gate exclusively assigned for this purpose. The Port Trust has assigned a Gate in the Docks as a gate to be exclusively used for this purpose. The delivery/transport challans shall be distinct and separate for the coastal goods wherein the details such as number of packages, name of the vessel and time of delivery at the gate or the shed as the case may be shall be mentioned on the said challan.

**[Based on Standing Order No. 7438 dtd. 15.03.99 issued by Commissioner of Customs (General) in F.No. S/43-705/97P]**

**13.27. Use of Foreign Going Vessels as Lightering Vessels**

It has been observed that the Steamer Agents of foreign going/foreign flag barges/tankers seek / obtain permission for use of the same for stream discharge of petroleum products/chemicals/cargo (bulk) from the importing vessels (i.e. mother vessels). For a vessel to be used as a lightering vessel, it has to be a coastal vessel, as, such vessel are plying between the mother vessel in stream and the place of landing of cargo. It has also been observed that such vessel after arrival from abroad, discharge import cargo and thereafter obtain Export rotation number and remain in anchorage for indefinite period without giving export programme of the vessel.

Here it may be clarified that the vessel which has already entered for export cannot be used for the purpose of Coastal Trade or for lightering purpose, since these vessel are eligible for supplies of Bonded Stores/provisions/fuel on the strength of export rotation number. Thus such vessels ply in the harbour/coastal area and often simultaneously enjoy the benefits of foreign going vessels. This is not only irregular but also incurs loss to the govt. revenue. It may also be clarified that such lightering vessels are required to obtain necessary certificate from the Director General of Shipping in terms of provision of the Merchant Shipping Act and also required to be converted from Foreign Trade to Coastal Trade.

In the light of the above, it is hereby directed to all concerned that while recommending/granting permissions for stream discharge it should be ensured that vessels in which the cargo is to be discharged (i.e. lightering vessel) is a coastal vessel or is converted into a coastal vessel, if it is a foreign flag/foreign going vessel. Secondly, the officer posted for supervision over the stream discharge of import cargo/or concerned Section Officer or Boarding Officer if notice that the lightering vessel is also a foreign going vessel, he should seal the bonded store on board the vessel and also stop supply of bonded stores/provision/fuel till such vessel is engaged in coastal run. However, it is

clarified that such vessel can be allowed to accept stores/provision/fuel under the cover of free Shipping Bill. Also such incidents may be brought to the notice of A.C./Export [through A.C.P.(G)] for cancellation of Export rotation number.

@ @ @ @ @ @ @ @ @ @ @ @

## CHAPTER – FOURTEEN

### 14. OIL & PETROLEUM

The import, transportation & possession and storage of Petroleum and Oil are governed by the provisions of the Petroleum Act, 1934 and the Petroleum Rules, 1976 (hereinafter referred to as Petroleum Rules) and certain special procedures. This work is usually attended to by a separate unit, known as Oil Unit in major Custom Houses. The Oil Unit includes Appraising, Preventive and Ministerial staff. The work attended to by the Appraising Unit is confined to the assessment and completion of the Bill of Entry, covering the imports of oil. The Preventive staff attached to the Unit attends to field work, like acceptance of Bonds, supervision of discharge of oil into tank-lorries, coordinating the procedure with Central Excise, wherever necessary, and all items of work connected with the closure of IGM.

#### 14.01 Important Definitions

14.01.01 Section 2 of the Petroleum Act, 1934:

- (a) **“Petroleum”** means any liquid hydro-carbon or mixture of hydrocarbons and any inflammable mixture (liquid, viscous or solid) containing any liquid hydro-carbon;
- (b) **“Petroleum Class A”** means petroleum having a flash-point below twenty-three degrees centigrade;
- (c) **“Petroleum Class B”** means petroleum having a flash-point of twenty-three degrees centigrade and above but below sixty-five degrees centigrade;
- (d) **“Petroleum Class C”** means petroleum having flash-point of sixty-five degrees centigrade and above but below ninety-three degree centigrade;
- (e) **“Flash-point”** of petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited and is determined in accordance with the provisions of the Petroleum Act, 1934 and its rules.

14.01.02 **Rule 2 of the Petroleum Rules, 1976**

- (a) **“Installation”** means any premises wherein any place has been specially prepared for the storage of petroleum in bulk, but does not include a well-head tank or a service station;
- (b) **“Petroleum in bulk”** means petroleum contained in a tank irrespective of the quantity of petroleum contained therein;
- (c) **“Store shed”** means a building used for the storage of petroleum otherwise than in bulk, whether forming part of an installation or not, but does not include a building used for the stores petroleum exempt from licence under Sections. 7, 8, or 9 of the Petroleum Act, 1934;
- (d) **“Tank”** means a receptacle for petroleum exceeding 1,000 liters capacity;
- (e) **“Well-head tank”** means a tank into which crude petroleum flowing or being pumped from an oil well is first discharged.

#### 14.02 Import of Petroleum

14.02.01 Licence granted under Rule 14 of the Petroleum Rules is necessary for import of Petroleum (except Petroleum in small quantities as mentioned under Sections 7, 8, & 9 of the Petroleum Act, 1934). However, import of Petroleum Class ‘B’ & Class ‘C’ in a Ships Stores and manifested as such is exempt from Licence.

14.02.02 Rule 16 of the Petroleum Rules provides that Petroleum shall not be imported into India by sea except through the ports of Mumbai, Calcutta, Cochin, Haldia, Kandla, Chennai, Marmagoa, Okha, Port Blair, Visakhapatnam, Tuticorin and Mangalore. However, Commissioner of Customs may on the recommendation of the Chief Controller allow import of Petroleum Class B or Class C otherwise than in bulk through any other port.

14.02.03 Rule 17 of the Petroleum Rules stipulates that (a) the master of every ship-carrying petroleum shall deliver to the pilot before entering any port, a written declaration in Form I (given below) under his signature. No such declaration is necessary if the agent of a ship deliver such declaration signed by him to the Conservator before the arrival of such ship and (b) The pilot shall make over the said declaration to the Conservator without delay who shall forward it to the Commissioner of Customs.

**FORM I**

(See rules 17 and 26)

**Declaration to be made by the Master or agent of a ship carrying petroleum by sea before entering port or by the importer or his agent before importing petroleum by land.**

Name of the ship

Particulars of the carriage

---

Name of Remarks	Total quantity in the ship or carriage.	Quantity of petroleum. to be landed in India	Name port /place of import	of

---

Petroleum Class A which can be used  
in an internal combustion engine.

Other petroleum

Class A

Petroleum

Class B

Petroleum

Class C

Signature of importer or his agent.  
the ship.

Signature of Master or agent of

14.02.04 Rule 19 of the Petroleum Rules stipulates that (a) every person desiring to import petroleum shall furnish personally or through his agent to the Commissioner of Customs a certificate of storage accommodation in Form II (given below) signed by such person or his agent; and the license or authenticated copy

thereof for the import and storage of petroleum. However, this requirement shall not apply to the import, otherwise than in bulk, of petroleum exempted under Sections 7, 8, 9 and 10 of the Petroleum Act, 1934. Further, the furnishing of a license is not necessary for the import of Petroleum Class C in bulk quantity exempted under Section 7 of the Act. Additionally, a person may import Petroleum Class A in bulk, even, if not holding a license for storage at the port of importation; or the storage accommodation in the premises licensed in his name is not sufficient to hold the quantity of petroleum intended to be imported. However, in both cases adequate advance arrangements to the satisfaction of the Conservator must be made to distribute the petroleum from the port of import to the licensed premises for storing such petroleum.

**FORM II**

(See rules 19 and 26)

**Certificate of storage accommodation**

I hereby declare that I propose to store the following consignments of petroleum arriving per .....(name of ship or particulars of carriage)..... in .....(name of port or place of import)... on or about... ..(date, month, year)..... at the storage tanks or sheds, particulars, of which are given in items (i) and (ii) of Col. (1) of the statement below and I certify that the capacity as shown as available in item (iii) of the said column are duly licensed for the storage of petroleum in question.

Signature of importer or his

agent.

Dated the .....

**STATEMENT**

Description of import and storage capacity	Petroleum Class A	Petroleum Class B	Petroleum Class C
--	-------------------	-------------------	-------------------

(1)	(2)	(3)	(4)
(i) Total licensed capacity of storage tanks.			
(ii) Total capacity available in storage tanks.			
(iii) Capacity to be utilized by present consignment.			
(i) Total licensed capacity of storage sheds.			
(ii) Total capacity available in storage sheds.			
(iii) Capacity to be utilized by present consignment.			

14.02.05     **Rule 20 of the Petroleum Rules** (1) No imported petroleum shall be landed except with the permission of the Commissioner of Customs who shall grant this permission after receiving the testing officer's report, the certificate of storage accommodation in Form II (if required) and the licence or an authenticated copy of the licence (if required). If the Commissioner of Customs is satisfied that petroleum imported otherwise than in bulk is not intended to be stored in India but is intended to be despatched immediately after landing to any place outside India, he may waive the requirements of rules 14 and 19 and by written order permit the same subject to such conditions as he may specify such petroleum to be landed for the purpose of immediate despatch to that place. At the same time the power Commissioner of Customs is empowered to detain the petroleum under any other law or rule for the time being in force.

### **14.03 Storage Tanks for Petroleum Imported in Bulk**

14.03.01     Only such storage tanks in companies installation at different ports shall be used for reception and storage of petroleum imported in bulk from Foreign or Indian Refineries, as are calibrated by C.P.W.D. and for which duly certified calibration charts are received and accepted by concerned Asstt. Commissioner.

14.03.02     For tanks with bottoms, the calibration should be carried after every ten years and for tanks with oil bottoms the second calibration should be carried out five

years after the first calibration. The third calibration should be carried out ten years after the second, if the variation observed at full product height is less than 0.25% during the second calibration as compared with the previous calibration.

14.03.03 When any tanks authorised for reception and storage of dutiable petroleum in bulk under Section 8(1) of Customs Act, 1962 are intended as private warehouses for storage of petroleum product in bond under Chapter IX of Customs Act, 1962 the owner shall apply for a licence under section 58 of Customs Act, 1962. The Oil Officer shall verify whether the tank is empty and whether calibration chart duly certified by C.P.W.D. is valid. After scrutiny of the submitted documents, the Oil Officer, shall forward the documents to the concerned Asstt. Commissioner for granting the licence.

#### **14.04 Discharge, Sampling, Assessment and Clearance for Home Consumption and Warehousing of Liquid Cargo in Bulk**

14.04.01 The following procedure is prescribed in respect of discharge and clearance of liquid in bulk through pipe lines / tank containers for home consumption / warehousing in the bonded warehouse.

- (a) The quantity shown in the Bill of Lading reflected in the IGM should be prima facie accepted.
  
- (b) The Bill of Entry for the liquid cargo in bulk shall be assessed to duty by the dealing group or Oil unit, as the case may be.

- (c) On duplicate copy Bill of Entry the Appraiser will give the following examination order:-
- (i) Before allowing discharge, please inspect and verify whether the person in-charge of the vessel or his agent has produced the ullage survey report prepared at the port of loading and certified by an independent Surveyor. If so, please state the quantity mentioned in the ullage survey report.
  - (ii) Please inspect the cargo and before allowing discharge, inspect and certify the ullage survey report prepared at this port and state the quantity mentioned therein. Thereafter allow discharge through the pipeline/tank lorries and forward samples in duplicate to Dy. Chief Chemist's laboratory for test.
  - (iii) After discharge, certify the fresh survey to ascertain the quantity discharged and record shortages/excess if any.
  - (iv) In cases where bulk liquid cargo is pumped from the ship/tanker to shore tank through regular pipelines, dip measurements in tank on shore should be taken before and after pumping of liquid cargo, as the tank receipt quantity should be taken as basis for levy of Customs duty in all cases of pipeline transfer from ship to shore tanks.
  - (v) In cases of bulk liquid cargo which are not discharged through regular pipelines and intended to clear on payment of duty i.e. without being warehoused in a shore tank, assessment may be done as per ship ullage survey report.
  - (vi) Allow samples for consignee's laboratory (wherever necessary).
- (d) Immediately on arrival of the vessel, the Steamer Agent shall arrange for the ullage survey before discharging liquid cargo and shall apply to the Preventive Superintendent of the Division where the vessel has berthed for supervising the survey. The cost of such survey will be borne by the Steamer Agents. Failure on the part of the Steamer Agents to arrange for such ullage survey shall render them liable under Section 116 of the Customs Act for the loss of duty on account of short shipped liquid cargo which is not properly accounted

for after full discharge of the cargo. In case of liquid petroleum products, the Boarding Officer shall attend the survey. In case of any other liquid cargo, where the Boarding Officer is not available, the Preventive Supdt. of the concerned Division shall depute a preventive officer for this purpose.

- (e) The importer shall present the duplicate B/E to the Preventive Officer/Boarding Officer, attending the survey. Before conducting survey, the Preventive Officer/Boarding Officer shall obtain a declaration from the person in charge of the vessel about the type of crude of liquid bulk cargo brought by the vessel and the quantities of such items. In case the person in-charge of vessel or its agents produces the ullage survey prepared at the port of loading and certified by an independent Surveyor, the Prev. Officer/Boarding Officer should retain a copy of such survey report to be attached to the duplicate B/E and quantity mentioned in the said ullage survey report should be accepted as the correct quantity brought by the vessel for unloading. The copy of said ullage survey report should be signed by the Preventive Officer/Boarding Officer, by the ship owner and the consignee's representative. A spare copy of Bill of Lading will also be obtained and attached to the duplicate Bill of Entry. In order to ascertain the short landed quantity the Master of the vessel/ship owner shall produce a load port ullage survey report along with Bill of Lading. This report shall also be given to the Preventive Officer attending to the ullage survey at the port of discharge.
  
- (f) Before, permitting discharge of liquid bulk cargo, an ullage survey should be carried out under the supervision of the Preventive Officer/Boarding Officer and such ullage survey report shall also be signed by the Preventive Officer/Boarding Officer, the ship owner and the consignee's representative and attached to the duplicate copy Bill of Entry.

- (g) Importers shall give a copy of pre-lightering and post-lightering ullage survey report to the Preventive Officer attending to the survey immediately on completion of survey, who in turn shall pass it on to the Appraising Officer/Oil Unit under acknowledgement within 24 hours thereof.
- (h) Even in cases where shore tank receipt based on dip measurements are the basis for quantification of bulk liquid cargo for the purpose of assessment, the liability of the master/agent for penal action under Section 116 of Customs Act, 1962 will continued to be fixed by comparing Ship's ullage report at the port of discharge and the ships load port ullage quantity or Bill of Lading quantity, if the former is not made available by Master/Agent.
- (i) The vessel shall thereafter be permitted to discharge liquid bulk cargo. In cases where the cargo is discharged through regular pipelines from ship to shore tanks, dip measurement of tanks on shore should be taken before and after pumping. In case of liquid bulk cargo other than petroleum product, examination and drawal of sample will be done by the shed appraiser/examiner in usual manner. Sealed samples will be forwarded to Dy. Chief Chemist's laboratory for test and wherever necessary to the consignee's in house laboratory.
- (j) Testing of the goods imported by Govt./Semi Govt./Undertakings shall be dispensed with, where it is felt there is no dispute regarding classification. However, drawal of samples and testing of sensitive goods should be carried out if warranted and at the discretion of Asst. Commissioners i/c Groups.
- (k) Sample testing of goods supplied by reputed foreign manufacturers shall be dispensed with and may be drawn at random. Similarly, testing of the goods

of reputed brand name shall also be dispensed with, but resorted only at random basis. However samples of repeated imports by regular importers should be drawn at random and by surprise. The goods which are standard/straight and having no dispute regarding classification need not be tested only for the purpose of composition.

- (l) Sample testing of the goods imported under DEEC scheme shall be restricted to one per book. However, the decision to test goods should be taken at the level of Asst. Commissioner i/c. Groups and if it is felt that there is no need for the testing sample of imported goods, then clearance may be allowed without testing.

[Circular No.96/2002, dated 27.12.2002]

#### **14.05 Validity Of Tests**

14.05.01 The test reports issued by Dy. Chief Chemist's Laboratory are valid for two years and three years in case of imports by traders and manufacturers, respectively. In case of chemicals imported under brand name, the validity of the test will be for 3 years and 5 years for traders and manufacturers, respectively.

14.05.02 After discharge, a fresh survey shall be carried out in the presence of the Customs Preventive/Boarding Officer and the discharge completion survey report shall also be signed by the Customs Officer, the ship owner and the consignee. Immediately after discharge of bulk liquid cargo such survey reports along with the quantity ascertained on board the vessel before and after discharge, quantity ascertained as per dip measurements in shore tanks wherever applicable,

shortages, if any, shall be duly endorsed on duplicate copy of B/E for onward submission to the Oil Unit or the MCD as the case may be, for appropriate action.

14.05.03 In case of difference between the quantity mentioned in the Bill of Lading or the Ullage survey report at the port of Loading and the ullage survey report at the time of discharge, such difference shall be considered as cargo short landed and for which the ship owner shall be held responsible. The master of the vessel/ship owner shall be liable to pay penalty as per the provision of Sec.116 of the Customs Act, 1962 in case the discharged quantity is less than the quantity mentioned in the ullage report of the load port. In all such cases port clearance for the vessel would not be given before the case is adjudicated or a Bank Guarantee equal to twice the amount of duty difference on the short landed quantity is furnished by the steamer agent/master of the vessel.

14.05.04 In cases where the bulk liquid cargo imported is not discharged through regular pipelines, if any excess quantity is detected after discharge, the Oil Unit will finalise the assessment of liquid petroleum product after taking into consideration the excess quantity and recover the differential duty leviable therein. In all such cases, the Customs Officer before giving out of charge shall immediately refer the duplicate B/E to the dealing group for recovery of differential duty on post Bill of Entry in usual manner.

14.05.05 The discharge quantity as per the ullage survey report carried out under the supervision of the Customs as indicated in the above para shall be treated as the quantity cleared for home consumption or removed for warehousing as the case may be.

14.05.06 The Oil Companies shall take the store tank dip measurements in cases where the cargo is discharged through regular pipe lines, in the presence of P.O. and give a copy of the same to P.O., who will pass on this document to the Appraising Officer/Oil Unit for enabling him carry out the assessment and determine the duty liability. The importer shall submit a Bank attested invoice or certified copy thereof for purpose of assessment. In order to ascertain the actual freight paid to the shipping company, the importer shall submit the copy of the charter party agreement in addition to the documents which are being submitted at present.

14.05.07 In all cases where Customs duty is leviable on ad-volorem basis, the assessment of bulk liquid cargo should be based on invoice price which is the price paid or payable for the imported goods i.e., transaction value, irrespective of quantity ascertained as per shore tank measurement or any other manner. Further, irrespective of delivery at more than one port, the value should be apportioned based on the quantity intended to be discharged at the relevant ports. However, where the Customs duty is leviable at specific rate, the determination of quantity would be relevant for levy of Customs duty. In the case of bulk liquid cargo imports, the shore tank receipt quantity should be taken as the basis for levy of Customs duty. All pending provisional assessment should be finalized accordingly. In the case of liquid cargo imports, which are cleared directly on payment of duty without being warehoused in a shore tank, assessment may be done as per ship's ullage survey report.

[Circulars No. No.96/2002, dated 27.12.2002 and No.6/2006-Cus, dated 12.1.2006]

#### **14.06 Dis-Continuation of Removal of Petroleum Products from One Warehouse to Another**

14.06.01 With the withdrawal of facility of transfer of warehoused petroleum and petroleum products without payment of Customs duty from the warehouse at the port of import to inland warehouses, the warehousing facility for these items is available only at the port of import and removal to inland bonded warehouse without payment Customs duty will not be allowed. This shall not apply to goods exempt from payment of Customs duty in terms of Customs Notifications or goods imported by EOUs, STPs, EHTPs and SEZs.

[Circulars No. 8/2005-Cus, dated 14.2.2005 and

No. 9/2005-Cus, dated 15.2.2005]

**14.07 Storing in the Same Tank Duty Paid Indigenous and Imported Oil for Export Under Claim for Rebate of Central Excise Duty or Drawback of Customs Duty**

14.07.01 Tanks earmarked by the Oil Companies for the purpose will be licensed and will be known as "L.M. Tanks" (Licensed Mixed Tanks) and will be duly calibrated by the CPWD authorities.

14.07.02 Each receipt into and delivery from the L.M. Tanks shall be under the direct supervision of Central Excise/Customs Officer, who will be responsible for due accounting of the oils for the purpose of granting rebate of Central Excise duty or Drawback of Customs duty, as the case may be, against claims made by the Oil Companies, in respect of exports.

14.07.03 For determining the actual quantity covered by each consignment dips shall be taken before and after the transfer of the oil into the tanks. As soon as the filling is complete, actual tonnage of the oil is determined on the basis of instructions already in force and the particulars thereof duly entered in the "Tank Register" (given below).

14.07.04 For withdrawing oil from the L. M. Tanks, the oil companies shall apply in "The Application for Withdrawals" (given below). After its due admission by the Central Excise/Customs Officer in charge, the oil shall be permitted to be withdrawn. For determining the actual tonnage withdrawn, dips shall be taken "before" as well as "after" each withdrawal, and the tonnage arrived at and recorded in the tank register.

14.07.05 In the case of withdrawals for direct shipment out of India, a duly processed shipping bill will, in addition, be required before permitting transfer of oil from the L. M. tank to the vessel (either for bunker purpose or as trade stocks).

14.07.06 Each delivery from the L. M. Tank whether for home consumption or export will be adjusted against the receipts, on the basis of "First In First Out".

14.07.07 In respect of each withdrawal for shipment out of India, the actual quantity lifted from the tank together with other relevant particulars shall be communicated, in "Intimation of Shipment Particulars" (given below) to the Central Excise Office or the Custom House depending upon the allocation of the withdrawal either to the indigenous or to the imported stock put into the tank.

14.07.08 On the basis of the above advice, Central Excise rebate/Customs Drawback shall be considered and sanctioned when individual claims are made in this respect by the Oil Companies.

### TANK REGISTER

Tank No. ....

Name of Oil Company.....

Grade of Oil.....

S. No.	Date	Whether	A.R.I. or	Quantity of oil	Amount	
Supervising	Remarks	Indigenous	B/E No.	received ('Before	of duty	Officer
		or imported		& After dip		initials
				readings also		
				to be indicated)		
1	2	3	4	5	6	7
8						

### WITHDRAWALS

S.No.	Whether for	Quantity withdrawn	Allocated to	Amount of
rebate	Shipment or	(before & after dip	indigenous/	of Central

Excise				
Home consumption readings also to imported stock or drawback of				
& if for shipment be indicated) (Corresponding Customs duty involved				
receipt entry no.				
to be stated)				
9	10	11	12	14
Date of despatch of intimation of shipment particulars to Signature of Remarks				
Central Excise or Custom House concerned officer in-charge				
15				16
17				

### APPLICATION FOR WITHDRAWALS

From : .....

To, The Officer in-charge,

L.M. Tank No. ....

Sir,

We request you to allow us to take delivery for home consumption (or for shipment out of India) of (Quantity in Kilolitres or tonnes) of (grade of) oil from L.M.

Tank No. ....Duplicate copy of Shipping Bill No.....  
dtd..... is enclosed herewith.

(strike this out if not necessary)

Yours

faithfully,

**INTIMATION OF SHIPMENT PARTICULARS**

From : The Officer in-charge,

L.M. Tank No.

To, The Assistant Commissioner of Central Excise (or Customs)

Sir,

Re : Withdrawal of (grade oil) oil from L.M. Tank No. ....for  
Shipment out of India.

.....

On .....(date) ..... quantity ....(in kilolitres and tonnes) of  
..... Oil was withdrawn for shipment out of India. This quantity is allocated to  
the stock received into the above mentioned tank under cover of ARI No./Bill of Entry  
No.....

Yours faithfully,

#### **14.08 Procedure for checking the out-turn**

14.08.01 As soon as the documents are received in the Oil Unit, the Officer in the Unit shall first compare the original and duplicate dip Statements and verify the same with the out turns received. Before comparing, it should be verified whether the quantities arrived at from dip measurements are standardized / adjusted with regard to variations in temperature, density as per standards specified under relevant laws, rules etc.

#### **14.09 Storing of Indigenous and Imported bonded stock of Mineral oils of Same Grade in the Same Tank**

14.09.01 The tank intended to be used for storing indigenous and imported bonded stock of oil of the same grade should be earmarked by the Oil Company and got approved by the Superintendent of Central Excise. Such tanks will be known as "Bonded Mixed tanks" and after approving such tank/s, the Superintendent will inform the Commissioner of Customs, the particulars of such tank approved for storage of indigenous oil.

14.09.02 If such tanks are to be brought in operation for the first time, the Oil Company should apply to the Superintendent of Central Excise, for including the tank/s in their L-5 licence, if it/they is/are in the same installation and for approving them as bonded mixed tanks. Such tanks should be got calibrated from the (PWD) authorities as usual and the calibration charts also got approved by the Central Excise officer.

14.09.03 After all the formalities are complied with, the Oil Company will be allowed to store indigenous as well as imported bonded oil in such tank/tanks. Each consignments of oil required to be stored in such bonded Mixed Tank should be duly covered by either AR-3 application in case of receipt of indigenous bonded oil from another bonded warehouse or by into Bond Bill of Entry duly passed in case of imported oil.

14.09.04 Actual quantity covered by each consignment will be ascertained by the Central Excise Officer in charge of the installation by taking dip before and after receipt of oil and tonnage of oil determined as per instructions in force and particulars thereof duly entered in the tank Register.

14.09.05 Each delivery from the Bonded Mixed tank, whether for home consumption or for export will be adjusted against the receipt of indigenous / imported oil on the basis of "First in first out".

14.09.06 Before clearance of the consignment for home consumption, the Oil Company should file a clearance document in form AR 1 in case of indigenous oil or ex-bond Bill of Entry in the case of imported oil on the basis of "First In First Out". In case of indigenous oil, the usual Central Excise procedure for adjusting duty provisionally on the proposed quantity to be cleared and finalising the AR1 on the basis of actual quantity determined on the dips taken before as well as after each delivery and recorded in the tank Register, will be followed. In the case of imported oil, on production of ex-bond bill of entry which is provisionally assessed by Customs and duty is paid on that basis, the Central Excise Officer in charge of the installations will permit clearance of the consignment after taking dips. The actual quantity cleared will be ascertained after taking the final dip on the closure of the operation of clearance and recorded in the Tank Register. The Central Excise Officer in charge of

the installation will then communicate the particulars about clearance of imported oil to the Customs Officer at the Customs House in the proforma (given below) on receipt of the same, the Customs will finalise the assessments of Ex-Bond Bills of Entry as per Section 18 of the Customs Act 1962.

**PROFORMA**

**FORTNIGHTLY REPORT TO BE SUBMITTED BY PREVENTIVE OFFICERS IN-CHARGE OF OIL INSTALLATIONS**

1. Installation

2. Number of Tanks

a. Bonded

b. Mixed bonded

c. Duty paid

Note: State reasons if there is any increase or decrease in the number of tanks

3. Total number of dips recorded during the period as under

a. Budget dips

b. Special dips

c. Monthly dips

d. Weekly dips

e. Before receipt dips

f. After receipt dips

g. Before transfer dips

h. after transfer dips

i. Before loading dips

j. After loading dips

k. Before bonding dips

l. After bonding dips

m. Before pumping dips

n. After pumping dips

4. Number of bonded transfers from the Installation to the other installations

a. No. of tank lorries/wagons or through pipeline

b. Total quantity in kilo-litres covered by (a)

5. Number of transfers from one bonded tank to another bonded tank in the installation

6. Quantity in Kilo litres withdrawn for Home-consumption

7. Quantity supplied as Bunkers to (in Kilo litres)-

1. Indian Navel vessels
2. Foreign going Vessels

8. Number and quantity of shipments to other Customs Ports.

Adjustment of duty on AR I will be made under the head "II Union Excise Duties – Excise duty on ..... (Products concerned).... " and adjustments of duty on Bills of Entry will be made under the head " Customs Import Duty".

14.09.07 As regards clearance made from such "B.M. Tanks" for direct shipment out of India either for bunker purpose or for trade stocks, in the case of imported oil a duly processed Ex-bond Shipping Bill should be presented by the Oil Company and the usual Customs procedure followed. In the case of indigenous oil, the oil company should present the AR 4 application and follow the usual procedure for export of such oil either under claim for rebate of duty or in bond.

14.09.08 In respect of imported stock received in the B.M. Tanks and cleared either for shipment out of India or for home consumption, the particulars of actual quantity received into the tanks and cleared, on the basis of "First In First Out", will be communicated by the Central Excise Officer in charge of the Bonded Installations to the Customs Authorities in the above Proforma, depending upon the allocation of the clearance to the imported stock of oil received into the tank.

**14.10 Customs Duty Drawback Claim / Rebate of Duty of Central Excise in respect of Fuel and Lubricating Oil Supplied to Aircraft**

14.10.01 Oil Company will furnish to the Assistant Commissioner, Central Excise, Refunds, and to the Assistant Commissioner of Customs, Oil Unit, Custom House, a detailed statement indicating flight-wise figures of the quantity of indigenous duty paid fuel taken by aircrafts which proceeded to foreign ports and the quantity of fuel imported on such aircrafts when they arrive from foreign ports during one year period. This statement will be certified by the Preventive Officer attached to the Bonded Warehouse of Oil Company at the Airport, after verification of the records. Oil Company will also indicate that they will withdraw the claims filed by them with the Asstt. Commissioner Central Excise, Refunds, in respect of the duty paid on indigenous fuel taken on such aircrafts during the period.

14.10.02 If on the basis of the figures furnished as above, the total quantity of fuel imported in the tanks of the aircrafts works out to be more than the total quantity of duty paid indigenous fuel that was taken in the tanks of the aircrafts, the duty of Customs on the resultant difference will be paid by concerned Airlines by filling in the oil unit of the Custom House a consolidated Home Consumption Bill of Entry wherein details of the resultant quantity or fuel chargeable to Customs duty will be shown. Oil Company will also subscribe a declaration to the effect that they have not claimed rebate of duty of Central Excise in respect of indigenous duty paid fuel taken on these aircraft.

14.10.03 If on the other hand, the total quantity of fuel imported in the tanks of the aircrafts works out less than the total quantity of duty paid indigenous fuel that was taken in the tanks of the aircrafts, the claim for rebate of duty of Central Excise, in the prescribed forms, will be filed by Oil Company with the Asst. Commissioner, Central Excise (Refunds).

**14.11 Fuel Loaded on the Indian Airlines Aircrafts proceeding abroad**

14.11.01 Prior to refueling of the Aircrafts proceeding abroad, Oil Company will furnish the figures of the fuel in the tanks of the aircraft from the metres/dips. The readings will be taken in the presence of the Customs Preventive Officer attached to Oil Company, Bonded Warehouses at Airport. The Customs Preventive officer will verify the meter-readings and certify the figures, which will be shown in the flights EGM.

14.11.02 Customs Preventive Officer will also Supervise the fueling of the aircraft and certify the quantity of the fuel supplied to the aircraft from the Central Excise Bonded Tanks for which Oil Company will file the Shipping Bills and AR-4 forms.

14.11.03 When the aircraft returns from abroad, the Preventive Officer will ascertain from the meter of the aircraft the quantity of fuel in the tanks of the aircraft. This quantity will be shown in the flights IGM.

14.11.04 Oil Company at Airport, will maintain a Register in the following proforma:

**STATEMENT OF THE FUEL AND OIL TAKEN ON ABROAD AND IMPORTED BY AIRCRAFTS DURING THE MONTH OF .....**

Sr.No.	Date of of fuel supplied	Marking of Departure	Flight No.	Total quantity of duty paid fuel in the tanks Prior to	Total qty. from the refueling
1	2		3	4	5
6					
	Shipping Bill Nos. for the Flight No.	AR-4A forms Nos. for		E.G.M. No.	Date of Arrival
	Fuel supplied at Col.6	the fuel supplied as at Col 6.			
11	7		8	9	10
	Total quantity of fuel found I.G.M. No.			Total quantity of Lubricant oil found	
	In the tanks of the aircraft Immediately on arrival			in the tanks of the aircrafts immediately on arrival	
14	12				13

- a) Total quantity of duty paid indigenous fuel in the tanks of the aircrafts prior to refueling at the time of departures, during the month (i.e. monthly total of column 5)
- b) Total quantity of fuel in the tanks of the aircraft on arrival during the month (i.e. monthly total of column 12)
- c) Total quantity of fuel chargeable to Customs duty (b-a)
- d) Total quantity of fuel on which rebate of duty of Central Excise due (a-b)

e) Total quantity of lubricating oil in the tanks of the aircrafts on arrivals during the month (i.e. monthly total of column 13)

Signature of the Customs Preventive Officer Oil Unit.

Signature of Oil Unit

Bonded warehouse at Airport

Representative

Date

Date

Amt. of Customs Duty recovered on fuel as at (e) Rs. .... Cash No. and Dt.

Amt. of Customs Duty recovered on lubricating oil Rs. .... Cash No. and Dt.

Application No. / Form 'B' filed for rebate of Central Excise if any as at (d)

Signature of the Customs

Preventive Officer Oil Unit/Bond,

Date.

14.11.05 After completion of each Calendar month, on the first of the succeeding month, the Oil Company will prepare a statement (in five copies) indicating all the details as shown in the register above. The distribution of the copies of this statement will be as under: -

- (a) One copy will be attached to the Home Consumption Bill of Entry or the application for rebate of duty of Central Excise, as the case may be,
- (b) One copy will be detained by the Customs Preventive Officer,
- (c) One copy will be handed over to Oil Company,

- (d) One copy will be handed over to Airlines and,
- (e) One copy will be forwarded to Asstt. Commissioner, Oil Unit.

14.11.06 After adjusting the quantities of the duty paid indigenous fuel against the imported fuel, Oil Company will indicate the resultant quantity of fuel on which duty of Customs is payable or the quantity of fuel on which rebate of duty Central Excise is admissible, as the case may be. The resultant figures thus arrived at will be shown in the Register and also in the statement compiled as above.

14.11.07 In case the resultant quantity of fuel is chargeable to duty of Customs, the Oil Company will subscribe an endorsement on the Home Consumption Bill of Entry that in respect of the duty paid indigenous fuel in the tanks of the aircraft prior to departures for abroad, during the proceeding month, no rebate of duty of Central Excise was claimed by them. This Statement will be countersigned by the Customs Preventive Officer.

14.11.08 The Oil Company or Airlines, as the case may be, will file Home Consumption Bill of Entry, in the Oil Unit, at the Custom House, for the quantity of fuel on which Customs duty is recoverable. In case rebate of Central Excise duty is due, then Oil Company will file claims with Asstt. Commissioner, Central Excise, Refunds.

14.11.09 The aforesaid procedure will be applicable in respect of the fuel (a) of the same type left in the aircraft at the time of arrivals and departures, (b) the rate of Customs duty and Central Excise duty, as the case may be, leviable on such fuel, is the same at the time of arrival and departure of such aircraft and (c) no Drawback of Customs duty or rebate of Central Excise duty, as the case may be was allowed on such fuel at the time of departures of such aircrafts from India.

**14.12 Lubricating oil on Aircrafts proceeding abroad**

14.12.01 Lubricating oil is normally supplied to Airlines from the Customs Bonded Warehouse of Oil Company, against ex-bond Shipping Bills. Therefore, there is no question of any drawback or rebate in respect of such lubricating oil in tanks and the quantity so supplied shall be ascertained by Oil Company and the Customs Preventive Officer and recorded in the flights IGM and also in the register. As in the case of fuel, duty of Customs on the total lubricating oil imported during the month will be paid by Oil Company by filling a Home Consumption Bill of Entry.

**14.13 Maintenance of Record of Recovery of Customs Duty on Fuel/Oil**

14.13.01 One copy of the Bill of Entry will be forwarded to the Bond Preventive Officer at Oil Company, The details of the recovery of duty on fuel and lubricating oil will be indicated in the Register at the end of monthly statement by the Preventive Officer. In case rebate of duty of Central Excise is due, then particulars of the claim filed by Oil Company should also be recorded at the end of each month.

**14.14 Receipt of Crude Oil from Bombay High**

14.14.01 The following procedure shall be in force to regulate the arrival and departure of the tankers transporting the crude from Bombay High to Butcher Islands:

- (a) The oil produced at Bombay High will be treated as indigenous crude oil and only cess will be leviable under Section 15 of the Oil Industry (Development) Act, 1974, which would be paid directly by ONGC to the Central Excise Authorities at the Refineries.
- (b) The Crude oil will be transported by Tankers from the Bombay High to the oil jetty at Butcher Islands. The Tankers transporting the crude will be treated as coastal run and the "General Pass" facility will be extended to these tankers, General Pass will be issued by the C.T.E. after taking the prescribed Bond from the Agents for such vessels.
- (c) The ONGC will prepare a despatch note in the prescribed format for the quantity delivered to each tanker. Immediately on arrival, the vessel will be permitted to break bulk in anticipation of filing the IGM. The Master / Agents will file the usual "Arrival Report" with the Preventive Officer posted at Butcher Island alongwith the despatch note which will be forwarded to Coastal Trade Establishment for completion of Inward Entry. The consignee will file a coastal Bill of Entry alongwith a local IGM (as there will be no EGM) within seven days of the arrival of the vessel or within such extended period as may be allowed by the Assistant Commissioner indicating the actual quantity / grade of crude oil received at the Refineries. On completion of discharge of the cargo, the vessel will sail after obtaining the usual P.C. from the C.T.E. Department.
- (d) Preventive Officer at Butcher Island will maintain a Register showing arrival and departure of the Tankers with full particulars of cargo.
- (e) Since the pipe lines through which the crude from Bombay High will be pumped into shore tanks will require flushing with imported crude, in order to avoid congealing which results in plugging of the submarine pipeline, M/s. Bharat Refineries Limited have indicated that tankers carrying imported crude for Bombay will partly discharge into refinery tanks either of Bharat Refineries Limited or the Hindustan Petroleum Corporation. Thereafter the remaining cargo of imported crude from the tanker will be pumped into smaller tankers stationed at the Marine Oil Terminal, Butcher Island. This quantity in most cases will be approximately 4000 Tons. The imported crude in the tanker will be used for flushing the crude oil discharge line at Bombay subsequent to the discharge of Bombay High Crude. After the Bombay High Crude is loaded in

such tankers which will contain a part of imported crude received earlier in other tankers, the ONGC will prepare a quantity receipt in the form indicated above in respect of the crude loaded in the tanker.

- (f) The tanker after reaching Bombay will discharge into the Bharat Refineries Tanks. The quantity of Bombay High Crude discharged will be determined by the normal method of taking dips before and after receipt of the Bombay High Crude. During this period the imported crude will be remain on board the tanker. After discharge of the entire cargo of the Bombay High Crude, approximately 4000 tons of the imported crude retained on the tankers will be used to flush the pipeline system used for discharging the Bombay High Crude. The quantity of imported crude oil discharged earlier from the tanker carrying the crude oil will be determined separately by tank dips and to that quantity will be added the amount of imported crude discharged in the second operation for flushing the pipelines, to arrive at the out-turn of the imported cargo. Though all efforts will be made to prevent the mixing of the imported and Bombay High Crude and attempts will be made to prepare separate out-turn for the two types of crudes, in cases where the imported crude carried in the tanker which will be used for bringing Bombay High Crude get mixed up with the indigenous crude, the losses in respect of the imported crude in such tankers will be worked out on pro-rata basis by taking into account the entire quantity of the oil on the tanker. The total losses in respect of imported crude oil will be arrived at by adding the loss worked in respect of the imported crude brought by the second voyage to the loss. In respect of the imported crude the upper limit of 1% will be adhered to.
- (g) For the imported crude the Import General Manifest will be filed in the Import Department for the full quantity. The part quantity of the imported crude will be accounted for as direct discharge and the Balance of the imported crude will be first transported to Bombay High and will be brought back in the tanker carrying indigenous crude. No separate manifest will be filed for the quantity of the balance crude carried to Bombay High and brought back. For the Bombay High Crude brought by each of the tankers local IGM will be filed as above.
- (h) It is possible that occasionally foreign tankers with a part of imported crude required for flushing the pipe line may be diverted to bring Bombay High

Crude. In such cases the Customs Officer at Butcher Island will certify the quantity of imported Crude retained on board the tanker before its departure for Bombay High.

- (i) On return from Bombay High the agents of the tankers will file a local IGM for the quantity of Bombay High Crude brought on the basis of the despatch note issued by the ONGC officials.
- (j) The quantity of imported crude / Bombay High Crude will be accounted for as stated above.
- (k) The Agents will apply for inventory of stores prior to the departure of the tanker to Bombay High and will also file a list of stores remaining on Board at the time of its departure for foreign port and will pay duty on stores consumed between its departure to Bombay High and her final reversion to foreign run. The Agents will also have the option to get the stores sealed with Customs seal which they do not wish to consume during the period when the vessel will ply between Bombay and Bombay High.

#### **14.15 Declaration of ONGC Installations in Bombay High as Designated Areas**

14.15.01 Any oil produced in the off-shore installations in the designated area or within the territorial waters of India is deemed to be produced in India and subject to the levy of Central Excise duties under Section 3 of the Central Excise & Salt Act, 1944. In case, however, the oil is produced at such of the installations which have not been designated by the Ministry of External Affairs and which lie outside the territorial waters of India, such oil would be deemed to be imported into India when this oil is transferred to the mainland and be subject to Customs duties as specified in the Customs Tariff Act, 1975.

[F. No. 450/65/92-Cus-IV, dated 28.9.1994 and Circular No. 28/95-Cus., dated 27.3.1995]

#### **14.16 Sludge Oil**

14.16.01 Sludge oil is accumulation of thick dirty oil especially in sump of internal combustion engine and at the bottom of petroleum product storage tanks. The sludge oil which contains waste oil, water, chemicals (used for cleaning tanks) is collected in slop tanks on the ship. In routine course, the sludge is discharged into the sea. Accordingly, the International Maritime Organization adopted an International convention called MARPOL 73/78 to prevent marine pollution, including pollution by slop and sludge from ships. India is a signatory to the International Convention for the Prevention of pollution from ships 1973 & The Protocol of 1978 (MARPOL 73/78) and the convention entered into force for India from 24.12.1986. Port authorities of India have undertaken to provide adequate reception facilities for receiving sludge, bilge water, slops and other wastes from ships calling at its ports. Private agencies were allowed to receive such sludge & waste with due permission from concerned authorities, licensing them from reception transportation, storage, treatment & disposal of the same.

[T-5/1-02/DDIST, dated 5.4.1995 from IMO, Marine Environment Division and No. 1-8 SSMD dated 25.2.1996 from Ministry of Environment & Forests]

14.16.02 Waste oil and oil emulsions are specified as Hazardous wastes as per Schedule to Rule 3(i) of the Hazardous Wastes (Management & Handling) Rules, 1989 issued under the Environment (Protection) Act, 1986. Rule 11 of these Rules stipulates that import of hazardous wastes from any country to India shall not be permitted for dumping and disposal of such wastes. However, import of such wastes is allowed for processing or reuse as raw material, after examining and approval of the State Pollution Control Board. Waste oil derived from the normal course of ship's operation and covered by the MAROL (73/78 Protocol Convention) is permitted to discharge without license on payment of Customs duty, but only to persons having reprocessing facilities approved by the State Pollution Control Board. The person/s / firms so authorised are required to obtain order / permission from ship owners to

take sludge derived from normal course of a ship engines operation. On the strength of this order, a local invoice is prepared with appropriate value and quantity. Along with all the above mentioned documents a Bill of Entry shall be filed for clearance of sludge oil. The assessment shall be done under Customs Tariff Heading 2710.00 without CCP. The Bill of Entry shall be assessed provisionally under Test Bond. Once the sludge is routed into drums and properly closed and rolled on the ground in order to make the contents homogenous, a sample shall be drawn and poured into a previously cleaned empty drum (as many samples as there are drums) and the drum containing samples properly closed and rolled on the ground to make its contents homogenous. Thereafter, a representative sample shall be drawn into a previously cleaned bottle, sealed with Customs seal and sent to the Customs laboratory for test. The final assessment shall be done based on the result of test report.

**14.17 Duty on Fuel Oil – Supply Ex-Bond Stock to Vessels in Foreign Run which Subsequently Divert to Coastal Run**

14.17.01 The following procedure is prescribed for collecting duty when a Vessel on a foreign run after taking duty free stock of fuel oil as bunkers diverts to coastal run, without prior notice.

- (a) On the arrival of a vessel, the Steamer Agents shall address a letter to the Asst. Commissioner (Imports), intimating the shipping activities of the vessel at the port of the arrival. On receipt of this letter, the Import Department should forthwith determine the character of the vessel's voyage and, in the event of any change, intimate the fact of reversion from foreign to coasting trade and vice versa to the Export and Preventive Departments, to enable them to take such action as the reversion may call for.
- (b) "Free" Shipping Bills will be filed in the Export Department to cover shipment of Excise bonded oil as ship's stores, with duplicate and triplicate copies of AR-4 forms. The words "Shipment from excise bonded stock" may be superscribed conspicuously on the shipping bill.

(In respect of shipment of warehoused goods, on Customs side, the Shipping Bills is marked "Shipping Bill from Bond").

- (c) Full particulars of oil supplied from excise bonded stock (S.P.No, AR-4 No, Grade of oil, quantity shipped, source of supply) should be entered at the appropriate place in the vessel's stores list, in the same manner as stores supplied from Customs bonded stocks are entered. These particulars should be entered in the copy retained in the Preventive Department and also in the "Circulating copy" if the vessel is touching Customs Port(s) on route to a foreign destination.
- (d) If the vessel is touching any Customs Port(s) on route to a foreign destination, the certifying Preventive Officer should mention in the certificate after the words "which left for" the names of such ports in the same order as mentioned in the port clearance of the vessel, instead of mentioning only the foreign port of destination. From such certificate, the Central Excise Department which permitted ex-bond supply of stores will know that the vessel did not clear directly for a foreign port, after bunkering.
- (e) If a vessel reverts from foreign to coasting trade at any of the Custom Ports on route to a foreign destination, the Customs Authorities at the port of reversion shall forthwith intimate the Central Excise Department which permitted supply of oil ex-bond under AR-4 procedure, any such change in the character of her voyage together with such particulars as grade and quantity of oil on which excise duty may be recoverable.

#### **14.18 Transfer of Bunker Oil**

14.18.01 Oil imported in bunkers is "Stores" and therefore subject to provisions of Section 86(2) of the Customs Act, 1962. Transfer of oil from the bunkers of one foreign going vessel to the bunkers of another foreign going vessel may be permitted.

14.18.02 Oil imported as cargo by one foreign going vessel should not be allowed to be manifested for transshipment to the bunkers of another foreign going vessel as oil imported as cargo are not "Stores" within the meaning of Section 86(2) of the Customs Act, 1962. The correct procedure to be followed in such cases is the drawback procedure under Section 74 of the said Act.

14.18.03 Agents may be permitted to retain on board any portion of oil for bunker use by entering them originally on a separate sheet of the IGM. Transfer of further quantities to bunkers from cargo tanks or holds will be allowed on amendment of the relative manifest and fulfillment of following conditions:-

- (a) The oil should be transferred direct from the cargo tanks or holds to the bunkers without having been landed at an intermediate stage,
- (b) No Bill of Entry should have been filed for the quantity transferred,
- (c) The ship should remain in the foreign trade, and
- (d) The Department should be satisfied that the quantity transferred is accurately measured. This condition will be considered as satisfied if the Agents produce a certified extract from the Chief Engineer's log showing the quantity retained on board as ascertained by measurement or ullages.

14.18.04 Where the liquid fuel has first been landed and the Agents wish to transfer a quantity from the landed cargo to the bunkers the duty will be paid on the quantity on a Bill of Entry, which will then be reshipped under claim for Drawback on a Drawback Shipping Bill. If the consignment is bonded, the transfer should be effected on a ex-bond Shipping Bill.

14.18.05. In cases in which a Bill of Entry for consumption of the full manifested quantity has been filed before a decision to transfer the fuel oil to bunkers is reached, the only course is open is to submit a Shipping Bill under claim for Drawback.

14.18.06 If the transfer takes place on a ship that is transferred from the foreign to the coasting trade, duty becomes leviable on the Fuel oil. Such oil imported as cargo by one vessel should not be allowed to be subsequently manifested for transshipment to the bunkers of another vessel, as fuel oil imported as cargo is not “stores” and therefore Section 86(2) of the Customs Act, 1962 does not apply.

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