

Procedures for Import and Export

General Provisions

Goods are imported in India or exported from India through sea, air or land. Goods can come through post parcel or as baggage with passengers. Procedures naturally vary depending on mode of import or export. Procedures discussed in this Chapter are applicable for imports by sea, air or land, but not as baggage or postal despatch.

COMPUTERISATION OF CUSTOMS WORK - Work of customs at Delhi airport has been computerised. Work at Mumbai port is also computerised. Whenever the work is computerised, documents like IGM and Bill of Entry have to be filed electronically. Procedure in computerised environment has been specified in CC, New Delhi PN 22/98 dated 8.5.1998. Guidelines for preparing data file for Bill of Entry and shipping bills for Mumbai Customs House has been prescribed vide PN 108/99 dated 30-9-1999 and PN 10/2001 dated 30.1.2001.

ENTRY – 'Entry' in relation to goods means an entry made in a Bill of Entry, Shipping Bill or Bill of Export. It includes (a) label or declaration accompanying the goods which contains description, quantity and value of the goods, in case of postal articles u/s 82 (b) Entry to be made in case of goods to be exported (c) Entry in respect of goods imported which are not accompanied by label or declaration made as per provisions of section 84. [section 2(16)].

AMENDMENT TO DOCUMENTS - Importer, exporter or 'Person In charge' have to submit various documents to customs authorities like Bill of Entry, Import Manifest, Export Manifest etc. Some times, it may become necessary to amend the document due to various reasons like change in classification, clerical mistake in document, change in unloading / loading plan of vessel etc. In such case, permission to amend these documents have to be obtained from customs authorities. [section 149]. Such permission can be given if there are no fraudulent intentions.

In case of bill of entry, shipping bill or bill of export, it can be amended after clearance only on the basis of documentary evidence which was in existence at the time the goods were cleared, warehoused or exported, and not on basis of any subsequent document. [proviso to section 149].

Customs Station - Imported goods are permitted to be unloaded only at specified places. Similarly, goods can be exported only from specified area. In view of this, definitions of 'Customs Station' is important.

Customs area means all area of Customs Station and includes any area where imported goods or export goods are ordinarily kept pending clearance by Customs authorities. Thus, 'Customs Area' could include some area even outside the 'Customs Station'. Customs Station means (a) customs port (b) inland container depot (c) customs airport and (d) land customs station.

Section 7 of Customs Act empowers CBEC (Board) to appoint * Customs ports * Customs airports * Places for inland container depots * Coastal ports. These are appointed by issuing a notification. Section 8 authorises Commissioner of Customs to approve proper places in any customs port, customs airport or coastal port for unloading and loading of goods or for any class of goods and specify the limits of customs area. Thus, the place (city / town / village etc.) is approved by CBEC, while exact location within that city / town / village is approved by Commissioner of Customs.

Import Procedures

Procedures have to be followed by 'person-in-charge of conveyance' as well as the importer.

WHO IS 'PERSON IN CHARGE' - As per section 2(31), 'person in charge' means (a) In case of vessel - its master (b) In case of aircraft - its commander or pilot-in-charge (c) In case of train - its conductor or guard and (d) In case of vehicle or other conveyance - its driver or other person in charge.

The significance of this definition is -

- ◆ He is responsible for submitting Import Manifest and Export Manifest
- ◆ He is responsible to ensure that the conveyance comes through approved route and lands at approved place only.
- ◆ He has to ensure that goods are unloaded after written order, at proper place. Loading also has to be only after permission.
- ◆ He has to ensure that conveyance does not leave without written order of Customs authorities.
- ◆ He can be penalised for (a) Giving false declaration and statement (b) shortages or non-accounting of goods in conveyance

Procedure to be followed by the Carrier - The 'person in charge of conveyance' (carrier of goods) has to follow prescribed procedure.

Arrival at customs port/airport only - Section 29 provides that person-in-charge of a vessel or an aircraft entering India shall call or land at customs port or customs airport *only*. It can land at other place only if compelled by accident, stress of weather or other unavoidable cause. In such case, he should report to nearest police station or Customs Officer. While arriving by land route, the vehicle should come by approved route to 'land customs station' only.

Import Manifest / Report- Person-in-charge of vessel, aircraft or vehicle has to submit Import Manifest / Report. [also termed as IGM - Import General Manifest]. (In case of a vessel or aircraft, it is called import manifest, while in case of vehicle, it is called import report.) The import manifest in case of vessel or aircraft is required to be submitted *prior* to arrival of a vessel or aircraft. Import report (in case of vehicle) has to be submitted within 12 hours of arrival at the customs station. If the report / manifest could not be submitted within prescribed time, person-in-charge or any person specified as responsible by a notification is liable to penalty upto Rs 50,000. Such penalty will not be imposed if the excise officer is satisfied that there was sufficient cause for the delay. [section 30(1)].

IGM can be submitted electronically through floppy where EDI facility is available.

IMPORT MANIFEST IS REQUIRED TO BE SUBMITTED BEFORE ARRIVAL OF AIRCRAFT OR VESSEL - Section 30(1) of Customs Act provides that Import Manifest should be filed before arrival of ship or aircraft. Normally, the Agents submit the Import Manifest before arrival, so that maximum possible formalities are completed before vessel or aircraft arrives. This also enables importers to file 'Bill of Entry' in advance.

Grant of Entry Inwards by Customs Officer - Unloading of cargo can start only after Customs Officer grant 'Entry Inwards'. Such entry inwards can be granted only when berthing accommodation is granted to a vessel. If there is heavy congestion at port, shipping berth may not be available and in such case, 'Entry Inwards' cannot be granted. This date is highly relevant for determining rate of customs duty applicable.

Carrier responsible for shortages during unloading - If the goods are short landed, the carrier is liable to pay penalty upto twice the amount of duty payable on such short landed goods. It has been held that tally sheet prepared by Port Trust authorities on unloading of goods is a statutory document and should be accepted in preference to steamer survey - *Scindia Steam Navigation v. CC* - 1988 (33) ELT (CEGAT) followed in *re India Steamship Co. Ltd.* - 1992 (57) ELT 510 (GOI).

Procedure by Importer - The importer importing the goods has to follow prescribed procedures for import by ship/air/road. (There is separate procedure for goods imported as a baggage or by post.)

Bill of Entry - This is a very vital and important document which every importer has to submit under section 46. The Bill of Entry should be in prescribed form. The standard size of Bill of Entry is 16" × 13". However, for computerisation purposes, 15" × 12" size is permitted. (Mumbai Customs Public Notice No. 142/93 dated 3-11-93).

Bill of Entry should be submitted in quadruplicate – original and duplicate for customs, triplicate for the importer and fourth copy is meant for bank for making remittances.

Under EDI system, Bill of Entry is actually printed on computer in triplicate only after 'out of charge' order is given. Duplicate copy is given to importer.

Types of Bill of Entry - Bills of Entry should be of one of three types. Out of these, two types are for clearance from customs while third is for clearance from warehouse.

BILL OF ENTRY FOR HOME CONSUMPTION - This form, called 'Bill of Entry for Home Consumption', is used when the imported goods are to be cleared on payment of full duty. *Home consumption means use within India*. It is white coloured and hence often called 'white bill of entry'.

BILL OF ENTRY FOR WAREHOUSING - If the imported goods are not required immediately, importer may like to store the goods in a warehouse without payment of duty under a bond and then clear from warehouse when required on payment of duty. This will enable him to defer payment of customs duty till goods are actually required by him. This Bill of Entry is printed on yellow paper and often called 'Yellow Bill of Entry'. It is also called 'Into Bond Bill of Entry' as bond is executed for transfer of goods in warehouse without payment of duty.

BILL OF ENTRY FOR EX-BOND CLEARANCE - The third type is for Ex-Bond clearance. This is used for clearance from the warehouse on payment of duty and is printed on green paper. The goods are classified and value is assessed at the time of clearance from customs port. Thus, value and classification is not required to be determined in this bill of entry. The columns in this bill of entry are similar to other bills of entry. However, declaration by importer is not required as the goods are already assessed.

RATE OF DUTY FOR CLEARANCE FROM WAREHOUSE - It may be noted that rate of duty applicable is as prevalent on date of removal *from warehouse*. Thus, if rate has changed after goods are cleared from customs port, customs duty as assessed on yellow bill of entry and as paid on green bill of entry will not be same.

Mention of BIN on Bill of Entry – A BIN (Business Identification Number) is allotted to each importer and exporter w.e.f. 1.4.2001. It is a 15 digit code based on PAN of Income Tax (PAN is a 10 digit code). [Earlier an EC (Import Export code) number issued by DGFT was required to be mentioned on Bill of Entry].

Filing of Bill of Entry - Normally, Bill of Entry is filed by CHA on behalf of the importer. Customs work at some ports has been computerised. In that case, the Bill of Entry has to be filed electronically, i.e. through Customs EDI system through computerisation of work. Procedure for the same has been prescribed vide Bill of Entry (Electronic Declaration) Regulations, 1995.

Documents to be submitted by Importer - Documents required by customs authorities are required to be submitted to enable them to (a) check the goods (b) decide value and classification of goods and (c) to ensure that the import is legally permitted. *The documents that are essentially required are* : (i) Invoice (ii) Packing List (iii) Bill of Lading / Delivery Order (iv) GATT declaration form duly filled in (v) Importers / CHAs declaration duly signed (vi) Import Licence or attested photocopy when clearance is under licence (vii) Letter of Credit / Bank Draft wherever necessary (viii) Insurance memo or insurance policy (ix) Industrial License if required (x) Certificate of country of origin, if preferential rate is claimed. (xi) Technical literature. (xii) Test report in case of chemicals (xiii) Advance License / DEPB in original, where applicable (xiv) Split up of value of spares, components and machinery (xv) No commission declaration. – A declaration in prescribed form about correctness of information should be submitted. – *Chapter 3 Para 6 and 7 of CBE&C's Customs Manual, 2001.*

The Noting is now done electronically in large ports, while it is done manually in small ports. Thoka Number (Serial Number) is given while noting the Bill of Entry.

Electronic submission under EDI system – Where EDI system is implemented, formal submission of Bill of Entry is not required, as it is generated in computer system. Importer should submit declaration in electronic format to 'Service Centre'. A signed paper copy of declaration for non-repudiability should be submitted. Bill of Entry number is generated by system which is endorsed on printed check list. Original documents are to be submitted only at the stage of examination.

Assessment of Duty and Clearance

The documents submitted by importer are checked and assessed by Customs authorities and then goods are cleared. Section 2(2) defines 'assessment' as follows – 'Assessment' includes provisional assessment, reassessment and any order of assessment in which the duty assessed is Nil. Thus, 'assessment' includes 'Nil' assessment.

Noting of Bill of Entry - Bill of Entry submitted by importer or Customs House Agent is cross-checked with 'Import Manifest' submitted by person in charge of vessel / carrier. It is noted if the description tallies. 'Noting' really means taking on record by customs officer. This date is relevant for determining rate of customs duty. Thoka number (serial number) is given in the import section. Otherwise, it is returned for clarifications. In case of EDI system, noting is done by the system itself which also generates bill of entry number.

Date of presentation of bill of entry is highly relevant and the rate of duty as applicable on this date will be considered for calculating the duty payable. Bill of Entry is accepted only after proper scrutiny *vis-a-vis* import manifest and various declarations given in bill of entry and attached documents like invoice, bill of lading etc. If such documents are not attached, the authorities can refuse to accept the Bill of Entry, and hence submission of such incomplete Bill of Entry cannot be taken as date of presentation of Bill of Entry - *Simla Agencies v. CC - 1993 (63) ELT 248 (CEGAT).*

Prior Entry of Bill of Entry - After the goods are unloaded, these have to be cleared within stipulated time - usually three working days. If these are not so removed, demurrage is charged by port trust/airport authorities, which is very high. Hence, importer wants to complete as many formalities as possible before ship arrives. Proviso to Section 46(3) of Customs Act allows importer to present bill of entry upto 30 days before *expected date of arrival* of vessel. In such

case, duty will be payable at the rate applicable on the date on which 'Entry Inward' is granted to vessel and not the date of presentation of Bill of Entry, *but rate of exchange will be as prevalent on date of submission of bill of entry*. - confirmed in CC, New Delhi circular No 64/96 dated 10.12.1996 and CBE&C circular No 22/97-Cus dated 4.7.1997.

Assessment of Customs duty - Section 17 provides that assessment of goods will be made after Bill of Entry is filed. Date stamp of receipt is put on the 'Bill of Entry' and then it is sent to appraising department either manually or electronically

There are various Appraising groups for different Chapter headings. Each group is under an Assistant/Deputy Commissioner. Group consists of 'Examiners' and 'Appraisers'.

APPRAISING THE GOODS - Appraiser has to (a) correctly classify the goods (b) decide the Value for purpose of Customs duty (c) find out rate of duty applicable as per any exemption notification and (d) verify that goods are not imported in violation of any law. He can call for any further documents that may be required for assessment. If he is of the opinion that goods have to be examined for appraisal, he will issue an examination order, usually on the reverse of Bill of Entry. If such order is issued, the Bill of Entry is presented to appraising staff at docks / air cargo complexes, where the goods are examined in presence of importer's representative. Assessment is finalised after getting the report of examination. – *Chapter 3 Para 11 and 12 of CBE&C's Customs Manual, 2001.*

VALUATION OF GOODS - As per rule 10 of Customs Valuation Rules, the importer has to file declaration about full 'value' of goods. If the assessing officer has doubts about the truth and accuracy of 'value' as declared, he can ask importer to submit further information, details and documents. If the doubt persists, the assessing officer can reject the value declared by importer. [rule 10A(1) of Customs Valuation Rules]. If the importer requests, the assessing officer has to give reasons for doubting the value declared by importer. [rule 10A(2)]. If the value declared by importer is rejected, the assessing officer can value imported goods on other basis e.g. value of identical goods, value of similar goods etc. as provided in Customs Valuation Rules. [This amendment has been made w.e.f. 19.2.98, as per WTO agreement. However, it has been held that burden of proof of under valuation is on department]. - - Assessing Officer should not arbitrarily reject the declared value and increase the assessable value. He should follow due process of law and issue appealable order. – MF(DR) circular No. 16/2003-Cus dated 17-3-2003.

APPROVAL OF ASSESSMENT - The assessment has to be approved by Assistant Commissioner, if the value is more than Rs one lakh. (in cases covered under 'fast track clearance for imports', appraiser is also authorised to approve valuation). After the approval, duty payable is typed by a "pin-point typewriter" so that it cannot be tampered with. As per CBE&C circular No. 10/98-Cus dated 11-2-1998, Assessing Officer should sign in full in Bill of Entry followed by his name, preferably by rubber stamp.

EDI ASSESSMENT – In the EDI system, the cargo declaration is transferred to assessing officer in the groups electronically. Processing is done on the screen itself. All calculations are done by the system itself. If assessing officer needs clarification, he can raise a query. The query is printed at service centre and importer replies through service centre. Facility of tele-enquiry about status of documents is provided in major customs stations. Under EDI, normally, documents are inspected only after assessment. After assessment, copy of Bill of Entry is printed at service centre. Final Bill of Entry is printed only after 'Out of Charge' order is given by customs officer. – *Chapter 3 Para 18 to 22 of CBE&C's Customs Manual, 2001.*

PAYMENT OF CUSTOMS DUTY - After assessment of duty, necessary duty is paid. Regular importers and Custom House Agents keep current account with Customs department. The duty

can be debited to such current account, or it can be paid in cash/DD through TR-6 challan in designated banks.

After payment of duty, if goods were already examined, delivery of goods can be taken from custodians (port trust) after paying their dues. If goods were not examined before assessment, these have to be submitted for examination in import shed to the examining staff. After shed appraiser gives 'out of charge' order, delivery of goods can be taken from custodian.

First and second system of assessment - There are two systems of assessment. Section 17(2) provides for assessment after examination of goods and section 17(4) provides for assessment on basis of documents, followed by inspection and testing of goods.

"First appraisal system" or *'first check procedure'* is followed if the appraiser is not able to make assessment on the basis of documents submitted and deems that inspection is necessary. Goods are examined first and then these are assessed. This method is followed only if assessment is not possible on basis of documents. - - The importer himself may also request 'first check procedure', if he cannot give all required details regarding description / value of goods. He has to make request for first check examination at the time of filing of Bill of Entry or at data entry stage in case of EDI. He has to give reason for seeking first appraisal. The examination order is recorded on Bill of Entry and then returned to importer / CHA. It is then presented to import shed for examination. The shed appraiser / Dock examiner examines the goods as per examination order and records his findings. If samples are required, they are taken out. In case of EDI system, the report of examination is given in the computer itself. The goods are then assessed to duty by appraiser. - *Chapter 3 Para 23 of CBE&C's Customs Manual, 2001.*

In *"Second Appraisal System"* or *'second check procedure'*, which is normally followed, assessment is done on basis of documents and then goods are examined. Such examination is not mandatory. It is done on selective basis on the basis of 'risk assessment' or specific intelligence report. Section 17(4) of Customs Act specifically provides that if initially assessment is done on basis of documents, re-assessment can be done after examination or testing of goods or otherwise, if it is found subsequent to examination or testing or otherwise, that any statement made on Bill of Entry or any information supplied is not true in respect of matter relevant to assessment of duty.

First appraisal is generally carried out in following cases - * If complete documents are not submitted * Goods are to be tested for correct classification * Goods are re-imported * Goods are damaged or deteriorated and abatement is claimed * Goods are abandoned and remission of duty is applied for * When goods are provisionally assessed * When importer himself requests for examination of goods before payment of duty.

EXAMINATION OF GOODS - Examiners carry out physical examination and quantitative checking like weighing, measuring etc. Selected packages are opened and examined on sample basis in 'Customs Examination Yard'. Examination report is prepared by the examiner.

Accelerated Clearance of Imports and Exports Scheme (ACS) – Finance Minister, in his budget speech on 28-2-2003, had announced a 'self assessment scheme' for importers and exporters. As per the scheme, importer will himself determine classification of goods including claim for exemption benefits. Computer System will calculate the duty based on his declaration. Physical inspection of imported goods will be done by risk-assessment and management techniques on a computer based system and not on the orders of customs examining staff. Audit of import documents will not be by existing system of concurrent audit but will be done by post-clearance audit, as prevalent in developed countries.

Subsequently, a Accelerated Clearance of Import and Export Scheme (ACS) has been announced vide MF(DR) circular No. 30/2003-Cus dated 4-4-2003. The scheme is announced through administrative instructions, without making any change in statutory provisions. Hence, the scheme is not same as 'self removal' under Central Excise. Presently, the scheme is introduced on trial basis at Air Customs, Sahar (Mumbai), ICD, New Delhi and Chennai Sea Customs.

In case of imports, the scheme will be open to all status holders under EXIM policy, Central and State Government PSUs and other importers who have been importing for at least two years and have filed at least 25 Bills of Entry in preceding year. - - In case of exports, the scheme will be open to all status holders under EXIM policy, EOU/STP/EHTP units whose goods have been sealed in presence of customs/excise officers, Central and State Government PSUs, manufacturer-exporters who have been exporting for at least two years and have filed at least 25 Shipping Bills in preceding year and bulk exporters. - - Certain sensitive items have been excluded from the provisions. Importer/exporter intending to avail this facility has to make application to Commissioner. The clearances will be subject to post clearance audit.

Provisional Assessment - Section 18 of Customs Act, 1962 provide that provisional assessment can be done in following cases (a) when Customs Officer is satisfied that importer or exporter is unable to produce document or furnish information required for assessment (b) it is deemed necessary to carry out chemical or other tests of goods (c) when importer/exporter has produced all documents, but Customs Officer still deems it necessary to make further enquiry. In such cases, assessment is done on provisional basis. The importer/exporter has to furnish guarantee/security as required by Customs Officer for payment of difference if any. Goods can be cleared after payment of duty provisionally assessed and after providing the security. After final assessment, difference is paid by importer or refunded to him as the case may be. If the imported goods were warehoused after provisional assessment, the Customs Officer may require importer to execute a bond for twice the difference in duty, if duty finally assessed is higher [section 18(2)(a)]. The bond is called as 'P D Bond' (Provisional Duty Bond). The bond is with security or surety. Bank guarantee can also be given as a security.

Checking of duty drawback / license documents - Documents in respect of Duty Entitlement Pass Book (DEPB), advance license, duty drawback etc. will be checked.

Execution of bond and payment of duty - Once the duty is assessed, the bill of entry is returned to importer. The Bill of Entry should be presented to comptist for calculation and pinpointing of the duty. If bond has to be executed, it will be taken in bond section.

Payment of duty - If goods are to be removed to a warehouse, duty payment is not required. The goods can be taken to a warehouse under bond, without payment of duty. However, if goods are to be removed for home consumption, payment of customs duty is required. CHA or the importer can take it for payment of customs duty. Large importers and CHA have P.D. accounts with customs. Duty can be paid either in cash or through P.D. account. P. D. account means provisional duty account. This is a current account, similar to PLA in central excise. The importer or CHA pays lumpsum amount in the account and gets credit on the amount paid. He can pay customs duty by debiting the amount in P.D. (Provisional Duty) account. If the importer does not have an account, he can pay duty by cash using TR-6 challan. Of course, payment through PD account is very convenient and quick.

The duty should be paid within five working days (i.e. within five days excluding holidays) after the 'Bill of Entry' is returned to the importer for payment of duty. [section 47(2)]. (Till 11-5-2002, the period allowed was only 2 days).

Interest for late payment - If duty is not paid within 5 working days as aforesaid, interest is payable. Such interest can be between 10% to 36% as may be notified by Central Government.

[Section 47(2) of Customs Act, 1962]. - - Interest rate is 15% w.e.f. 13-5-2002. [Notification No. 28/2002-Cus(NT) dated 13-5-2002] Earlier, interest rate was 24% p.a, w.e.f. 1-3-2000, as per notification No. 34/2000-Cus(NT)].

Disposal if goods are not cleared within 30 days - As per section 48 of Customs Act, goods must be cleared within 30 days after unloading. Customs Officer can grant extension. Otherwise, goods can be sold after giving notice to importer. However, animals, perishable goods and hazardous goods can be sold any time - even before 30 days. Arms & ammunition can be sold only with permission of Central Government.

Out of Customs Charge Order - After goods are examined, it is verified that import is not prohibited and after customs duty is paid, Customs Officer will issue 'Out of Customs Charge' order under section 47. Goods can be cleared from customs area only on receipt of such order. This is an 'adjudicating order' within the meaning of Customs Act, even if it is passed by Appraiser and not by Assistant Commissioner.

Demurrage if goods not cleared - Heavy demurrage is payable if goods are not cleared from port within three days.

Import of software through data communication - Import of software through data communication / tele-communication is permitted. Since such imports are not available for physical verification, proper accountal in books should be maintained. Unit intending to import software through datalink is required to inform estimated annual requirement to Development Commissioner of EOU / Director of STP. This should be approved by him. [what for ?]. After import of software through internet, written information should be submitted to Director of STP / Development Commissioner of EOU and importer shall get a certificate. This certificate should be submitted to Assistant / Dy Commissioner of Customs within 48 hours, along with Bill of Entry and certificate from Development Commissioner of EOU / Director of STP. He will issue 'out of charge' order. The documents such as invoice etc. will be routed through bank. - MF(DR) circular No. 58/2000-Cus dated 10-7-2000.

Relevant Date for Rate and Valuation of Customs Duty - Section 15 of Customs Act prescribes that rate of duty and tariff valuation applicable to imported goods shall be the rate and valuation in force at one of the following dates. (a) if the goods are entered for home consumption, the date on which bill of entry is presented (b) in case of warehoused goods, when Bill of Entry for home consumption is presented u/s 68 for clearance from warehouse and (c) in other cases, date of payment of duty.

CONCEPT OF TERRITORIAL WATERS NOT RELEVANT - It may be noted that concept of 'date of entering into territorial waters' is not relevant for purposes of determination of rate of customs duty.

Export Procedures

Procedures have to be followed by (a) 'person-in-charge of conveyance' and (b) the exporter. The procedures are similar to procedures for import, of course, in reverse direction.

NO STOPPAGE OF EXPORT CONSIGNMENT - Exports are vital for our economy. Any stoppage in export consignment means loss of export orders to the exporter and loss of foreign exchange to the country. Hence, it has been provided that movement of export consignment will not be interrupted and no export consignment shall be withheld for any reason whatsoever. In case of any doubt, customs authorities may ask for an undertaking that the export is on sole responsibility of the exporter. [Highlights of EXIM policy 1997-2002 as amended on 13.4.1998].

Procedures by person in charge of conveyance – Any new airline, shipping line, steamer agent should be registered in Customs Systems for electronic processing of shipping bills etc.

The 'person in charge of conveyance' has to follow prescribed procedures.

Entry Outward - The vessel should be granted 'Entry Outward'. Loading can start only after entry outward is granted. (section 39 of Customs Act). Steamer Agents can file 'application for entry outwards' 14 days in advance so that intending exporters can start submitting 'Shipping Bills'. This ensures that formalities are completed as quickly as possible and loading in ship starts quickly.

LOADING WITH PERMISSION - Export goods can be loaded only after Shipping Bill or Bill of Export, duly passed by Customs Officer is handed over by Exporter to the person-in-charge of conveyance. In case of baggage and mail bags, shipping bill is not necessary, but permission of Customs Officer is required (section 40).

Export Manifest - As per section 41, an Export Manifest/Export Report in prescribed form should be submitted before departure. [The report is popularly called as 'Export General Manifest' - EGM]. The details required are similar to import manifest. Such manifest/report can be amended or supplemented with permission, if there was no fraudulent intention. Such report should be declared as true by the person-in-charge signing the export manifest. This report is not required if the conveyance is carrying only luggage of occupants.

Procedures to be followed by Exporter – Export procedures have been summarised in Chapter 3 Part II of CBE&C's Customs Manual, 2001.

Every exporter should take following initial steps --

1. Obtain BIN (Business Identification Number) from DGFT. It is a PAN based number
2. Open current account with designated bank for credit of duty drawback claims
3. Register licenses / advance license / DEPB etc. at the customs station, if exports are under Export Promotion Schemes

Exporter has to submit 'shipping bill' for export by sea or air and 'bill of export' for export by road. Goods have to be assessed for duty, even if no duty is payable for most of exports, as 'Nil Duty' assessment is also an assessment.

Shipping Bill to be submitted by Exporter - Shipping Bill and Bill of Export Regulations prescribe form of shipping bills. It should be submitted in quadruplicate. If drawback claim is to be made, one additional copy should be submitted. There are five forms : (a) Shipping Bill for export of goods under claim for duty drawback - these should be in Green colour (b) Shipping Bill for export of dutiable goods - this should be yellow colour (c) shipping bill for export of duty free goods - it should be white colour (d) shipping bill for export of duty free goods ex-bond - i.e. from bonded store room - it should be pink colour (e) Shipping Bill for export under DEPB scheme - Blue colour.

The shipping bill form requires details like name of exporter, consignee, Invoice Number, details of packing, description of goods, quantity, FOB Value etc. Appropriate form of shipping bill should be used.

Relevant documents i.e. copies of packing list, invoices, export contract, letter of credit etc. are also to be submitted. In case of excisable goods, from ARE-1 prepared at the time of clearance from factory should also be submitted.

Customs authorities give serial number (called '*Thoka Number*') to shipping bill, when it is presented.

Excise formalities at the time of Export - If the goods are cleared by manufacturer for export, the goods are accompanied by ARE-1 (earlier AR-4). This form should be submitted to customs authorities. The Customs Officer certifies that the goods under this form have indeed been exported. This form has then to be submitted to Maritime Commissioner for obtaining 'proof of export'. The bond executed by Manufacturer-exporter with excise authorities is released only when 'proof of export' is accepted by Maritime Commissioner or Assistant Commissioner, where bond was executed.

Duty drawback formalities - If the exporter intends to claim duty drawback on his exports, he has to follow prescribed procedures and submit necessary papers. The procedures are discussed in the chapter on 'Export Incentives'. He has to make endorsement of shipping bill that claim for duty drawback is being made. If he fails to do so due to genuine reasons, Commissioner of Customs can grant exemption from this provision. [proviso to rule 12(1)(a) of Duty Drawback Rules].

G R / SDF / SOFTEX Form under FEMA - Reserve Bank of India has prescribed GR / SDF form under FEMA. "G R" stands for 'Guaranteed Receipt' form, while SDF stands for 'Statutory Declaration Form'. SDF form is to be used where shipping bills are processed electronically in customs house, while GR form is used when shipping bills are processed manually in customs house.

Other documents required for export - Exporter also has to prepare other documents like (a) Four copies of Commercial Invoice (b) Four copies of Packing List (c) Certificate of Origin or pre-shipment inspection where required (d) Insurance policy. (e) Letter of Credit (f) Declaration of Value (g) Excise ARE-1/ARE-2 form as applicable (h) GR / SDF form prescribed by RBI in duplicate (i) Letter showing BIN Number.

RCMC certificate from Export Promotion Council - Various Export Promotion Councils have been set up to promote and develop exports. (e.g. Engineering Export Promotion Council, Apparel Export Promotion Council, etc.) Exporter has to become member of the concerned Export Promotion Council and obtain RCMC - Registration cum membership Certificate.

Check in customs – Document submitted is processed by customs authorities, and following are checked - *Chapter 3 Para 39 of CBE&C's Customs Manual, 2001.* –

- ◆ Value and classification of goods under drawback schedule in case of drawback shipping bills
- ◆ Export duty / cess if applicable
- ◆ Advance License shipping bills are checked to ensure that description in invoice and final product specified in Advance License matches. If necessary, samples may be drawn and assessment may be done after visual inspection or testing
- ◆ Exportability of goods under EXIM policy and other laws - Some exports are totally prohibited under various Acts e.g. items restricted or prohibited under Foreign Trade (Regulation) Act; antiques; art treasures; Arms; narcotics etc. Some items like tea, coffee and coir products can be exported only against authorisation/licence under respective Acts.

Examination of goods before export - After shipping bill is passed by export department, the goods are presented to shed appraiser (exports) in dock for examination. Goods will be examined by examiner. This inspection is necessary (a) to ensure that prohibited goods are not exported (b) goods tally with description and invoice (c) duty drawback, where applicable, is correctly claimed.

Let Export Order by Customs Authorities - Customs Officer will verify the contents and after he is satisfied that goods are not prohibited for exports and that export duty, if applicable is paid, will permit clearance. (section 51) by giving 'let ship' or 'let export' order.

GR-1, ARE-1, octroi papers, quota certification for export etc. are also signed. Exporter's copy of shipping Bill, GR-1, ARE-1 etc. duly certified are handed over to exporter or CHA. Drawback claims papers are also processed. - *Chapter 3 Para 43 and 60 of CBE&C's Customs Manual, 2001.*

Processing under EDI system – Under EDI system, declarations in prescribed form are to be filed through 'Service Centre' of customs. After verification, shipping bill number is generated by the system, which is endorsed on printed checklist generated for verification of data. Goods are inspected at docks on the basis of printed check list. All documents are submitted to Customs Officer along with checklist. If goods and documents are found in order, 'let export' order is issued. Then two copies of Shipping Bill are generated – one customs and other exporter's copy. Exporter's copy is generated only after EGM (Export General Manifest) is submitted by shipping agent. These are signed by CHA and customs officer and then by Appraiser. SDF, ARE-1, octroi papers, quota certification for export etc. are also signed. Exporter's copy of Shipping Bill, SDF, ARE-1 etc. duly signed are handed over to exporter or CHA. - *Chapter 3 Paras 42 to 60 of CBE&C's Customs Manual, 2001.*

Conveyance to leave on written order - The vessel or aircraft which has brought imported goods or which carry export goods cannot leave that customs station unless a written order is given by Customs Officer. Such order is given only after (a) export manifest is submitted (b) shipping bills or bills of export, bills of transshipment etc. are submitted (c) duties on stores consumed are paid or payment of the same is secured (d) no penalty is leviable (e) export duty, if applicable, is paid. - - Such permission is not required if the conveyance is carrying only luggage of occupants.

Other Customs Procedures

Besides the aforesaid procedures, various other procedures have been prescribed. These are mainly to be followed by the person in charge of conveyance.

Boat Notes - If the vessel has to unload only a small cargo, it may not spend time in having berth in the port. If the small cargo is to be sent to shore, it may be loaded in a small boat and sent to shore. As per section 35, such small boat must be accompanied by a 'Boat Note'. Boat Notes Regulations provide that such Boat Notes will be issued by Customs Officer. It will be maintained in duplicate and should be serially numbered. Boat Note should be in prescribed form.

In case of export, if small export cargo is to be loaded in ship through small boat, no Boat Note is required if the cargo is accompanied by the 'Shipping Bill', otherwise, Boat Note is required. Boat Note is also required for transshipment of cargo, i.e. transfer from one ship to another or for re-shipment.

Transit Goods - Section 53 provide that any goods imported in any conveyance will be allowed to remain on the conveyance and to be transited without payment of customs duty, to any place out of India or any customs station. However, all these goods must be mentioned in import manifest or import report submitted by person in charge of conveyance. Such goods should not be 'prohibited goods' under section 11 of Customs Act. [The conveyance may be vehicle, ship or aircraft]. After transit, the goods may go to another customs station.

On arrival at customs station, the goods will be liable to customs duty as if it is first importation in India. - section 55.

Transshipment of Goods - Goods imported in any customs station can be transhipped without payment of duty, u/s 54 of Customs Act. Transshipment means transfer from one conveyance to another. [The conveyance may be vehicle, ship or aircraft]. Such transshipment may be to any major port or airport in India. The goods can be transhipped to any other customs station in India if customs officer is satisfied that the goods are *bonafide* intended for transshipment to any customs station. The facility is available at all customs ports and Inland Container Depots (ICDs). [Notification No. 50/95-Cus(NT) dated 6-9-95].

Goods to be transhipped must be specified in Import Manifest or Import report and a 'Bill of Transshipment' should be submitted to Customs Officer. In case of goods being transhipped under an international treaty or bilateral agreement between Government of India and Government of a foreign country, a Declaration of Transshipment shall be submitted instead of Bill of Transshipment. [section 54(1)]. [India has such bilateral agreement with Nepal].

Such goods should not be 'prohibited goods' under section 11 of Customs Act. The goods should be sealed during transshipment by customs officer. A bond has to be executed for the purpose. After execution of bond, a certificate from customs officer has to be submitted within one month that goods have been properly transferred. [Goods Imported (Conditions of Transshipment) Regulations, 1995]. On arrival at customs station, they will be liable to customs duty as if it is first importation in India. - section 55.

TRANSIT AND TRANSHIP - Distinction between transit and transshipment is that in 'transit' goods continue to be on same vessel, while in transshipment, goods are transferred to another vessel / vehicle. Hence, procedures are also different.

Coastal goods - Coastal goods means goods transported from one port in India to another port in India, *but does not include imported goods*. Thus, coastal goods means goods taken by ship from one Indian port to another. No export or import is involved, but control is necessary to ensure that coastal goods are not diverted illegally for export.

LOADING OF COASTAL GOODS - The Consignor should submit bill of coastal goods to Customs Officer (section 93). Form of the bill has been prescribed. These will be loaded by master of vessel only after 'bill of coastal goods' is passed (section 93). Master of Vessel will carry an 'Advice Book' where entries will be made by Customs Officer. This 'Advice Book' has to be presented for inspection of Customs Officers, if called for. After loading, the vessel can leave only after obtaining written order from Customs Officer. As per notification No 15/98-NT dated 27.2.1998, exemption has been granted for delivery of 'Advice Book' at each port of call. However, the 'Advice Book' will have to be submitted for inspection on board of vessel, when called for.

UNLOADING OF COASTAL GOODS - Unloading of coastal goods should be done only at Customs Port or coastal port appointed by CBEC under section 7 of Customs Act. On arrival, all bills relating to goods which are to be unloaded will be delivered to Customs Officer. Unloading can be done only after obtaining permission from Customs Officer. Customs Officer can inspect goods and ask for questions and documents relating to goods. Goods will be unloaded at approved place under supervision of Customs Officer.