

Customs Valuation (Determination of Price of Imported Goods) Rules, 1988

Ntfn 51-Cus.(N.T.), dated 18.07.88

As amended by Ntfn No. 53/88-Cus(NT), dated 10.08.1988; 71/89-Cus(NT), dated 19.12.1989; 39/90-Cus(NT), dated 05.07.1990; 44/90-Cus(NT), dated 03.08.1990; 67/91-Cus(NT), dated 01.10.1991; 26/95-Cus(NT), dated 24.04.1995, 41/2001-Cus. (NT), dated 07.09.2001; 3/2002-Cus(NT), dated 24.01.2002:

In exercise of the powers conferred by Section 156 of the Customs Act, 1962 (52 of 1962), read with Section 22 of the General Clauses Act, 1897 (10 of 1897), and in supersession of the Customs Valuation Rules, 1963 except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:

1. Short title, commencement and application.

- (1) These rules may be called the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988.
- (2) They shall come into force on the 16th August, 1988.
- (3) They shall apply to imported goods where a duty of customs is chargeable by reference to their value.

2. Definitions.

- (1) In these rules, unless the context otherwise requires,—
 - ¹[(a) "computed value" means the value of imported goods determined in accordance with rule 7A of these rules;
 - (aa) "deductive value" means the value determined in accordance with rule 7 of these rules;]
 - (b) "goods of the same class or kind", means imported goods that are within a group or range of imported goods produced by a particular industry or industrial sector and includes identical goods or similar goods;
 - (c) "identical goods" means imported goods—
 - (i) which are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of the goods;
 - (ii) produced in the country in which the goods being valued were produced; and
 - (iii) produced by the same person who produced the goods, or where no such goods are available, goods produced by a different person,but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods;
 - (d) "produced" includes grown, manufactured and mined;
 - (e) "similar goods" means imported goods—
 - (i) which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the

¹ Substituted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

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goods being valued having regard to the quality, reputation and the existence of trade mark;

- (ii) produced in the country in which the goods being valued were produced; and
- (iii) produced by the same person who produced the goods being valued, or where no such goods are available, goods produced by a different person,

but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods;

- (f) "transaction value" means the value determined in accordance with Rule 4 of these rules.

(2) For the purpose of these rules, persons shall be deemed to be "related" only if—

- (i) they are officers or directors of one another's business;
- (ii) they are legally recognised partners in business;
- (iii) they are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (viii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family.

Explanation I—The term "person" also includes legal persons.

Explanation II—Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.

¹[3. **Determination of the method of valuation.**

For the purpose of these rules,—

- (i) subject to rules 9 and 10A, the value of imported goods shall be the transaction value;
- (ii) if the value cannot be determined under the provisions of clause (i) above, the value shall be determined by proceeding sequentially through Rules 5 to 8 of these rules.]

4. Transaction value.

- (1) The transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export to India, adjusted in accordance with the provisions of Rule 9 of these rules.
- (2) The transaction value of imported goods under sub-rule (1) above shall be accepted:

Provided that—

- ²[(a) the sale is in the ordinary course of trade under fully competitive conditions;
- (b) the sale does not involve any abnormal discount or reduction from the ordinary competitive price;

¹ Substituted by Ntfn No. 41/2001-Cus. (N.T.), dated 07.09.2001.

² Inserted by Ntfn No. 41/2001-Cus. (N.T.), dated 07.09.2001.

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- (c) the sale does not involve special discounts limited to exclusive agents;
 - (d) objective and quantifiable data exist with regard to the adjustments required to be made, under the provisions of rule 9, to the transaction value;]
 - ¹[(e) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which –
 - (i) are imposed or required by law or by the public authorities in India; or
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
 - (f) the sale or price is not subject to same condition or consideration for which a value cannot be determined in respect of the goods being valued;
 - (g) no part of the proceeds of any subsequently resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Rule 9 of these rules; and
 - (h) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.]
- (3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.
- (b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time—
- (i) the transaction value of identical goods or similar goods, in sales to unrelated buyers in India;
 - (ii) the deductive value for identical goods or similar goods;
 - ²[(iii) the computed value for identical goods or similar goods.]
- Provided** that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of Rule 9 of these rules and cost incurred by the seller in sales in which he and the buyer are not related;
- (c) substitute value shall not be established under the provisions of clause (b) of this sub-rule.

5. Transaction value of identical goods.

- (1) (a) Subject to the provisions of Rule 3 of these rules, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued.
- (b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.
- (c) Where no sale referred to in clause (b) of sub-rule (1) of this rule, is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly es-

¹ Re-numbered by Ntfn No. 41/2001-Cus. (N.T.), dated 07.09.2001.

² Inserted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

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tablishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

- (2) Where the costs and charges referred to in sub-rule (2) of Rule 9 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.
- (3) In applying this rule, if more than one transaction value of identical goods is found; the lowest such value shall be used to determine the value of imported goods.

6. Transaction value of similar goods.

- (1) Subject to the provisions of Rule 3 of these rules, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued.
- (2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of Rule 5 of these rules shall, *mutatis mutandis*, also apply in respect of similar goods.

¹[6A. Determination of value when transaction value is not available.

If the value of imported goods cannot be determined under the provisions of Rules 4, 5 and 6, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 7A:

Provided that at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 7A shall be reversed.]

7. Deductive value.

- (1) Subject to the provisions of Rule 3 of these rules, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions:
 - (i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;
 - (ii) the usual costs of transport and insurance and associated costs incurred within India;
 - (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.
- (2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1) of this rule, be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.
- (3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.
 - (b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1) of this rule.

¹ Inserted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

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¹[7A. Computed value.

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;
- (c) the cost or value of all other expenses under sub-rule (2) of rule 9 of these rules.]

8. Residual method.

- (1) Subject to the provisions of Rule 3 of these rules, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and sub-section (1) of Section 14 of the Customs Act, 1962 (52 of 1962) and on the basis of data available in India.
- (2) No value shall be determined under the provisions of ²[this rule] on the basis of—
 - (i) the selling price in India of the goods produced in India;
 - (ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;
 - (iii) the price of the goods on the domestic market of the country of exportation;
 - ³[(iiiia) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 7A.]
 - (iv) the price of the goods for the export to a country other than India;
 - (v) minimum customs values; or
 - (vi) arbitrary or fictitious values.

9. Cost and services.

- (1) In determining the transaction value, there shall be added to the price actually paid or payable for the imported goods,—
 - (a) the following cost and services, to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods, namely:
 - (i) commissions and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question;
 - (iii) the cost of packing whether for labour or materials;
 - (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely:
 - (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;

¹ Inserted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

² Substituted by Ministry of Finance, Department of Revenue, F. No. 528/167/88-Cus(TV)/ ICD, dated 06.09.1988.

³ Substituted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

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- (iii) materials consumed in the production of the imported goods;
 - (iv) engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods;
 - (c) royalties and licence fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable.
 - (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller;
 - (e) all other payments actually made or to be made as a condition of sale of imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable.
- (2) For the purposes of sub-section (1) and sub-section (1A) of Section 14 of the Customs Act, 1962 (52 of 1962) and these rules, the value of the imported goods shall be the value of such goods, for delivery at the time and place of importation and shall include—
- (a) the cost of transport of the imported goods to the place of importation;
 - (b) loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation; and
 - (c) the cost of insurance:
¹[Provided that—
 - (i) where the cost of transport referred to in clause (a) is not ascertainable, such cost shall be twenty per cent of the free on board value of the goods;
 - (ii) the charges referred to in clause (b) shall be one per cent of the free on board value of the goods plus the cost of transport referred to in clause (a) plus the cost of insurance referred to in clause (c);
 - (iii) where the cost referred to in clause (c) is not ascertainable, such cost shall be 1.125% of free on board value of the goods;**Provided further that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed twenty per cent of free on board value of the goods:**
Provided also that where the free on board value of the goods is not ascertainable, the costs referred to in clause (a) shall be twenty per cent of the free on board value of the goods plus cost of insurance for clause (i) above and the cost referred to in clause (c) shall be 1.125% of the free on board value of the goods plus cost of transport for clause (iii) above].
- (3) Additions to the price actually paid or payable shall be made under this rule on the basis of objective and quantifiable data.
- (4) No addition shall be made to the price actually paid or payable in determining the value of the imported goods except as provided for in this rule.

10. Declaration by the importer.

- ²[(1) The importer or his agent shall furnish—
- (a) a declaration disclosing full and accurate details relating to the value of imported goods; and

¹ Substituted by Ntfn No. 39/90-Cus. (N.T.), dated 05.07.1990.

² Substituted by Ntfn No. 67/91-Cus. (N.T.), dated 01.10.1991 (w.e.f. 01.10.1991).

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- (b) any other statement, information or document including an invoice of the manufacturer or producer of the imported goods where the goods are imported from or through a person other than the manufacturer or producer, as considered necessary by the proper officer for determination of the value of imported goods under these rules.]
- (2) Nothing contained in these rules shall be construed as restricting or calling into question the right of the proper officer of customs to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for valuation purposes.
- (3) The provisions of the Customs Act, 1962 (52 of 1962) relating to confiscation, penalty and prosecution shall apply to cases where wrong declaration, information, statement or documents are furnished under these rules.

¹[10A. Rejection of declared value.

- (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 4.
- (2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).]

11. Settlement of dispute.

In case of dispute between the importer and the proper officer of customs valuing the goods, the same shall be resolved consistent with the provisions contained in sub-section (1) of Section 14 of the Customs Act, 1962 (52 of 1962).

12. Interpretative Notes.

The interpretative notes specified in the Schedule to these rules shall apply for the interpretation of these rules.

THE SCHEDULE

(See Rule 12)

INTERPRETATIVE NOTES

General Note:

Use of generally accepted accounting principles

- 1. "Generally accepted accounting principles" refers to the recognized consensus substantial authoritative support within a country at a particular time as to which economic resources and obligations shall be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.

NOTES TO RULES

Note to Rule 2

In Rule 2(2)(v), for the purposes of these rules, one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

¹ Inserted by Ntfn No. 10/98-Cus. (N.T.), dated 19.02.1998.

Note to Rule 4

Price actually paid or payable

The price actually paid or payable is the *total payment* made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owned by the seller.

Activities undertaken by the buyer on his own account, other than those for which an adjustment is provided in Rule 9, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the value of imported goods.

The value of imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:

- (a) Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- (b) The cost of transport after importation;
- (c) Duties and taxes in India.

The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

¹[Rule 4(2)(e)(iii)]

Among restrictions which would not render a price actually paid or payable unacceptable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

²[Rule 4(2)(f)]

If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include:

- (a) The seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;
- (b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;
- (c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that he will receive a specified quantity of the finished goods.

However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in India shall not result in rejection of the transaction value for the purposes of Rule 4. Likewise, if the buyer undertakes on his own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the value of imported goods nor shall such activities result in rejection of the transaction value.

Rule 4(3)

1. Rule 4(3)(a) and Rule 4(3)(b) provide different means of establishing the acceptability of a transaction value.

¹ Substituted by Ntfn No. 3/2002-Cus. (N.T.), dated 24.01.2002.

² Substituted by Ntfn No. 3/2002-Cus. (N.T.), dated 24.01.2002.

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2. Rule 4(3)(a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the value of imported goods provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the proper officer of customs has no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the proper officer of customs may have previously examined the relationship, or he may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.
3. Where the proper officer of customs is unable to accept the transaction value without further inquiry, he should give the importer an opportunity to supply such further detailed information as may be necessary to enable him to examine the circumstances surrounding the sale. In this context, the proper officer of customs should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship related under the provisions of Rule 2(2), buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sale to buyers who are not related to him, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g., on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.
4. Rule 4(3)(b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the proper officer of customs and is therefore acceptable under the provisions of Rule 4. Where a test under Rule 4(3)(b) is met, it is not necessary to examine the question of influence under ¹[Rule 4(3)(a)]. If the proper officer of customs has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in Rule 4(3)(b) has been met, there is no reason for him to require the importer to demonstrate that the test can be met. In Rule 4(3)(b) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

Rule 4(3)(b)

A number of factors must be taken into consideration in determining whether one value "closely approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in rule 4(3)(b).

Notes to Rule 5

1. In applying rule 5, the proper officer of customs shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used:
 - (a) a sale at the same commercial level but in different quantities;

¹ Substituted by Ministry of Finance, Department of Revenue, F. No. 528/167/88-Cus(TU/ICD), dated 28.10.1988.

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- (b) a sale at a different commercial level but in substantially the same quantities; or
 - (c) a sale at a different commercial level and in different quantities.
- 2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:
 - (a) quantity factors only;
 - (b) commercial level factors only; or
 - (c) both commercial level and quantity factors.
- 3. For the purposes of rule 5, the transaction value of identical imported goods means a value, adjusted as provided for in rule 5(1)(b) and (c) and rule 5(2), which has already been accepted under rule 4.
- 4. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognised that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being *bona fide* through sales at other quantities. In the absence of such an objective measure, however, the determination of a value under the provisions of rule 5 is not appropriate.

Note to Rule 6

- 1. In applying rule 6, the proper officer of customs shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. For the purpose of rule 6, the transaction value of similar imported goods means the value of imported goods, adjusted as provided for in rule 6(2) which has already been accepted under rule 4.
- 2. All other provisions contained in note to rule 5 shall *mutatis mutandis* also apply in respect of similar goods.

Note to Rule 7

- 1. The term "unit/ price at which goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.
- 2. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
1-10 units	100	10 sales of 5 units, 5 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
Over 25 units	90	1 sale of 30 units, 1 sale of 50 units	80

The greatest number of units sold at a price is 80, therefore, the unit price in the greatest aggregate quantity is 90.

- 3. As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500, therefore, the unit price in the greatest aggregate quantity is 95.
- 4. A third example would be the following situation where various quantities are sold at various prices.

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(a) Sales

Sale quantity	Unit price
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) Totals

Total quantity sold	Unit price
65	90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65, therefore, the unit price in the greatest aggregate quantity is 90.

5. Any sale in India, as described in paragraph 1 above to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in rule 9(1)(b), should not be taken into account in establishing the unit price for the purposes of rule 7.
6. It should be noted that "profit and general expenses" referred to in rule 7(1) should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless his figures are inconsistent with those obtaining in sales in India, of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.
7. The "general expenses" include the direct and indirect costs of marketing the goods in question.
8. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of rule 7(1)(iii) shall be deducted under the provisions of rule 7(1)(i).
9. In determining either the commissions or the usual profits and general expenses under the provisions of rule 7(1), the question whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in India, of the narrowest group or range of imported goods of the same class or kind, which includes the goods being, for which the necessary information can be provided, should be examined. For the purposes of rule 7 "goods of the same class or kind" includes goods imported from the same country as the goods being valued as well as goods imported from other countries.
10. For the purposes of rule 7(2) the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported, goods are made in sufficient quantity to establish the unit price.
11. Where the method in rule 7(3) is used, deductions made from the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.
12. It is recognized that the method of valuation provided for in rule 7(3) would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the im-

ported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

¹[Note to Rule 7A

1. As a general rule, value of imported goods is determined under these rules on the basis of information readily available in India. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside India. Furthermore, in most cases, the producer of the goods will be outside the jurisdiction of the proper officer. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the proper officer the necessary costings and to provide facilities for any subsequent verification which may be necessary.
2. The “cost or value” referred to in clause (a) of rule 7A is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.
3. The “cost or value” shall include the cost of elements specified in clauses (1)(a)(ii) and (1)(a)(iii) of rule 9. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to rule 9, of any element specified in rule 9(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in rule 9(1)(b)(iv) which are undertaken in India shall be included only to the extent that such elements referred to in this paragraph shall be counted twice in determining the computed value.
4. The “amount for profit and general expenses” referred to in clause (b) of rule 7A is to be determined on the basis of information supplied by or on behalf of the producer unless the producer's figures are inconsistent with those usually reflected in sale of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India.
5. It should be noted in this context that the “amount for profit and general expenses” has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and his general expenses are high, the producer's profit and general expenses taken together may nevertheless be consistent with that usually reflected in sale of goods of the same class or kind. Such a situation might occur, for example, if a product was being launched in India and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate a low profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures should be taken into account provided that he has valid commercial reasons to justify them and his pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in India and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.
6. The “general expenses” referred to in clause (b) of rule 7A covers the direct and indirect costs of producing and selling the goods for export which are not included under clause (a) of rule 7A.

¹ Inserted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

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7. Whether certain goods are “of the same class or kind” as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of rule 7A, sales for export to India of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of rule 7A “goods of the same class or kind” must be from the same country as the goods being valued.]

Note to Rule 8

1. Value of imported goods determined under the provisions of rule 8 should to the greatest extent possible, be based on previously determined customs values.
2. The methods of valuation to be employed under rule 8 may be those laid down in ¹[rules 4 to 7A], inclusive,, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of rule 8.
3. Some examples of reasonable flexibility are as follows:
 - (a) **Identical goods.**

The requirement that the identical goods should be imported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of ²[rules 7 and 7A] could be used.
 - (b) **Similar goods.**

The requirement that the similar goods should be imported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of ³[rules 7 and 7A] could be used.
 - (c) **Deductive method.**

The requirement that the goods shall have been sold in the “condition as imported” in rule 7(1) could be flexibly interpreted; the ninety days requirement could be administered flexibly.

Note to Rule 9

In rule 9(1)(a)(i), the term “buying commissions” means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.

Rule 9(1)(b)(ii)

1. There are two factors involved in the apportionment of the elements specified in rule 9(1)(b)(ii) to the imported goods - the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.
2. Concerning the value of the element, if the importer acquires the element from a seller not related to him at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to him, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.

¹ Substituted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

² Substituted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

³ Substituted by Ntfn No. 26/95-Cus. (N.T.), dated 24.04.1995.

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3. Once a value has been determined for the element it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer.
4. As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with him to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request the proper officer of customs to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.

Rule 9(1)(b)(iv)

1. Additions for the elements specified in rule 9(1)(b)(iv) should be based on objective and quantifiable data. In order to minimise the burden for both the importer and proper officer of customs in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.
2. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.
3. The case with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.
4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of rule 9.
5. In another case, a firm may carry the cost of the design centre outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of rule 9 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.
6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.
7. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside the country of importation.

Rule 9(1)(c)

1. The royalties and licence fees referred to in rule 9(1)(c) may include among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.
2. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.

Rule 9(3)

Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of rule 9, the transaction value cannot be determined under the provisions of rule 4. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and

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made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors, which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

Customs Refund Application (Form) Regulations, 1995

Ntfn 34-Cus.(N.T.), dated 26.05.95

In exercise of the powers conferred by sub-section (1) of section 157, read with clause (aa) of sub-section (2) of the said section of the Customs Act, 1962 (52 of 1962), hereinafter referred to as the Act, and in supersession of the Customs Application (Form) Regulations, 1991 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 Customs Refund Application (Form) Regulations, 1995.
- (2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. Form and manner of filing application for refund.

- (1) An application for refund shall be made in the prescribed Form appended to these regulations [See Customs Series Form No. 102 in Part Customs Forms and Bonds] in duplicate to the Assistant Commissioner of Customs, having jurisdiction over the Customs port, Customs airport, land customs station or the warehouse where the duty of customs was paid.
- (2) The application shall be scrutinised for its completeness by the Proper Officer and if the application is found to be complete in all respects, the applicant shall be issued an acknowledgment by the Proper Officer in the prescribed Form appended to these regulations within ten working days of the receipt of the application.
- (3) Where on scrutiny, however, the application is found to be incomplete, the Proper Officer shall, within ten working days of its receipt, return the application to the applicant, pointing out the deficiencies. The applicant may resubmit the application after making good the deficiencies, for scrutiny.

Explanation—For the purposes of payment of interest under section 27A of the Act, the application shall be deemed to have been received on the date on which a complete application, as acknowledged by the Proper Officer, has been made.

Customs (Provisional Duty Assessment) Regulations, 1963

Ntfn 181-Cus., dated 13.07.63

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), read with section 18 of the said Act, the Central Board of Revenue makes the following regulations, namely:

1. Short title.

These regulations may be called the Customs (Provisional Duty Assessment) Regulations, 1963.

2. Conditions for allowing provisional assessment.

Where the proper officer on account of any of the grounds specified in sub-section (1) of section 18 of the Customs Act, 1962 (52 of 1962), is not able to make a final assessment of the duty on the imported goods or the export goods, as the case may be, he shall make an estimate of the duty that is most likely to be levied hereinafter referred to as the provisional duty. If the importer or the exporter, as the case may be finally assessed and the provisional duty and deposits with the proper officer such sum not exceeding twenty per cent of the provisional duty, as the proper officer may direct, the proper officer may assess the duty on the goods provisionally at an amount equal to the provisional duty.

3. Terms of the bond.

- (a) Where provisional assessment is allowed pending the production of any document or furnishing of any information by the importer or the exporter, as the case may be, the terms of the bond shall be that such document shall be produced or such information shall be furnished within one month or within such extended period as the proper officer may allow, and the person executing the bond shall pay the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.
- (b) Where provisional assessment is allowed pending the completion of any test or enquiry, the terms of the bond shall be that the person executing the bond shall pay the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

4. Surety or security of the bond.

The proper officer may require that the bond to be executed under these regulations may be with such surety or security, or both, as he deems fit.

Bill of Entry (Forms) Regulations, 1976

Ntfn 396-Cus.(C.B.E. & C.), dated 01.08.76¹

In exercise of the powers conferred by section 157, read with section 46, of the Customs Act, 1962 (52 of 1962), and in supersession of the Bill of Entry (Forms) Regulations, 1971, 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 Entry (Forms) Regulations, 1976.
- (2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. Definition.

In these regulations, "Form" means a form appended to these regulations.

3. Form of Bill of Entry.

The Bill of Entry to be presented by an importer of any goods for home consumption or for warehousing or for ex-bond clearance for home consumption shall be in Form I or Form II or Form III, [Forms 22, 23 and 24 in Part 5 of this Manual] as the case may be.

Explanation—In this regulation, "goods" does not include those goods which are intended for transit or transhipment.

¹ These Regulations were first superseded by Ntfn No. 3/88-Cus. (N.T.), dated 14.01.1988 but then restored by Ntfn No.77/89-Cus., dated 27.12.1989.

Uncleared Goods (Bill of Entry) Regulations, 1972

Ntfn 99-Cus.(M.F.) (D.R. & I.), dated 26.08.72

In exercise of the powers conferred by section 157 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 Uncleared Goods (Bill of Entry) Regulations, 1972.

2. Preparation of Bill of Entry in respect of goods to be sold at an auction.

The person having the custody of goods that are not cleared for home consumption within the period specified in section 48 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the said Act) shall prepare a Bill of Entry in the form appended (Form 60 in Part 5] to these regulations, of such goods to be sold in auction under section 48 of the said Act.

3. Bill of Entry to be presented to the proper officer.

The Bill of Entry prepared under regulation 2 shall be deemed to be the bill of entry under sub-section (1) of section 46 of the said Act and presented to the proper officer:

Provided that the said Bill of Entry shall not be deemed to be the bill of entry in respect of goods which are not actually sold in the auction held for the sale of goods specified in that bill of entry, and actually delivered to the buyer.

Bill of Entry (Electronic Declaration) Regulations, 1995

Ntfn 62-Cus.(N.T.), dated 05.10.95

In exercise of the powers conferred by section 157, read with section 46 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely:

1. Short title, extent and commencement.

- (1) These regulations may be called the Bill of Entry (Electronic Declaration) Regulations, 1995.
- (2) They shall extend to goods imported by air at the Delhi Airport.
- (3) 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) “authorised person” means,—
 - (i) a Custom House Agent who holds a permanent licence under the Custom House Agents Licensing Regulations, 1984 and is authorised by the Commissioner of Customs with a user identification; or
 - (ii) an importer who holds a valid Import Export Code Number and is specially authorised by the Commissioner of Customs with a user identification for the purpose of obtaining clearance of goods imported by him;
- (b) “bill of entry” means the electronic declaration accepted and signed with a number by the Customs Computer System for further processing;
- (c) “Commissioner of Customs” means the Commissioner of Customs, Delhi;
- (d) “electronic declaration” means the declaration of the particulars relating to the imported goods, lodged in the Customs Computer System, through the data-entry facility provided at the service centre or the data communication networking facil-

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ity provided by the National Informatics Centre, from the authorised person's computer;

- (e) "operator" means the person authorised by the Commissioner of Customs to receive Cargo Declaration from the authorised person at the service centre for making data entry;
 - (f) "service centre" means the place specified by the Commissioner of Customs where data entry, for the purpose of lodement of declaration or submission of any information, is carried out.
3. The authorised person shall furnish for the purpose of clearance of the imported goods a cargo declaration, in the format set out in Appendix 'A' [See Customs Series Form No. 113 in Part Customs Forms and Bonds] to these regulations and such other information as may be necessary for preparing an electronic declaration of the bill of entry, at the service centre.
4. The cargo declaration with necessary supporting information shall be received by the operator at the service centre from 9.30 a.m. to 4.30 p.m. on all working days. Any declaration received after 4.30 p.m. shall be deemed to be received on the next working day:
- Provided** that where the operator is not in a position to complete the data entry work in relation to a declaration received within the time stipulated, upto 5.30 p.m. on the date the declaration is submitted to the service centre, on account of invalid or incomplete information, the declaration shall be deemed to have been not presented on that day:
- Provided** further that where the Commissioner of Customs considers it necessary, he may alter the time for receipt of data entry on a particular day or in general.
5. Data entry shall be deemed to be complete when the option to lodge the electronic declaration in the Customs Computer System is exercised and the declaration is accepted by the System.
6. Where the authorised person lodges the declaration from his premises using the data communication networking facility provided by the National Informatics Centre before 5.30 p.m. on any working day or the time as may be specified by the Commissioner of Customs, the declaration shall be deemed to be presented on that day provided that the electronic declaration is received by the Customs Computer System before the aforesaid time.
7. The proper officer of Customs shall complete the assessment, in relation to the goods covered by the bill of entry, by using the Computer System.
8. The authorised person shall, after the completion of assessment of the bill of entry, obtain three copies of the print-out of the assessed bill of entry from the service centre or from his premises, as the case may be. Such person shall sign such copies of print-out, indicating his name and designation at the space provided for the purpose affirming the truth of the contents recorded on the assessed bill of entry. He shall thereafter present the same alongwith copies of challans evidencing payment of duty and other supporting import documents, in original, relating to the goods referred to in the bill of entry, for the examination of the said goods by the proper officer and for the issue of the order permitting clearance of the said goods for home consumption or warehousing.
9. Where the proper officer decides to complete the assessment of a bill of entry after examination of the goods declared therein, the authorised person shall, on so directed by the proper officer, submit to the proper officer a duly signed print-out of the unassessed bill of entry, affirming the truth of the contents of the said bill of entry, alongwith the supporting import documents, in original, for examination of the goods covered in the bill of entry. The proper officer shall, after such examination, affix his signature and stamp on all the documents and return to the authorised person. As and when the assessment of the bill of entry is completed, the authorised person shall obtain a print-out of the assessed bill of entry and after deposit of duty at the specified Bank, present the same alongwith all the relevant original documents as specified by the Commissioner of Customs to the proper officer for the purpose of issue of the order permitting clearance under section 47 of the Customs Act, 1962.

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10. The authorised person shall obtain a declaration from the importer affirming the truth of the contents of documents relating to the imported goods sought to be cleared, in duplicate, and shall present one copy in original to the proper officer at the time of submission of bill of entry and shall retain one copy with him for his records.
11. The original print-out of the bill of entry shall be retained by the proper officer and the duplicate and the triplicate print-out shall be returned to the importer.

Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995

Ntfn 31-Cus.(N.T.), dated 26.05.95

In exercise of the powers conferred by section 156, read with section 142 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:

Chapter I

Preliminary

1. Short Title and Commencement.

- (1) These rules may be called the Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definition.

In these rules, unless the context otherwise requires—

- (i) 'Act' means the Customs Act, 1962 (52 of 1962);
- (ii) 'Government dues' means any duty or drawback to be recovered from any person or any interest or penalty payable by any person under the Act and has not been paid.
- (iii) 'Certificate' means the certificate required to be issued by an ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] under clause (c) of sub-section (1) of section 142 of the Act.
- (iv) 'Commissioner' means any person appointed as Commissioner of Customs or Commissioner of Central Excise under the Act.
- ²[(v) 'Proper Officer' means an officer subordinate to the Commissioner and not below the rank of Assistant Commissioner of Customs or Assistant Commissioner of Customs and Central Excise, who is authorised by the Commissioner for the purpose of attachment and sale of defaulter's property and for realising the amount mentioned in the certificate.]
- (vi) 'Defaulter' means any person from whom government dues are recoverable under the Act.
- (vii) Other words or terms used in these rules shall have the same meaning assigned to them under the Act.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 67/97-Cus. (N.T.), dated 11.12.1997.

Chapter II

Procedure for Attachment of Property

3. Issue of Certificate.

Where any Government dues are not paid by any defaulter, the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may prepare a Certificate signed by him specifying the amount due from such person and send the same to the Commissioner having jurisdiction over the place in which the defaulter owns any movable or immovable property or resides or carries on his business or has his bank accounts.

4. Issue of Notice.

On receipt of the Certificate mentioned in rule 3 above, the Commissioner may authorise any officer subordinate to him to cause notice to be served upon the defaulter requiring the defaulter to pay the amount specified in the Certificate within seven days from the date of the service of the notice and intimate that in default, such subordinate officer is authorised to take steps to realise the amount mentioned in the Certificate in terms of these rules.

²**5. Attachment of property.**

If the amount mentioned in the notice issued in terms of the preceding rule is not paid within seven days from the date of service of this notice, the Proper Officer may proceed to realise the amount by attachment and sale of defaulter's property. For this purpose, the proper officer may detain the defaulter's property until the amount mentioned in the Certificate together with the cost of detention is paid by defaulter.]

6. Attachment not to be excessive.

Attachment by arrest or distrain of the property shall not be excessive, that is to say, the property attached shall be as nearer as possible proportionate to the amount specified in the Certificate.

7. Attachment between Sunrise and Sunset.

The attachment of the property of the defaulter by arrest or distrain shall be made after sunrise and before sunset and not otherwise.

³**8. Inventory.**

After attachment of the property of the defaulter, the Proper Officer shall prepare an inventory of the property attached and specify in it the place where it is lodged or kept and shall hand over a copy of the same to the defaulter or the person from whose charge the property is distrained.]

9. Private alienation to be void in certain cases.

- (i) Where a notice has been served on a defaulter under rule 4, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the written permission of the Proper Officer.
- (ii) Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 67/97-Cus. (N.T.), dated 11.12.1997.

³ Substituted by Ntfn No. 67/97-Cus. (N.T.), dated 11.12.1997.

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10. Share in property.

Where the property to be attached consists of the share or interest of the defaulter in property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

11. Attachment of property in custody of court or public officer.

Where the property to be attached is in the custody of any court or Public Officer, the attachment shall be made by a notice to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Proper Officer by whom the notice is issued.

Provided that, where such property is in the custody of a court, any question of title or priority arising between the Proper Officer and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such court.

12. Service of notice of attachment.

A copy of the order of attachment shall be served on the defaulter in the same manner as prescribed for the service of order or decision in section 153 of the Act.

13. Proclamation of attachment.

The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Proper Officer.

14. Property exempt from attachment.

- (i) All such property as is by the Code of Civil Procedure, 1908 (5 of 1908), exempted from attachment and sale for execution of a decree of a Civil Court shall be exempt from attachment and sale under these rules.
- (ii) The decision of the Proper Officer as to what property is so entitled to exemption shall be final.

Chapter III

Part–A: Procedure for Sale of Property

15. Sale of property.

If the amount mentioned in the Certificate together with the cost of detention of the property is not paid within a period of thirty days from the date of attachment of the property, the Commissioner may authorise the Proper Officer to proceed to realise the amount by sale of the defaulter's property in public auction:

Provided that the Commissioner shall be competent to fix the reserve price in respect of any property of the defaulter to be sold in public auction and order that any bid shall be accepted only on the condition that it is not less than such reserve price.

16. Negotiable instruments and shares in a corporation.

Notwithstanding anything contained in these rules, where the property to be sold is a negotiable instrument or a share in a corporation, the Proper Officer may, instead of directing the sale to be made by public auction, authorise the sale of such instrument or share through a broker.

Part–B: Special Provisions in respect of Sale of Immovable Property

17. Proclamation of sale.

Where any immovable property is ordered to be sold, the Proper Officer shall cause a proclamation of the intended sale to be made in the language of the district.

18. Contents of proclamation.

A proclamation of sale of immovable property shall be drawn up after notice to the defaulter, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible—

- (a) the property to be sold;
- (b) the revenue, if any, assessed upon the property or any part thereof;
- (c) the amount for the recovery of which sale is ordered;
- (d) the reserve price, if any, below which the property may not be sold; and
- (e) any other thing which the Proper Officer considers it material for a purchaser to know in order to judge the nature and value of the property.

19. Mode of making proclamation.

- (i) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Proper Officer.
- (ii) Where the Proper Officer so directs, such proclamation shall also be published in a local newspaper and the cost of such publication shall be deemed to be costs of the sale.
- (iii) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Proper Officer, otherwise be given.

20. Setting aside of sale where defaulter has not saleable interest.

At any time within thirty days of the sale, the purchaser may apply to the Proper Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

21. Confirmation of sale.

- (i) Where no application is made for setting aside the sale under the foregoing rule or where such an application is made and disallowed by the Proper Officer, the Proper Officer shall (if the full amount of the purchase money has been paid) make an order confirming the sale, and, thereupon, the sale shall become absolute.
- (ii) Where such application is made and allowed and where, in the case of any application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Proper Officer shall make an order setting aside the sale:
Provided that no order shall be made unless notice of the application has been given to the person affected thereby.

22. Sale Certificate.

- (i) Where sale of any immovable property has become absolute under these rules, the Proper Officer shall grant a certificate specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser.
- (ii) Such certificate shall state the date on which the sale became absolute.

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23. Purchaser's title.

- (i) Where any property is sold in terms of these rules, there shall vest in purchaser's the right, title and interest of the defaulter at the time of the sale even though the property itself be specified.
- (ii) Where immovable property is sold in terms of these rules and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

24. Irregularity not to vitiate sale, but any person injured may sue.

No irregularity in the conduction of sale of any property shall vitiate the sale but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a Civil Court against him for compensation, or if (such other person is the purchaser), for the recovery of specific property and for compensation in default of such recovery.

25. Prohibition against bidding or purchase by officer.

No officer or other person having any duty to perform in connection with any sale under these rules, either directly or indirectly, shall bid for, acquire or attempt to acquire any interest in the property sold.

26. Prohibition against sale on holidays.

No sale under these rules shall take place on a Sunday or other general holiday recognised by the State Government or on any day which has been notified by the State Government a local holiday for the area in which the sale is to take place.

Chapter IV

Miscellaneous

27. Disposal of the sale proceeds.

The sale proceeds of the property of the defaulter shall be utilised in the following manner, namely:

- (a) the sale proceeds shall first be utilised for meeting the cost of sale;
- (b) the balance shall be utilised for satisfaction of the amount mentioned in the Certificate issued under rule 3 together with the cost of detention of the property;
- (c) the balance, if any, shall be utilised for recovery of any other Government dues payable by the defaulter; and
- (d) the balance, if any, shall be paid to the defaulter.

28. Procedure on death of defaulter.

If at any time after the Certificate has been issued by the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs], the defaulter dies, the proceedings under these rules may be continued against the legal representatives of the defaulter, and the provisions of these rules shall apply as if the legal representatives were the defaulter.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995

Ntfn 36-Cus.(N.T.), dated 26.05.95

As amended by Ntfn No. 63-Cus.(NT), dated 20.10.1995; Ntfn No. 29-Cus. (NT), dated 11.05.1999; Ntfn No. 5-Cus.(NT), dated 21.01.2003:

In exercise of the powers conferred by section 74 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:

1. Short title, extent and commencement.

- (1) These rules may be called Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995.
- (2) They extend to the whole of India.
- (3) They shall come into force on the 26th day of May, 1995.

2. Definition.

In these rules, unless the context otherwise requires,—

- (a) “drawback”, in relation to any goods exported out of India, means the refund of duty paid on importation of such goods in terms of section 74 of the Customs Act;
- (b) “export”, with its grammatical variations and cognate expressions means taking out of India to a place outside India and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port or airport.

3. Procedure for claiming drawback on goods exported by post.

- (1) Where goods are to be exported by post under a claim for drawback under these rules,—
 - (a) the outer packing carrying the address of the consignee shall also carry in bold letters the words “Drawback Export”;
 - (b) the exporter shall deliver to the competent Postal Authority, alongwith the parcel or package, a claim in the form at Annexure-I, [See Customs Series Form No. 108 in Part Customs Forms and Bonds] in quadruplicate, duly filled in.
- (2) The date of receipt of the aforesaid claim form by the proper officer of customs from the postal authorities shall be deemed to be date of filing of drawback claim by the exporter for the purpose of section 75A and an intimation of the same shall be given by the proper officer of customs to the exporter in such form as the ¹[Commissioner of Customs] may prescribe.
- (3) In case the aforesaid claim form is not complete in all respects, the exporter shall be informed of the deficiencies therein within fifteen days of its receipt from postal authorities by a deficiency memo in the form prescribed by the ²[Commissioner of Customs], and such claim shall be deemed not to have been received for the purpose of sub-rule (2).
- (4) When the exporter complies with the requirements specified in the deficiency memo, within thirty days of receipt of the deficiency memo, he shall be issued an acknowledgment by the proper officer in the form prescribed by the ³[Commissioner of Customs] and the date of such acknowledgment shall be deemed to be date of filing the claim for the purpose of section 75-A.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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4. Statements/ Declarations to be made on exports other than by post.

In the case of exports other than by post, the exporter shall at the time of export of the goods—

- (a) state on the shipping bill or bill of export, the description, quantity and such other particulars as are necessary for deciding whether the goods are entitled to drawback under section 74 and make a declaration on the relevant shipping bill or bill of export that—
 - (i) the export is being made under a claim for drawback under section 74 of the Customs Act;
 - (ii) that the duties of customs were paid on the goods imported;
 - (iii) that the goods imported were not taken into use after importation;OR
 - (iii) that the goods were taken in use;

Provided that if the Commissioner of Customs is satisfied that the exporter or his authorised agent has, for reasons beyond his control, failed to comply with the provisions of this clause, he may, after considering the representation, if any, made by such exporter or his authorised agent, and for reasons to be recorded, exempt such exporter or his authorised agent from the provisions of this clause.

- (b) furnish to the proper officer of customs, copy of the Bill of Entry or any other prescribed document against which goods were cleared on importation, import invoice, documentary evidence of payment of duty, export invoice and packing list and permission from Reserve Bank of India to re-export the goods, wherever necessary.

5. Manner and time of claiming drawback on goods exported other than by post.

- (1) A claim for drawback under these rules shall be filed in the form at Annexure-II [See Customs Series Form No. 109 in Part Customs Forms and Bonds] within three months from the date on which an order permitting clearance and loading of goods for exportation under section 51 is made by proper officer of customs:

Provided that the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, if he is satisfied that the exporter was prevented by sufficient cause to file his claim within the aforesaid period of three months, allow the exporter to file his claim within a further period of three months.

- (2) The claim shall be filed ²[***] alongwith the following documents, namely:

- (a) Triplicate copy of the Shipping Bill bearing examination report recorded by the proper officer of the customs at the time of export.
- (b) Copy of Bill of Entry or any other prescribed document against which goods were cleared on importation.
- (c) Import invoice.
- (d) Evidence of payment of duty paid at the time of importation of the goods.
- (e) Permission from Reserve Bank of India for re-export of goods, wherever necessary.
- (f) Export invoice and packing list.
- (g) Copy of Bill of Lading or Airway bill.
- (h) Any other documents as may be specified in the deficiency memo.

- (3) The date of filing of the claim for the purpose of section 75A shall be the date of affixing the Dated Receipt Stamp on the claims which are complete in all respects, and for which an acknowledgment shall be issued in such form as may be prescribed by the ³[Commissioner of Customs].

¹ Substituted by Ntfn No. 29-Cus. (NT), dated 11.05.1999.

² The words "in duplicate" omitted by Ntfn No. 63/95-Cus. (N.T.), dated 20.10.1995.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (4) (a) Any claim which is incomplete in any material particulars or is without the documents specified in sub-rule (2) shall not be accepted for the purpose of section 75A and such claim shall be returned to the claimant with the deficiency memo in the form prescribed by the ¹[Commissioner of Customs] within fifteen days of submission and shall be deemed not to have been filed;
- (b) Where exporter complies with requirements specified in deficiency memo within thirty days from the date of receipt of deficiency memo, the same will be treated as a claim filed under sub-rule (1).
- (5) Where any order for payment of drawback is made by the ²[Commissioner (Appeals)], Central Government or any Court against an order of the proper officer of customs, the manufacturer exporter may file a claim in the manner prescribed in this rule within three months from the date of receipt of the order so passed by the ³[Commissioner (Appeals)], Central Government or the Court, as the case may be.

6. Payment of drawback and interest.

- (1) The drawback under these rules and interest, if any, shall be paid by the officer of Customs to the exporter or to the agent specially authorised by the exporter to receive the said amount of drawback and interest.
- (2) The date of payment of drawback and interest shall be deemed to be, in case of payment—
 - (a) by cheque, the date of issue of cheque; or
 - (b) by credit in the exporter's account maintained with the Customs House, the date of such credit.

7. Repayment of erroneous or excess payment of drawback and interest.

Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by an officer of customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962).

⁴[7A. Power to relax.

If the Central Government is satisfied that in relation to the export of any goods, the exporter or his authorised agent has, for reasons beyond his control, failed to comply with any of the provisions of these rules, and has thus been entitled to drawback, it may, after considering the representation, if any, made by such exporter or agent, and for reasons to be recorded in writing, exempt such exporter or agent from the provisions of such rule and allow drawback in respect of such goods.]

8. Savings.

- (1) Any claim made by an exporter or his authorised agent, for payment of drawback in respect of goods exported before the commencement of these rules but not disposed of before such commencement, shall be disposed of in accordance with the provisions of these rules.
- (2) Where any goods have been exported under claim for drawback under section 74, before the date of commencement of these rules but no claim for payment of drawback has been filed, the exporter may file his claim within a period of three months from the date of commencement of these rules in the manner prescribed in rule 5.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Inserted by Ntfn No. 63/95-Cus. (N.T.), dated 20.10.1995.

Customs and Central Excise Duties Drawback Rules, 1995

Ntfn 37-Cus.(M.F.) (D.R.), dated 26.05.95

In exercise of the powers conferred by section 75 of the Customs Act, 1962 (52 of 1962) and section 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules, namely:

1. Short title, extent and commencement.

- (1) These rules may be called the Customs and Central Excise Duties Drawback Rules, 1995.
- (2) They extend to the whole of India.
- (3) They shall come into force on the 26th day of May, 1995.

(2) Definitions.

In these rules, unless the context otherwise requires,—

- (a) “drawback”, in relation to any goods manufactured in India, and exported, means the rebate of duty chargeable on any imported materials or excisable materials used in the manufacture of such goods;
- (b) “excisable material” means any material produced or manufactured in India subject to a duty of excise under the Central Excises and Salt Act, 1944 (1 of 1944);
- (c) “export”, with its grammatical variations and cognate expressions, means taking out of India to a place outside India and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port;
- (d) “imported material” means any material imported into India and on which duty is chargeable under the Customs Act, 1962 (52 of 1962);
- (e) “manufacture” includes processing of or any other operation carried out on goods, and the term manufacturer shall be construed accordingly.

3. Drawback.

- (1) Subject to the provisions of—

- (a) the Customs Act, 1962 (52 of 1962) and the rules made thereunder,
- (b) the Central Excises and Salt Act, 1944 (1 of 1944) and the rules made thereunder, and
- (c) these rules,

a drawback may be allowed on the export of goods at such amount, or at such rates, as may be determined by the Central Government:

Provided that where any goods are produced or manufactured from imported materials or excisable materials on some of which only, duty chargeable thereon has been paid and not on the rest, or only a part of the duty chargeable has been paid and not on the rest, or only a part of the duty chargeable has been paid; or the duty paid has been rebated or refunded in whole or in part or given as credit, under any of the provisions of the Customs Act, 1962 (52 of 1962), and the rules made thereunder, or of the Central Excises and Salt Act, 1944 (1 of 1944) and the rules made thereunder, the drawback admissible on the said goods shall be reduced taking into account the lesser duty paid or the rebate, refund or credit obtained:

Provided further that no drawback shall be allowed—

- (i) if the said goods, except tea chests used as packing material for export of blended tea, have been taken into use after manufacture;
- (ii) if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid; or

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- (iii) on jute batching oil used in the manufacture of export goods, namely, jute (including Bimlipatam jute or mesta fibre), yarn, twist, twine, thread, cords and ropes;
- (iv) if the said goods, being packing materials have been used in or in relation to the export of—
 - (1) jute yarn (including Bimlipatam jute or mesta fibre), twist, twine, thread and ropes in which jute yarn predominates in weight;
 - (2) jute fabrics (including Bimlipatam jute or mesta fibre), in which jute predominates in weight;
 - (3) jute manufactures not elsewhere specified (including Bimlipatam jute or mesta fibre) in which jute predominates in weight.
- (2) In determining the amount or rate of drawback under this rule, the Central Government shall have regard to,—
 - (a) the average quantity or value of each class or description of the materials from which a particular class of goods is ordinarily produced or manufactured in India;
 - (b) the average quantity or value of the imported materials or excisable materials used for production or manufacture in India of a particular class of goods;
 - (c) the average amount of duties paid on imported materials or excisable materials used in the manufacture of semis, components and intermediate products which are used in the manufacture of goods;
 - (d) the average amount of duties paid on materials wasted in the process of manufacture and catalytic agents:
Provided that if any such waste or catalytic agent is re-used in any process of manufacture or is sold, the average amount of duties on the waste or catalytic agent re-used or sold shall also be deducted;
 - (e) the average amount of duties paid on imported materials or excisable materials used for containing or, packing the export goods;
 - (f) any other information which the Central Government may consider relevant or useful for the purpose.

4. Revision of rates.

The Central Government may revise amount or rates determined under rule 3.

5. Determination of date from which the amount or rate of drawback is to come into force and the effective date for application of amount or rate of drawback.

- (1) The Central Government may specify the period upto which any amount or rate of drawback determined under rule 3 or revised under rule 4, as the case may be, shall be in force.
- (2) Where the amount or rate of drawback is allowed with retrospective effect, such amount or rate shall be allowed from such date as may be specified by the Central Government by notification in the Official Gazette which shall not be earlier than the date of changes in the rates of duty on inputs used in the export goods.
- (3) The provisions of section 16, or sub-section (2) of section 83, of the Customs Act, 1962 (52 of 1962) shall determine the amount or rate of drawback applicable to any goods exported under these rules.

6. Cases where amount or rate of drawback has not been determined.

- (1) (a) Where no amount or rate of drawback has been determined in respect of any goods, any manufacturer or exporter of such goods may, within 60 days from the date relevant for applicability of the amount or rate of drawback in terms of sub-rule (3) of rule 5, apply in writing to the Central Government for the determination of the amount or rate of drawback therefore stating all relevant facts including the

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proportion in which the materials or components are used in the production or manufacture of goods and the duties paid on such materials or components:

Provided that the Central Government may, if it is satisfied that the manufacturer or exporter was prevented by sufficient cause from filing the application within the aforesaid time allow such manufacturer or exporter to file such application within a further period of thirty days.

- (b) On receipt of an application under clause (a) the Central Government shall, after making or causing to be made such inquiry as it deems fit, determine the amount or rate of drawback in respect of such goods.
- (2) (a) Where an exporter desires that he may be granted drawback provisionally, he may, while making an application under clause (a) of sub-rule (1) apply in writing to the Central Government that a provisional amount be granted to him towards drawback on the export of such goods pending determination of the amount or rate of drawback under clause (b) of that sub-rule.
- (b) The Central Government may after considering the application authorise the ¹[Commissioner of Customs] at the port where the goods are exported to pay provisionally an amount not exceeding the amount claimed by the exporter in respect of such export:

Provided that the ²[Commissioner of Customs] may, for the purpose of allowing provisional payment of drawback in respect of such export, require the exporter to enter into a general bond for such amount, and subject to such conditions, as the ³[Commissioner of Customs] may direct; or to enter into a bond for an amount not exceeding the full amount claimed by such exporter as drawback in respect of a particular consignment and binding himself,–

- (i) to refund the amount so allowed provisionally, if for any reason, the Central Government decided not to allow drawback; or
- (ii) to refund the excess, if any, paid to him provisionally if the Central Government decided to allow a drawback:

Provided further that when the amount or rate of drawback payable on such goods is finally determined, the amount provisionally paid to such exporter shall be adjusted against the drawback finally payable and if the amount so adjusted is in excess or falls short of the drawback finally payable, he shall repay to the ⁴[Commissioner of Customs] the excess or be entitled to the deficiency, as the case may be.

- (c) The bond referred to in clause (b) may be with such surety or security as the ⁵[Commissioner of Customs] may direct.
- (3) Where the Central Government considers it necessary so to do, it may cancel authorisation referred to in sub-rule (2) from such date as it may specify.

7. Cases where amount or rate of drawback determined is low.

- (1) Where, in respect of any goods, the manufacturer or exporter finds that the amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4, for the class of goods is less than four-fifth of the duties paid on the materials or components used in the production or manufacture of the said goods, he may within sixty days from the date relevant for the applicability of the amount or rate of drawback in terms of sub-rule (3) or rule 5, make an application in writing to the Central Government for fixation of appropriate amount or rate of drawback stating all relevant facts including the proportion in which the materials or components are used in the production or manufacture of goods and the duties paid on such materials or components:

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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Provided that the Central Government may, if it is satisfied that the manufacturer or exporter was prevented by sufficient cause from making the application within the aforesaid time, allow such manufacturer or exporter to make such application within a further period of thirty days.

- (2) On receipt of the application referred to in sub-rule (1), the Central Government may, after making or causing to be made such inquiry as it deems fit, allow payment of drawback to such exporter at such amount or at such rate as may be determined to be appropriate, if the amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4, is in fact less than four-fifth of such amount or rate determined under this sub-rule.
- (3) Where an exporter desires that he may be granted drawback provisionally, he may, while making an application under sub-rule (1) apply to the Central Government in writing in this behalf in the manner as has been provided in clause (a) of sub-rule (2) of rule 6 for the applications made under that rule and the grant of provisional drawback shall be considered in the manner and subject to the conditions specified in clauses (b) and (c) of sub-rule (2), and sub-rule (3) of rule 6, subject to the condition that bond required to be executed by the claimant shall only be for the difference between amount or rate of drawback determined under rule 3 or as the case may be, revised under rule 4, and the provisional drawback authorised by the Central Government under this rule.

8. Cases where no amount or rate of drawback is to be determined.

- (1) No amount or rate of drawback shall be determined in respect of any goods under rule 3, rule 6 or, as the case may be, rule 7, the amount or rate of drawback of which would be less than ¹[one per cent] of the F.O.B. value thereof, except where the amount of drawback per shipment exceeds ²[five hundred rupees].

Provided that this sub-rule shall not apply in the case of—

- (a) drawback on exports made in discharge of export obligation against an Advance Licence issued under the Export and Import Policy notified by the Central Government under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or
- (b) export made by post.]
- (2) No amount or rate of drawback shall be determined in respect of any goods or class of goods under rule 6 or rule 7, as the case may be, if the export value of each of such goods or class of goods in the bill of export or shipping bill is less than the value of the imported materials used in the manufacture of such goods or class of goods, or is not more than such percentage of the value of the imported materials used in the manufacture of such goods or class of goods as the Central Government may, by notification in the Official Gazette, specify in this behalf.

9. Power to require submission of information and documents.

For the purpose of—

- (a) determining the class or description of materials or components used in the production or manufacture of goods or for determining the amount of duty paid on such materials or components, or
- (b) verifying the correctness or otherwise of any information furnished by any manufacturer or exporter or other persons in connection with the determination of the amount or rate of drawback, or
- (c) verifying the correctness or otherwise of any claim for drawback, or
- (d) obtaining any other information considered by the Central Government to be relevant or useful,

¹ The words "two per cent" substituted by Ntfn No. 48/96-Cus. & C.E., dated 22.10.1996. (w.e.f. 23.10.1996).

² Substituted by Ntfn No. 53/95-Cus. & C.E.(NT), dated 15.09.1995.

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any officer of the Central Government specially authorised in this behalf by an ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] or of Central Excise, may require any manufacturer or exporter of goods or any other person likely to be in possession of the same to furnish such information and to produce such books of account and other documents as are considered necessary by such officer.

10. Access to manufactory.

Whenever an officer of the Central Government specially authorised in this behalf by an ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise], considers it necessary, the manufacturer shall give access at all reasonable times to the officer so authorised to every part of the premises in which the goods are manufactured, so as to enable the said officer to verify by inspection the process of, and the materials or components used for the manufacture of such goods, or otherwise the entitlement of the goods for drawback or for a particular amount or rate of drawback under these rules.

11. Procedure for claiming drawback on goods exported by post.

- (1) Where goods are to be exported by post under a claim for drawback under these rules,—
 - (a) the outer packing carrying the address of the consignee shall also carry in bold letters the words "Drawback Export";
 - (b) the exporter shall deliver to the competent Postal Authority, alongwith the parcel or package, a claim in the form at Annexure I [See Customs Series Form No. 110 in Part Customs Forms and Bonds], in quadruplicate, duly filled in.
- (2) The date of receipt of the aforesaid claim form by the proper officer of Customs from the postal authorities shall be deemed to be date of filing of drawback claim by the exporter for the purpose of section 75A and an intimation of the same shall be given by the proper officer of customs to the exporter in such form as the ³[Commissioner of Customs] may prescribe.
- (3) In case the aforesaid claim form is not complete in all respects, the exporter shall be informed of the deficiencies therein within fifteen days of its receipt from postal authorities by a deficiency memo in the form prescribed by the ⁴[Commissioner of Customs] and such claim shall be deemed not to have been received for the purpose of sub-rule (2).
- (4) When the exporter complies with the requirements specified in the deficiency memo within thirty days of its return, he shall be issued an acknowledgment by the proper officer in the form prescribed by the ⁵[Commissioner of Customs] and the date of such acknowledgment shall be deemed to be date of filing the claim for the purpose of section 75A.

12. Statement/ Declaration to be made on exports other than by Post.

- (1) In the case of exports other than by post, the exporters shall at the time of export of the goods—
 - (a) state on the shipping bill or bill of export, the description, quantity and such other particulars as are necessary for deciding whether the goods are entitled to drawback, and if so, at what rate or rates and make a declaration on the relevant shipping bill or bill of export that—
 - (i) a claim for drawback under these rules is being made;

¹ Substituted by Ntn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (ii) the duties of Customs and Central Excise have been paid in respect of the containers, packing materials and materials used in the manufacture of the export goods on which drawback is being claimed and that in respect of such containers or materials no separate claim for rebate of duty under the Central Excise Rules, 1944 has been or will be made to the Central Excise authorities;

¹[**Provided** that if the Commissioner of Customs is satisfied that the exporter or his authorised agent has, for reasons beyond his control, failed to comply with the provisions of this clause, he may, after considering the representation, if any, made by such exporter or his authorised agent, and for reasons to be recorded, exempt such exporter or his authorised agent from the provisions of this clause];

- (b) furnish to the proper officer of Customs, a copy of shipment invoice or any other document giving particulars of the description, quantity and value of the goods to be exported.
- (2) Where the amount or rate of drawback has been determined under rule 6 or rule 7, the exporter shall make an additional declaration on the relevant shipping bill or bill of export that—
- (a) 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
 - (b) 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.

²[13. **Manner and time for claiming drawback on goods exported other than by post.**

- (1) Triplicate copy of the Shipping Bill for export of goods under a claim for drawback shall be deemed to be a claim for drawback filed on the date on which the proper officer of Customs makes an order permitting clearance and loading of goods for exportation under section 51 and said claim for drawback shall be retained by the proper officer making such order.
- (2) The said claim for drawback should be accompanied by the following documents, namely:
 - (i) copy of export contract or letter of credit, as the case may be,
 - (ii) copy of Packing list,
 - (iii) copy of AR-4 Form, wherever applicable,
 - (iv) insurance certificate, wherever necessary, and
 - (v) copy of communication regarding rate of drawback where the drawback claim is for a rate determined by the Central Government under rule 6 or rule 7 of these rules.
- (3) (a) If the said claim for drawback is incomplete in any material particulars or is without the documents specified in sub-rule (2), shall be returned to the claimant with a deficiency memo in the form prescribed by the Commissioner of Customs within 10 days and shall be deemed not to have been filed for the purpose of section 75A.
- (b) where the exporter re-submits the claim for drawback after complying with the requirements specified in the deficiency memo, the same will be treated as a claim filed under sub-rule (1) for the purpose of section 75A.

¹ Inserted by Ntfn No. 32/98-Cus. (N.T.), dated 02.06.1998.

² Substituted by Ntfn No. 54/96-Cus. & C.E.(NT), dated 31.10.1996 (w.e.f. 01.11.1996).

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- (4) For computing the ¹[period of two months] prescribed under section 75A for payment of drawback to the claimant, the time taken in testing of the export goods, not more than one month, shall be excluded.]

14. Payment of drawback and interest.

- (1) The drawback under these rules and interest, if any, shall be paid by the proper officer of Customs to the exporter or to the agent specially authorised by the exporter to receive the said amount of drawback and interest.
- (2) The officer of Customs may combine one or more claims for the purpose of payment of drawback and interest, if any, as well as adjustment of any amount of drawback and interest already paid and may issue a consolidated order for payment.
- (3) The date of payment of drawback and interest, if any, shall be deemed to be, in the case of payment—
- (a) by cheque, the date of issue of such cheque, or
 - (b) by credit in the exporter's account maintained with the Custom House, the date of such credit.

15. Supplementary claim.

- (1) Where any exporter finds that the amount of drawback paid to him is less than what he is entitled to on the basis of the amount or rate of drawback determined by the Central Government, he may prefer a supplementary claim in the form at Annexure III [See Customs Series Form No. 112 in Part Customs Forms and Bonds]:

Provided that the exporter shall prefer such supplementary claim within a period of three months,—

- (i) where the rate of drawback is determined or revised under rule 3 or rule 4, from the date of publication of such rate in the Official Gazette;
- (ii) where the rate of drawback is determined or revised upward under rule 6 or rule 7, from the date of communicating the said rate to the person concerned;
- (iii) in all other cases, from the date of payment or settlement of the original drawback claim by the proper officer.

²**[Provided** further that the aforesaid period of three months may be extended by—

- (a) the ³[Assistant Commissioner of Customs or Deputy Commissioner of Customs], by a further period of three months; and
 - (b) the Commissioner of Customs, by a further period of 9 months, on being satisfied that the exporter was prevented by sufficient cause from filing his supplementary claim within the aforesaid period of three months.]
- (2) Save as otherwise provided in this rule, no supplementary claim for drawback shall be entertained.
- (3) The date of filing of the supplementary claim for the purpose of section 75A shall be the date of affixing the Dated Receipt Stamp on such claims which are complete in all respects and for which an acknowledgment shall be issued in the form prescribed by the ⁴[Commissioner of Customs].
- (4) (a) Claims which are not complete in all respects or are not accompanied by the required documents shall be returned to the claimant with a deficiency memo in the

¹ Substituted by Ntfn No. 15/96-Cus. (N.T.), dated 09.02.1999.

² Inserted by Ntfn No. 54/96-Cus. & C.E.(NT), dated 31.10.1996 (w.e.f. 01.11.1996).

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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form prescribed by the ¹[Commissioner of Customs] within fifteen days of submission and shall be deemed not to have been filed.

²[(b) Where the exporter resubmits the supplementary claim after complying with the requirements specified in the deficiency memo, the same will be treated as a claim filed under sub-rule (1) for the purpose of section 75A.]

16. Repayment of erroneous or excess payment of drawback and interest.

Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962).

³[16A. Recovery of amount of Drawback where export proceeds not realised.

- (1) Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Regulation Act, 1973 (46 of 1973), including any extension of such period, such drawback shall be recovered in the manner specified below.
- (2) On receipt of relevant information from the Reserve Bank of India, the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall cause notice to be issued to the exporter for production of evidence of realisation of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the ⁵[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within sixty days of the receipt of the said order:
Provided that where a part of the sale proceeds has been realised, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of drawback paid which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds:
- (3) Where the exporter fails to repay the amount under sub-rule (2) within said period of sixty days referred to in sub-rule (2), it shall be recovered in the manner laid down in rule 16.
- (4) Where the sale proceeds are realised by the exporter after the amount of drawback has been recovered from him under sub-rule (2) or sub-rule (3) and the exporter produces evidence about such realisation within one year from the date of such recovery of the amount of drawback, the amount of drawback so recovered shall be repaid by the ⁶[Assistant Commissioner of Customs or Deputy Commissioner of Customs] to the claimant.]

17. Power to relax.

If the Central Government is satisfied that in relation to the export of any goods, the exporter or his authorised agent has, for reasons beyond his control, failed to comply with any of the provisions of these rules, and has thus been entitled to drawback, it may, after considering the representation, if any, made by such exporter or agent, and for reasons

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by Ntfn No. 54/96-Cus. & C.E.(NT), dated 31.10.1996 (w.e.f. 01.11.1996).

³ Inserted by Ntfn No. 72/95-Cus. (N.T.), dated 06.12.1995.

⁴ Substituted by Ntfn No. 29/99-Cus. (N.T.), dated 11.05.1999.

⁵ Substituted by Ntfn No. 29/99-Cus. (N.T.), dated 11.05.1999.

⁶ Substituted by Ntfn No. 29/99-Cus. (N.T.), dated 11.05.1999.

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to be recorded in writing, exempt such exporter or agent from the provisions of such rule and allow drawback in respect of such goods.

18. Repeal and saving.

- (1) As from the commencement of these rules, the Customs and Central Excise Duties Drawback Rules, 1971 (hereinafter in this rule referred to as the 1971 Rules) shall cease to operate.
- (2) Notwithstanding such cesser of operation—
 - (a) every application made by a manufacturer or exporter for the determination or revisions of the amount or rate of drawback in respect of goods exported before the commencement of these rules but not disposed of before such commencement shall be disposed of in accordance with the provisions of the 1971 Rules as if these rules had not been made;
 - (b) any claim made by an exporter or his authorised agent for the payment of drawback in respect of goods exported before the commencement of these rules but not disposed of before such commencement shall be disposed of in accordance with the provisions of these rules;
 - ¹[(c) where a manufacturer or exporter has exported any goods before the commencement of the Customs and Central Excise Duties Drawback (Third Amendment) Rules, 1996 and has not filed any claim for payment of drawback or the claim filed has been returned to him for complying with any deficiencies, such manufacturer or exporter may file his claim in the form of triplicate copy of Shipping Bill for export of goods under a claim for drawback alongwith documents prescribed in sub-rule (1) of rule 13 by 30th June, 1997 and the same shall be deemed to be a claim filed under that rule;]
 - (d) every amount or rate of drawback determined under the 1971 Rules and in force immediately before the commencement of these rules shall be deemed to be the amount or rate of drawback determined under these rules until altered or superseded by the Central Government.

Project Imports Regulations, 1986

Ntfn 230-Cus. (M.F.) (D.R.), dated 03.04.86

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962) and in supersession of the Project Imports (Registration of Contract) Regulations, 1965, 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 Project Imports Regulations, 1986.
- (2) They shall come into force on the 3rd day of April, 1986.

2. Application.

These regulations shall apply for assessment and clearance of the goods falling under heading No. 98.01 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).

²[3. Definitions.

For the purposes of these regulations,—

- (a) "industrial plants" means an industrial system designed to be employed directly in the performance of any process or series of processes necessary for manufacture, production or extraction of a commodity, but does not include—

¹ Substituted by Ntfn No. 54/96-Cus. & CE (N.T.), dated 31.10.1996 (w.e.f. 01.11.1996).

² Substituted by Ntfn No. 153/95-Cus., dated 27.10.1995.

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- (i) establishments designed to offer services of any description such as hotels, hospitals, photographic studios, photographic film processing laboratories, photocopying studios, laundries, garages and workshops; or
- (ii) a single machine or a composite machine, within the meaning assigned to it, in Notes 3 and 4 to Section XVI of the said First Schedule.

Explanation—For the purposes of sub-clause (i), the expression “establishments designed to offer services of any description” shall not include video recording or editing units, cinematographic studios, cinematographic film processing laboratories and sound recording, processing, mixing or editing studios;

- (b) “Sponsoring authority” means an authority specified in the Table annexed to these regulations;
- (c) “substantial expansion” means an expansion which will increase the existing installed capacity by not less than 25 per cent;
- (d) “unit” means any self-contained portion of an industrial plant or any self-contained portion of a project specified under the said Heading No. 98.01 and having an independent function in the execution of the said project.]

4. Eligibility.

The assessment under the said heading No. 98.01 shall be available only to those goods which are imported (whether in one or more than one consignment) against one or more specific contracts, which have been registered with the appropriate Custom House in the manner specified in regulation 5 and such contract or contracts has or have been so registered;

- (i) before any order is made by the proper officer of customs permitting the clearance of the goods for home consumption;
- (ii) in the case of goods cleared for home consumption without payment of duty subject to re-export in respect of fairs, exhibitions, demonstrations, seminars, congresses and conferences, duly sponsored or approved by the Government of India or Trade Fair Authority of India, as the case may be, before the date of payment of duty.

5. Registration of Contracts.

- (1) Every importer claiming assessment of the goods falling under the said heading No. 98.01, on or before their importation shall apply in writing to the proper officer at the port where the goods are to be imported or where the duty is to be paid for registration of the contract or contracts, as the case may be:
Provided that in the case of consignments sought to be cleared through a Custom House other than the Custom House at which the contract is registered, the importer shall produce from the Customs House of registration such information as the proper officer may require.
- (2) The importer shall apply, as soon as may be, after he has obtained the Import trade control licence wherever required for the import of articles covered by the contract and in case of imports covered by the Open General Licence or Imports made by Central Government, any State Government, statutory corporation, public body or Government undertaking run as a joint stock company (hereinafter referred to as “Government Agency”) as soon as clearance from the ¹[concerned sponsoring authority], as the case may be, has been obtained.
- (3) The application shall specify—
 - (a) the location of the plant or project;
 - (b) the description of the articles to be manufactured, produced, mined or explored;

¹ Substituted by Ntfn No. 153/95-Cus., dated 27.10.1995.

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- (c) the installed or designed capacity of the plant or project and in the case of substantial expansion of an existing plant or project the installed capacity and the proposed addition thereto;
 - (d) such other particulars as may be considered necessary by the proper officer for purposes of assessment under the said heading.
- ¹[(4) The application shall be accompanied by the original deed of contract together with a true copy thereof, the import trade control licence, wherever required, and an approved list of items from the ²[concerned sponsoring authority].]
- (5) The importer shall also furnish such other documents or other particulars as may be required by the proper officer in connection with the registration of contract.
 - (6) The proper officer shall, on being satisfied that the application is in order register the contract by entering the particulars thereof in a book kept for the purpose, assign a number in token of the registration and communicate that number to the importer and shall also return to the importer all the original documents which are no longer required by him.

6. Amendment of contract.

- (1) If any contract referred to in regulation 5 is amended, whether before or after registration, the importer shall make an application for registration of the amendments to the said contract to the proper officer.
- (2) The application shall be accompanied by the original deed of contract relating to the amendments together with a true copy thereof and the documents, if any, permitting consequential amendments to the import trade control licence, wherever required, for the import of articles covered by the contract and in the case of imports covered by Open General Licence, as soon as clearance from the ³[concerned sponsoring authority], as the case may be, has been obtained alongwith a list of articles referred to in clause (4) of regulation 5, duly attested.
- (3) On being satisfied that the application is in order, the proper officer shall make a note of the amendments in the register.

⁴[7. Finalisation of contract.

The importer shall within three months from the date of clearance for home consumption of the last consignment of the goods or within such extended period as the proper officer may allow, submit a statement indicating the details of the goods imported together with necessary documents as proof regarding the value and quantity of the goods so imported in terms of this Regulation and any other document that may be required by the proper officer for finalisation of the contract.]

⁵[TABLE

Sr. No.	Name of the Plant or Project	Sponsoring Authority
(1)	(2)	(3)
1.	All plants and projects under SSI Units.	Director of Industry of the concerned State.
2.	All Power Plants and Transmission Projects under,—	
	(a) National Thermal Power Corporation Ltd.	National Thermal Power Corporation Ltd. NTPC Bhavan, Scope Complex, 7, Lodhi Road, Institutional Area, New Delhi - 110 003.

¹ Substituted by Ntfn No. 142/92-Cus., dated 10.03.1992.

² Substituted by Ntfn No. 153/95-Cus., dated 27.10.1995.

³ Substituted by Ntfn No. 153/95-Cus., dated 27.10.1995.

⁴ Inserted by Ntfn No. 17/92-Cus., dated 07.01.1992.

⁵ Substituted by Ntfn No. 54/97-Cus., dated 05.06.1997.

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(b)	Tehri Hydro Development Corporation Ltd.	Tehri Hydro Development Corporation Ltd. Bhagirathi Bhawan, (Top Terrace), Bhagirathipuram, Tehri, Tehri (Garhwal) - 249 001. (U.P.).
(c)	Nathpa Jhakri Power Corporation Ltd.	Nathpa Jhakri Power Corporation Ltd. Himfed Building, Khalini, Shimla (H.P.).
(d)	North Eastern Electric Power Corporation Ltd.	North Eastern Electric Power Corporation Ltd. Brookland Compound, Lower New Colony, Shillong - 793 001.
(e)	National Hydroelectric Power Corporation Ltd.	National Hydroelectric Power Corporation Ltd. NHPC Office Complex, Sector-33, Faridabad - 121 003. (Haryana).
(f)	Bhakra Beas Management Board.	Bhakra Beas Management Board Madhya Marg, Sector-19/B, Chandigarh - 160 019.
(g)	Central Power Research Institute.	Central Power Research Institute, Prof. C.V. Raman Road, Raj Mahal Vilas Extn.II, Stage P.O., P.B.No.9401, Bangalore - 560 094.
(h)	National Power Training Institute.	National Power Training Institute, Sector-33, Faridabad - 121 003. (Haryana).
(i)	Power Grid Corporation of India Ltd.	Power Grid Corporation of India Ltd. Hemkunt Chambers, 6 th Floor, 87, Nehru Place, New Delhi - 110 019.
3.	Power Plants & Transmission Project other than those mentioned at Sl. No. 2 above.	Secretary to the State Government or Union Territory concerned dealing with the subject of power or electricity.
4.	Any other Plant and Project.	Concerned Administrative Ministry or Department.]

Customs House Agents Licensing Regulations, 1984

Ntfn 85-Cus. (M.F.) (D.R.), dated 19.03.84

In exercise of the powers conferred by sub-section (2) of section 146 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 Customs House Agents Licensing Regulations, 1984.
- (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) “Act” means the Customs Act, 1962 (52 of 1962);
- (b) “company” means a company as defined in the Companies Act, 1956 (1 of 1956);

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- (c) "Customs House Agent" means a person licensed under these regulations to act as agent for the transaction of any business relating to the entry or departure of conveyances or the import or export of goods at any customs station;
- (d) "firm", "Firm name", "partner" and "partnership" have the meanings respectively assigned in the Indian Partnership Act, 1932 (9 of 1932), but the expression "partner" shall also include any person who, being a minor, has been admitted to the benefits of partnership;
- (e) "form" means a form appended to these regulations;
- (f) "section" means a section of the Act;
- (g) The expressions "¹[Commissioner]" and "Customs Station", shall have the same meanings as in the Customs Act, 1962 (52 of 1962).

3. Licence where not required.

No licence under these regulations shall be required by:

- (a) an importer or exporter transacting any business at a Customs Station solely on his own account;
- (b) any employee of any person or a firm transacting business generally on behalf of such person or firm; and
- (c) an agent employed for one or more vessels in order solely to enter or clear such vessels for work incidental to his employment as such agent.

²[4. Invitation of application.

The Commissioner may invite applications for the grant of such number of licences as assessed by him, to act and Customs House Agents in the month of January every year by means of a notice affixed on the notice board of each Customs Station as well as through publication in at least two newspapers having circulation in the area of his jurisdiction specifying therein the last date of receipt of application. Such application shall be for clearance work within the jurisdiction of the said Commissioner.]

5. Application for licence.

- (1) An application for a licence to act as a Custom House Agent in a Customs Station shall be made in Form A [See Form No. 47 in Part 5] and shall *inter alia* contain the name and the address of the person applying; and
- (2) If the applicant is a firm—
 - (a) the name and address of every partner of the firm, the firm's name, and
 - (b) the name of the partner or the duly authorised employee, who will actually be engaged in the clearance of goods or conveyances through the customs.
- (3) If the applicant is a company—
 - (a) the name of each director, manager, managing director, and
 - (b) the names of director, manager or the duly authorised employee, who will actually be engaged in the clearance of goods or conveyances through the customs.

6. Conditions to be fulfilled by the applicant.

The applicant or the person referred to in clause (b) of sub-regulations (2) and (3) of Regulation 5 as the case may be, shall prove to the satisfaction of the ³[Commissioner] that:

- ⁴[(a) the applicant is a graduate from a recognised University and is an employee of a licensee and that he possesses a permanent pass in Form G prescribed under

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

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regulation 20 and has the experience of work relating to clearance of goods through the Customs, for a period of not less than three years in the capacity of such a passholder:

Provided that the Commissioner may relax the possession of permanent pass in Form G to one year for reasons to be recorded in writing.]

- (b) the applicant has financial viability supported by a certificate issued by a Scheduled Bank or such other proof acceptable to the ¹[Commissioner] evidencing possession of assets of the value of not less than Rs. 1 lakh in the case of applicants for the grant of licence in respect of any one of the Customs Stations at Bombay, Calcutta, Madras, Cochin, Kandla, Goa, Mangalore, Tuticorin or Visakhapatnam and not less than Rs. 50,000/- in the case of each of the other Customs Stations, situated at places other than those specified above:

Provided that in cases where a ²[Commissioner's] jurisdiction extends to more than one Customs Station, the ³[Commissioner] may issue one licence for all the Stations or more than one such Station to be specified in the licence, waiving the need for separate compliance of the provisions of clauses (a) and (b) above for such additional Customs Stations. The ⁴[Commissioner] may also waive the need for separate compliance of the requirement of Regulation 11 in such cases:

Provided further that in places where there is more than one ⁵[Commissioner] exercising jurisdiction over different Customs Stations and Custom House Agents licensed under the Custom House Agents Licensing Regulations, 1965 have been operating in the said Customs Stations on the basis of one licence, it shall be open to such Agents to obtain a temporary licence under Regulation 8 from the ⁶[Commissioner], other than the one who has issued them the existing licence, without being required to comply with the requirements of Regulations 6 in regard to financial viability or the requirements as to fresh deposit in terms of Regulation 11.

7. Scrutiny of applications for licence.

On receipt of application under Regulation 5, the ⁷[Commissioner] may make enquiries for verification of the particulars set out in the application and also such other enquiries as he may deem necessary including enquiries about the reliability and financial status of the applicant.

8. Grant of temporary licence.

- (1) Any applicant whose application is received within the last date specified in Regulation 4 and who satisfies the requirements of Regulations 5 and 6, shall be permitted to operate as Custom House Agent at the Customs Station for which the application is made initially for the period of one year against temporary licence granted by the ⁸[Commissioner] in this regard in Form B [See Form No. 48 in Part Customs Forms and Bonds]:

Provided that when evidence is produced to the ⁹[Commissioner] that the applicant has already availed of two chances for qualifying in the written or oral examination prescribed in these regulations and would like to avail of the third chance as soon as the next examination is held in terms of Regulation 9 and that the applicant has been able to account for the minimum volume of work pre-

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁷ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁸ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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scribed for such agents in the course of one year's working, the ¹[Commissioner] may extend the aforesaid period of one year for which the temporary licence has been granted by another six months or such further period not exceeding one year to enable the applicant to avail of the third chance for qualifying in the examination in terms of Regulation 9. While granting such extension, the ²[Commissioner of Customs] shall satisfy himself that the requirements of Regulations 10(1)(a) and 10(1)(b) had been fully met by the applicant.

³[(2) Any person, whose application for grant of temporary licence under sub-regulation (1) of regulation 8 is rejected by the ⁴[Commissioner of Customs] may represent to ⁵[the Chief Commissioner of Customs or Chief Commissioner of Customs and Central Excise, as the case may be] against such order rejecting the grant of a temporary licence, within 30 days of the communication of the impugned order.]

⁶[(3) In case the number of applicants fulfilling the conditions prescribed under regulation 6 is more than the number of licences to be issued as assessed under regulation 4, the Commissioner may adopt seniority in experience as 'G' pass holder of such applicants as the criterion to give precedence to the applicants:

Provided that if more than one applicant has the same period of experience, the applicant who is older in age shall get precedence.]

9. Examination of the applicant.

(1) The holder of a temporary licence in the case of an individual and the person or persons who will be actually engaged in the work of clearance of goods through customs on behalf of the firm or company holding a temporary licence, as the case may be, shall be required to qualify in examination, at the earliest opportunity. Such person or persons shall be eligible to appear in the examination as soon as a temporary licence is granted and shall be permitted to avail of three chances within a period of 2 years from the date of issue of the temporary licence on payment of prescribed examination fee of ⁷[Rs. 500/-] for each examination.

(2) The examination referred to in sub-regulation (1) shall include a written and oral examination and will be conducted twice every year. Each applicant would be permitted to avail of a maximum of three chances to qualify in the said examination but all such chances should be availed of within a maximum period of 2 years from the date of grant of temporary licence.

⁸[**Explanation**—A person who qualifies in the written examination, but fails in the oral test linked to it, shall be treated as having failed in that chance; but he will not be required to appear in the written examination in the subsequent chances.]

(3) The examination may include questions on the following:

- (a) preparation of various kinds of bills of entry and shipping bills;
- (b) arrival entry and clearance of vessels;
- (c) tariff classification and rates of duty;
- (d) determination of value for assessment;
- (e) conversion of currency;
- (f) nature and description of documents to be filed with various kinds of bills of entry and shipping bills;
- (g) procedure for assessment and payment of duty;

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Inserted by Ntfn No. 74/91-Cus. (N.T.), dated 15.11.1991.

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

⁶ Inserted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

⁷ Substituted by Ntfn No. 35/92-Cus. (N.T.), dated 30.04.1992 (w.e.f. 04.05.1992).

⁸ Inserted by Ntfn No. 05/94-Cus. (N.T.), dated 28.01.1994.

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- (h) examination of merchandise at the Customs Stations;
 - (i) provisions of the Trade and Merchandise Marks Act, 1958 (43 of 1958);
 - (j) prohibitions on import and export;
 - (k) bonding procedure and clearance from bond;
 - (l) re-importation and conditions for free re-entry;
 - (m) drawback;
 - (n) offences under the Act;
 - (o) the provisions of allied Acts including Imports and Exports (Control) Act, 1947 (18 of 1947), Foreign Exchange Regulation Act, 1973 (46 of 1973), Indian Explosives Act, 1884 (4 of 1884), Arms Act, 1959 (54 of 1959), Opium Act, 1878 (1 of 1878), Drugs and Cosmetics Act, 1940 (23 of 1940), Destructive Insects and Pests Act, 1914 (2 of 1914), Dangerous Drugs Act, 1930 (2 of 1930) in so far as they are relevant to the clearance of goods through customs;
 - (p) procedure in the matter of refund of duty paid, appeals and revision petitions under the Act.
- (4) The ¹[Commissioner] shall also satisfy himself whether the licensee in Form B [See Form 48 in Part Customs Forms and Bonds] if he is an individual, possesses, or in the case of a firm or company, the persons who will be actually engaged in the work relating to clearance of goods through customs on behalf of that firm or company, possess satisfactory knowledge of English and the local language of the Customs Station:
- Provided** that in the case of persons deputed to work exclusively in the docks, knowledge of English will not be compulsory. Knowledge of Hindi will be considered as an additional or desirable qualification.
- ²[(5) The holders of a regular licence under regulation 10 may authorise one of their employees or partners or directors, to appear for the examination referred to in sub-section (1), on behalf of such holders of regular licence in addition to the person of their agency who has passed the examination referred to in sub-regulation (1).]

10. Grant of regular licence.

- (1) The ³[Commissioner] shall, on receipt of an application in Form C [See Form No. 49 in Part Customs Forms and Bonds], grant a regular licence in Form D [See Form 50 in Part Customs Forms and Bonds] on payment of a fee of ⁴[Rs.5000/-] to such holder of a temporary licence who qualifies in an examination referred to in Regulation 9 and whose performance is found to be satisfactory with reference, *inter alia*, to the following:
- (a) quantity or value of cargo cleared by such licensee conforming to norms as may be prescribed by the ⁵[Commissioner];
 - (b) absence of instances of delay either in the clearance of goods or in the payment of duty for any reason attributable to such licensee and any complaints of misconduct including non-compliance of any of the obligations specified in Regulation 14.
- (2) The Custom House Agents who are granted regular licences under Regulation 10, shall be eligible to work in all Customs Stations subject to fulfilment of the following requirements:

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Inserted by Ntfn No. 71/97-Cus. (N.T.), dated 19.12.1997.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by Ntfn No. 35/92-Cus. (N.T.), dated 30.04.1992 (w.e.f. 04.05.1992).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (a) the licensee shall make an application to the ¹[Commissioner] of the concerned Customs Station where he intends to transact business for purposes of registering himself and his authorised staff;
 - (b) he fulfils the conditions stipulated in clause (b) of Regulation 6 relating to financial soundness and possesses the ability to provide adequate warehousing and transport facilities at the place of clearance of goods and production of evidence relating to availability of sufficient clientele at his disposal;
 - (c) he shall also be required to enter into a separate bond in Form D [See Form 50 in Part Customs Forms and Bonds] for due observation of these regulations and to furnish a separate Bank Guarantee for each Customs Stations as stipulated under Regulation 11; ²[he shall produce evidence of knowledge of the local language of the Customs Stations, at which he wishes to conduct business;]
 - (d) on fulfilment of the aforesaid conditions, the ³[Commissioner] of the Customs Station at which the licensee intends to transact business shall grant a licence in Form 'D' [See Form No. 50 in Part Customs Forms and Bonds] authorising him to transact business at that Customs Station:
Provided that no separate licence would be required in places where in addition to a Custom House handling imports by sea, there is also an International airport to handle imports by air even if under the jurisdiction of a different ⁴[Commissioner].
- (3) The ⁵[Commissioner] may reject an application for the grant of regular licence to act as Custom House Agent if the holder of the temporary licence fails to qualify in the examination in terms of Regulation 9, or the holder of temporary licence on evaluation of his performance in terms of Regulation 10 is not considered suitable due to any other reason to be stated in the order passed by the ⁶[Commissioner].
- ⁷[(4) Any person aggrieved by the order of the ⁸[Commissioner] passed under sub-regulation (3) of regulation 10 may represent to ⁹[the Chief Commissioner of Customs or Chief Commissioner of Customs and Central Excise, as the case may be] against such order within 30 days of the communication of the impugned order.]
- ¹⁰[(5) The Chief Commissioner may, on his own motion or otherwise call for and examine the records of any proceedings in which the Commissioner has passed any order under sub-regulation (3) for the purpose of satisfying himself "as to the legality, propriety or correctness of such order and may pass such orders as he may deem fit. No order under this sub-regulation shall be made so as to prejudicially affect any person unless such person is given reasonable opportunity for making a representation and being heard in his defence, if he so desires."
- (6) No order shall be made under sub-regulation (5) or sub-regulation (2) of regulation 8 in relation to an order passed by Commissioner under sub-regulation (3) or sub-regulation (1) of regulation 8, as the case may be, after the expiry of one year from the date on which such order was passed by the Commissioner.]

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Inserted by Ntfn No. 240/84-Cus., dated 17.09.1984.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁷ Inserted by Ntfn No. 74/91-Cus. (N.T.), dated 15.11.1991.

⁸ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁹ Substituted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

¹⁰ Inserted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

¹[11. Execution of bond and furnishing of security.

- (1) Before granting a temporary licence under Regulation 8 or a regular licence under Regulation 10, the concerned ²[Commissioner] shall require the applicant to enter into a bond in Form E [See Form No. 51 in Part Customs Forms and Bonds] and, if necessary, a surety bond in Form F [See Form No. 52 in Part Customs Forms and Bonds] for due observance of these Regulations and shall also require him to furnish a bank guarantee, postal security or National Savings Certificate, in the name of ³[Commissioner of Customs], for an amount of Rs. 25,000/- for carrying out of business of Custom House Agent at a Customs Station referred to in clause (b) of Regulation 6 and Rs. 10,000/- in the case of other customs stations.
- (2) For carrying on of business as Custom House Agents at more than one customs station falling within the jurisdiction of different ⁴[Commissioners], a separate bond accompanied by bank guarantee, postal security or National Savings Certificate shall be required to be executed.
- (3) If the applicant furnishes postal security or National Savings Certificate, the same shall be pledged in the name of the ⁵[Commissioner] and the applicant shall get the benefit of the interest accruing on it.]

12. Period of validity of a regular licence.

- ⁶[(1) A licence granted under regulation 10 shall be valid for a period of five years, but may be renewed from time to time in accordance with procedure provided in sub-regulation (2).
- (2) The ⁷[Commissioner of Customs], may, on application made by the licensee, before the expiry of the validity of the licence under sub-regulation (1), renew the licence for a period of five years from the date of expiration of the original licence granted under regulation 10 or of the last renewal of such licence, as the case may be, if the performance of the licensee is found to be satisfactory with reference, *inter alia*, to the following:
 - (a) quantity or value of cargo cleared by such licensee conforming to norms as may be prescribed by the ⁸[Commissioner];
 - (b) absence of instances of delay either in the clearance of goods or in the payment of duty for any reason attributable to such licensee and any complaints of misconduct including non-compliance of any of the obligations specified in regulation 14.]
- (3) The fee for renewal of a licence under sub-regulation (2) shall be ⁹[Rs.3,000/-].

13. Licence not transferable.

Every licence granted or renewed under these Regulations shall be deemed to have been granted or renewed in favour of the licensee and no licence shall be sold or otherwise transferred.

14. Obligations of Custom House Agent.

A Custom House Agent shall:

- (a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as Custom House Agent and produce such au-

¹ Substituted by Ntfn No. 240/84-Cus., dated 17.09.1984.

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by Ntfn No. 21/94-Cus. (N.T.), dated 05.05.1994.

⁷ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁸ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁹ Substituted by Ntfn No. 35/92-Cus. (N.T.), dated 30.04.1992 (w.e.f. 04.05.1992).

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- thorisation whenever required by an ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs];
- (b) transact business in the Customs Station either personally or through an employee duly approved by the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs], designated by the ³[Commissioner];
 - (c) not represent a client before an officer of Customs in any matter to which he, as officer of the Department of Customs gave personal consideration, or as to the facts of which he gained knowledge, while in Government service;
 - (d) advise his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs];
 - (e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;
 - (f) not withhold information relating to clearance of cargo or baggage issued by the ⁵[Commissioner of Customs] from a client who is entitled to such information;
 - (g) promptly pay over to the Government, when due, sums received for payment of any duty, tax or other debt or obligations owing to the Government and promptly account to his client for funds received for him from the Government or received from him in excess of Government or other charges payable in respect of the clearance of cargo or baggage on behalf of the client;
 - (h) not procure or attempt to procure or indirectly, information from the Government records or other Government sources of any kind to which access is not granted by proper officer;
 - (i) not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;
 - (j) not refuse access to, conceal, remove or destroy the whole or any part of any book, paper or other record, relating to his transactions as a Custom House Agent which is sought or may be sought by the ⁶[Commissioner];
 - (k) maintain records and accounts in such form and manner as may be directed from time to time by an ⁷[Assistant Commissioner of Customs or Deputy Commissioner of Customs] and submit them for inspection to the said ⁸[Assistant Commissioner of Customs or Deputy Commissioner of Customs] or an officer authorised by him whenever required;
 - (l) ensure that all documents prepared or presented by him or on his behalf are strictly in accordance with orders relating thereto;
 - (m) ensure that all documents, such as bills of entry and shipping bills delivered in the Customs Station by him show the name of the importer or exporter, as the case may be, and the name of the Customs House Agent, prominently at the top of such documents;
 - (n) in the event of the licence granted to him being lost, immediately report the fact to the ⁹[Commissioner];

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁷ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁸ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (o) ensure that he discharges his duties as Custom House Agent with utmost speed and efficiency and without avoidable delay; and
- (p) not charge for his service as Custom House Agent in excess of the rates approved by the ¹[Commissioner] from time to time under Regulation 25.

15. Change in directors of company, etc.

In case a company holding a licence under Regulation 10, undergoes any change in the directors, managing director or managers, such change shall be forthwith communicated by such licensee to the ²[Commissioner].

³[16. Change in constitution of any firm or a company.

- (1) In the case of any firm or a company, being a licensee, any change in the constitution thereof shall be reported by the firm or the company, as the case may be, to the Commissioner as early as possible and any such firm or a company, indicating such change shall make a fresh application to the said Commissioner within thirty days for the grant of licence under regulation 5 or regulation 10, as the case may be. On scrutiny of such application the Commissioner may grant to the firm or a company, as the case may be, a fresh licence of the category held by the applicant prior to the change in constitution, if there is nothing adverse against him:

Provided that the existing firm or a company, if it moves an application to that effect may be allowed to carry on the business of Customs House Agent till such time as a decision is taken on the fresh application of the firm or the company.]

⁴[17. Change in the constitution of a concern.

- (1) Where a licence granted or renewed under these Regulations in favour of a person, not being a firm or a company, changes the constitution of his concern to a firm or a company, such new firm or new company may, pending the grant of a regular licence in accordance with these Regulations, be permitted to act as Custom House Agent with the approval of the ⁵[Commissioner of Customs].
- (2) Notwithstanding anything contained in sub-regulation (1), where a licence granted or renewed under these Regulations in favour of a person has ceased to be in force because of the death of that person, his legal heir who has been assisting in the work of clearance of goods through customs and is employed as such under Regulation 20, may be granted a licence if there is nothing adverse against him and if he qualifies in the examination referred to in Regulation 9.]

⁶[18. Engagement of persons qualified in the examination referred to in regulation 9, etc.

- (1) A person who has qualified in the examination referred to in regulation 9 may engage himself in the work relating to the clearance of goods through customs on behalf of a firm or a company licensed under regulation 10 provided that at any given time he shall not so engage himself on behalf of more than one such firm or company.
- (2) Any change in the persons qualified in the examination referred to in regulation 9 and actually engaged in the work in the customs station on behalf of a licensee firm or company shall be communicated forthwith by the firm or the company, as the case may be, to the ⁷[Assistant Commissioner of Customs or Deputy Commissioner of Customs] and no new person other than the one who is qualified in

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

⁴ Substituted by Ntfn No. 240/84-Cus., dated 17.09.1984.

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by Ntfn No. 05/94-Cus. (N.T.), dated 28.01.1994.

⁷ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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the examination referred to in regulation 9 shall be allowed to work in the Customs Station as a duly authorised employee on behalf of that firm or company.]

19. Maintenance and inspection of accounts.

- (1) A licensee required to maintain accounts under these Regulations shall maintain such accounts:
 - (a) in an orderly and itemised manner and keep them current; and
 - (b) reflect all financial transactions as Custom House Agent.
- (2) He shall keep and maintain on file a copy of each of the documents, such as, bill of entry, shipping bill, transshipment application, etc. and copies of all his correspondence and other papers relating to his business as Custom House Agent.
- (3) All records and accounts required to be maintained under these Regulations shall be preserved for at least five years and shall be made available at any time for inspection of officers authorised to inspect such records and accounts.

20. Employment of persons.

- (1) A licensee may, having regard to the volume of business transacted by him, employ one or more persons to assist him in his work as Custom House Agent.
- (2) Appointment of a person referred to in sub-regulation (1) shall be made only after obtaining the approval of the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] designated by the ²[Commissioner] for this purpose and in the matter of granting approval, he shall take into consideration the antecedents and any other information pertaining to the character of such person.
- (3) Appointment of a person referred to in sub-regulation (1) shall be subject to the condition that he shall, within six months from the date of his appointment, pass an examination conducted by the said ³[Assistant Commissioner of Customs or Deputy Commissioner of Customs] or by a Committee of Officers of Customs to be appointed by him for the purpose, and the examination shall be such as to ascertain the adequacy of knowledge of such person regarding the provisions of the statutes subject to which goods and baggage are cleared through the Customs:

Provided that where any person fails to pass the examination within the period referred to in sub-regulation (3), the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, by order in writing, permit such person, to appear again for the examination, but no such order shall be made in favour of a person who had been given the opportunity to appear for the examination four times:

⁵[**Provided** further that a person referred to in sub-regulation (1) shall have passed the 10th standard of the Central Board of Secondary Education or its equivalent before his employment under that sub-regulation.]
- (4) Notwithstanding anything contained in sub-regulation (3), a person who has worked under a Custom House Agent and passed the examination referred to in sub-regulation (3), may, on his appointment under any Custom House Agent with the approval of the ⁶[Assistant Commissioner of Customs or Deputy Commissioner of Customs], be exempted from passing the examination again.
- (5) Where the Custom House Agent has authorised any person employed by him to sign documents relating to the business of such agent on behalf, he shall file with the ⁷[Assistant Commissioner of Customs or Deputy Commissioner of Customs],

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁴ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁵ Inserted by Ntfn No. 44/97-Cus. (N.T.), dated 15.09.1997.

⁶ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁷ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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a written authority in this behalf and give prompt notice in writing, if such authorisation is modified or withdrawn.

- (6) The ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall issue an identity card to every employee of a Custom House Agent,—
- (i) in Form G [See Form No. 53 in Part Customs Forms and Bonds], in case he has passed the examination referred to in sub-regulation (3),
 - (ii) in Form H [See Form No. 53A in Part Customs Forms and Bonds], in case he has not passed such examination,
 - (iii) and every such person shall, at all times when he transacts the work at the Customs Station, carry such card with him and produce it for inspection on demand by any officer of the Customs Station.
- (7) The Custom House Agent shall exercise such supervision as may be necessary to ensure the proper conduct of any such employees in the transaction of business as agent and be held responsible for all acts or omissions of his employees in regard to their employment.

21. Suspension or revocation of licence.

- (1) The ²[Commissioner] may, subject to the provisions of Regulation 23, suspend or revoke the licence of a Custom House Agent so far as the jurisdiction of the ³[Commissioner] is concerned and also order for forfeiture of security on any of the following grounds:
- (a) failure of the Custom House Agent to comply with any of the conditions of the bond executed by him under Regulation 11;
 - (b) failure of the Custom House Agent to comply with any of the provisions of these regulations, whether within the jurisdiction of the said ⁴[Commissioner] or anywhere else;
 - (c) any misconduct on his part whether within the jurisdiction of the said ⁵[Commissioner] or anywhere else which in the opinion of the ⁶[Commissioner] renders him unfit to transact any business in the Customs Station.
- (2) Notwithstanding anything contained in sub-regulation (1), the ⁷[Commissioner] may, in appropriate cases, where immediate action is necessary, suspend the licence of a Custom House Agent where an enquiry against such agent is pending or contemplated.

22. Prohibition.

Notwithstanding anything contained in Regulation 21, the ⁸[Commissioner] may prohibit any Custom House Agent from working in one or more sections of the Customs Station, if he is satisfied that such agent has not fulfilled his obligations as laid down under Regulation 14 in relation to work in that section or sections.

23. Procedure for suspending or revoking licence under Regulation 21.

- (1) The ⁹[Commissioner] shall issue a notice in writing to the Custom House Agent stating the grounds on which it is proposed to suspend or revoke the licence and requiring the said agent to submit within such time as may be specified in the notice not being less than forty-five days, to the ¹⁰[Assistant Commissioner of Customs]

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁷ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁸ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

¹⁰ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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- toms or Deputy Commissioner of Customs] nominated by him, a written statement of defence and also to specify in the said statement whether the Custom House Agent desires to be heard in person by the said ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs].
- (2) On receipt of the written statement from the Custom House Agent, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may inquire into such of the grounds as are not admitted.
 - (3) The ³[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings and he may also put any question to any person tendering evidence, for or against the Custom House Agent, for the purpose of ascertaining the correct position.
 - (4) The Custom House shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings and where the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs] declines to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.
 - (5) At the conclusion of the aforesaid inquiry, the ⁵[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall prepare a report of the inquiry recording his findings.
 - (6) The ⁶[Commissioner of Customs] shall furnish to the Custom House Agent a copy of the report of the ⁷[Assistant Commissioner of Customs or Deputy Commissioner of Customs] and shall require the Custom House Agent to submit within the specified period not being less than sixty days any representation that he may wish to make against the findings of the ⁸[Assistant Commissioner of Customs or Deputy Commissioner of Customs].
 - (7) The ⁹[Commissioner] shall, after considering the report of the inquiry, and the representation thereon, if any, made by the Custom House Agent, pass such orders as he deems fit.
 - ¹⁰[(8) Any Custom House Agent aggrieved by any decision or order passed under regulation 21 or sub-regulation (7) of regulation 23, may appeal under section 129A of the Customs Act, 1962, to the Customs and Central Excise Gold (Control) Appellate Tribunal established under section 129(1) of the Customs Act, 1962.]

24. Grant of licence no right to accommodation.

The Grant of a licence under these Regulations does not confer any right to accommodation in a Customs Station.

25. Fixing of clearance charges.

- (1) The ¹¹[Commissioner] may from time to time and in consultation with the recognised Custom House Agents' Association, if any, registered at a Custom Station,

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁴ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁵ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁷ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁸ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

¹⁰ Inserted by Ntfn No. 74/91-Cus. (N.T.), dated 15.11.1991.

¹¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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notify the rates that may be charged by a conveyance through Customs. The Custom House Agent shall strictly conform to the rates so notified.

- (2) Each Custom House Agent shall enrol himself as a member of the Custom House Agents' Association if there is one registered in the Customs Station and recognised by the ¹[Commissioner of Customs].

26. Repeal.

- (1) The Custom House Agents' Licensing Regulations, 1965, are hereby repealed.
- (2) Notwithstanding such repeal anything done or any action taken under the Custom House Agents (Licensing) Regulations, 1965, shall be deemed to have been done or taken under the corresponding provisions of these Regulations.

For Forms see Part—Customs Forms and Bonds.

Baggage Rules, 1998

Ntfn 30-Cus. (N.T.), dated 02.06.98

In exercise of the powers conferred by section 79 of the Customs Act, 1962 (52 of 1962), and in supersession of the Baggage Rules, 1994, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Baggage Rules, 1998.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

In these rules, unless the context otherwise requires,—

- (i) “appendix” means an Appendix to these rules;
- (ii) “resident” means a person holding a valid passport issued under the Passports Act, 1967 (15 of 1967) and normally residing in India;
- (iii) “tourist” means a person not normally resident in India, who enters India for a stay of not more than six months in the course of any twelve months period for legitimate non-immigrant purposes, such as touring, recreation, sports, health, family reasons, study, religious pilgrimage or business;
- (iv) “family” includes all persons who are residing in the same house and form part of the same domestic establishment;
- (v) “professional equipment” means such portable equipments, instruments, apparatus and appliances as are required in his profession, by a carpenter, a plumber, a welder, a mason, and the like and shall not include items of common use such as cameras, cassette recorders, dictaphones, personal computers, typewriters, and other similar articles.

3. Passengers returning from countries other than Nepal, Bhutan, Myanmar or China.

An Indian resident or a foreigner residing in India, returning from any country other than Nepal, Bhutan, Myanmar or China, shall be allowed clearance free of duty articles in his *bona fide* baggage to the extent mentioned in column (2) of Appendix A.

²[**Provided** that such Indian resident or such foreigners returning from Pakistan, by land route, shall be allowed clearance free duty articles in his *bona fide* baggage to the extent mentioned in column (2) of Appendix “B”.]

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Inserted by Ntfn No. 50-Cus. (NT), dated 09.08.2000.

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4. Passengers returning from Nepal, Bhutan, Myanmar or China.

An Indian resident or a foreigner residing in India, returning from Nepal, Bhutan, Myanmar or China, other than by land route, shall be allowed clearance free of duty articles in his *bona fide* baggage to the extent mentioned in column (2) of Appendix B.

5. Professionals returning to India.

An Indian passenger who was engaged in his profession abroad shall on his return to India be allowed clearance free of duty, in addition to what he is allowed under rule 3 or, as the case may be, under rule 4, articles in his *bona fide* baggage to the extent mentioned in column (2) of Appendix C.

6. Jewellery.

A passenger returning to India shall be allowed clearance free of duty jewellery in his *bona fide* baggage to the extent mentioned in column (2) of Appendix D.

7. Tourists.

A tourist arriving in India shall be allowed clearance free of duty articles in his *bona fide* baggage to the extent mentioned in column (2) of Appendix E.

8. Transfer of residence.

- (1) A person who is transferring his residence to India shall be allowed clearance free of duty, in addition to what he is allowed under rule 3 or, as the case may be, under rule 4, articles in his *bona fide* baggage to the extent mentioned in column (1) of Appendix F, subject to the conditions, if any, mentioned in the corresponding entry in column (2) of the said Appendix.
- (2) The conditions may be relaxed to the extent mentioned in column (3) of the said Appendix.

9. Provisions regarding unaccompanied baggage.

- (1) Provisions of these Rules are also extended to unaccompanied baggage except where they have been specifically excluded.
- (2) The unaccompanied baggage had been in the possession abroad of the passenger and is despatched within one month of his arrival in India or within such further period as the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may allow.
- (3) The unaccompanied baggage may land in India upto 2 months before the arrival of the passenger or within such period, not exceeding one year, as the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may allow, for reasons to be recorded, if he is satisfied that the passenger was prevented from arriving in India within the period of two months due to circumstances beyond his control such as sudden illness of the passenger or a member of his family, or natural calamities or disturbed conditions or disruption of the transport or travel arrangements in the country or countries concerned or any other reasons, which necessitated a change in the travel schedule of the passenger.

10. Application of these Rules to members of the crew.

The provisions of these Rules shall apply in respect of members of the crew engaged in a foreign going vessel for importation of their baggage at the time of final pay off on termination of their engagement.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

APPENDIX A

(See Rule 3)

Articles allowed free of duty			
(1)		(2)	
(a)	All passengers of and above 12 years of age and returning after stay abroad of more than three days.	(i)	Used personal effects, excluding jewellery, required for satisfying daily necessities of life.
		(ii)	¹ [Articles other than those mentioned in Annex.-I upto a value] of Rs. 12,000 if these are carried on the person or in the accompanied baggage of the passenger.
(b)	All passengers of and above 12 years of age and returning after stay abroad of three days or less.	(i)	Used personal effects, excluding jewellery, required for satisfying daily necessities of life.
		(ii)	² [Articles other than those mentioned in Annex.-I upto a value] of Rs. 6,000 if these are carried on the person or in the accompanied baggage of the passenger.
(c)	All passengers upto 12 years of age and returning after stay abroad of more than three days.	(i)	Used personal effects, excluding jewellery, required for satisfying daily necessities of life.
		(ii)	³ [Articles other than those mentioned in Annex.-I upto a value] of Rs. 3,000 if these are carried on the person or in the accompanied baggage of the passenger.
(d)	All passengers upto 12 years of age and returning after stay abroad of three days or less.	(i)	Used personal effects, excluding jewellery, required for satisfying daily necessities of life.
		(ii)	⁴ [Articles other than those mentioned in Annex.-I upto a value] of Rs. 1,500 if these are carried on the person or in the accompanied baggage of the passenger.

Explanation—The free allowance under this rule shall not be allowed to be pooled with the free allowance of any other passenger.

APPENDIX B

(See Rule 4)

Articles allowed free of duty			
(1)		(2)	
(a)	Passengers of and above 12 years of age and returning after stay abroad of more than three days.	(i)	Used personal effects, excluding jewellery, required for satisfying daily necessities of life.
		(ii)	⁵ [Articles other than those mentioned in Annex.-I upto a value] of Rs. 3,000 if these are carried on the person or in the accompanied baggage of the passenger.
(b)	Passengers upto 12 years of age and ⁶ [returning after stay abroad of more than three days].	(i)	Used personal effects, excluding jewellery, required for satisfying daily necessities of life.
		(ii)	⁷ [Articles other than those mentioned in Annex.-I upto a value] of Rs. 750 if these are carried on the person or in the accompanied baggage of the passenger.

Explanation—The free allowance under this rule shall not be allowed to be pooled with the free allowance of any other passenger.

¹ Corrected vide corrigendum Letter F.No. 334/6/97-TRU, dated 02.06.1998.

² Corrected vide corrigendum Letter F.No. 334/6/97-TRU, dated 02.06.1998.

³ Corrected vide corrigendum Letter F.No. 334/6/97-TRU, dated 02.06.1998.

⁴ Corrected vide corrigendum Letter F.No. 334/6/97-TRU, dated 02.06.1998.

⁵ Corrected vide corrigendum Letter F.No. 334/6/97-TRU, dated 02.06.1998.

⁶ Corrected vide corrigendum Letter F.No. 334/6/97-TRU, dated 02.06.1998.

⁷ Corrected vide corrigendum Letter F.No. 334/6/97-TRU, dated 02.06.1998.

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APPENDIX C

(See Rule 5)

Articles allowed free of duty			
(1)		(2)	
(a)	Indian passenger returning after at least 3 months.	(i)	Used household articles upto an aggregate value of Rs. 6,000.
		(ii)	Professional equipment upto a value of Rs. 10,000.
(b)	Indian passenger returning after at least 6 months.	(i)	Used household articles upto an aggregate value of Rs. 6,000.
		(ii)	Professional equipment upto a value of Rs. 20,000.
(c)	Indian passenger returning after a stay of minimum 365 days during the preceding 2 years on termination of his work, and who has not availed this concession in the preceding three years.	(i)	Used household articles and personal effects, (which have been in the possession and use abroad of the passenger or his family for at least six months), and which are not mentioned in Annex.-I or Annex.-II upto an aggregate value of Rs. ¹ [75,000].

APPENDIX D

(See Rule 6)

Jewellery			
(1)		(2)	
Indian passenger who has been residing abroad for over one year.		(i)	Jewellery upto an aggregate value of Rs. 10,000 by a gentleman passenger, or
		(ii)	Upto an aggregate value of Rs. 20,000 by a lady passenger.

²[APPENDIX E

(See Rule 7)

Articles allowed free of duty			
(1)		(2)	
(a)	Tourists of Indian origin other than those coming from Pakistan by land route.	(i)	Used personal effects and travel souvenirs, if—
		(a)	these goods are for personal use of the tourist, and
		(b)	these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination.
		(ii)	articles as allowed to be cleared under rule 3 or rule 4.
(b)	Tourists of foreign origin other than those of Nepalese origin coming from Nepal or of Bhutanese origin coming from Bhutan or of Pakistani origin coming from Pakistan.	(i)	Used personal effects and travel souvenirs, if—
		(a)	these goods are for personal use of the tourist, and
		(b)	these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination.
		(ii)	article upto a value of Rs. 4,000 for making gifts.

¹ Substituted for the figures "30,000" by Ntfn No. 11-Cus. (NT), dated 01.03.2002.

² Substituted by Ntfn No. 50-Cus. (NT), dated 09.08.2000.

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- | | | |
|-----|---|--|
| (c) | Tourists of Nepalese origin coming from Nepal or of Bhutanese origin coming from Bhutan. | No free allowance. |
| (d) | Tourists of Pakistani origin or foreign tourist coming from Pakistan or tourists of Indian origin coming from Pakistan by land route. | (i) Used personal effects and travel souvenirs, if—
(a) these goods are for personal use of the tourist, and
(b) these goods, other than those consumed during the stay in India, are re-exported when the tourist leaves India for a foreign destination.
(ii) article upto a value of Rs. 3,000 for making gifts. |

APPENDIX F

(See Rule 8)

Articles allowed free of duty		Conditions	Relaxation that may be considered
(1)	(2)	(3)	
(a)	Used personal and household articles, other than those listed at Annex.-I or Annex.-II, but including jewellery upto ten thousand rupees by a gentleman passenger or rupees twenty thousand by a lady passenger.	(1) Minimum stay of two years abroad, immediately preceding the date of his arrival on TR,	(a) For condition (1): Shortfall of upto 2 months in stay abroad can be condoned by ¹ [Assistant Commissioner of Customs or Deputy Commissioner of Customs] if the early return is on account of: (i) terminal leave or vacation being availed of by the passenger; or (ii) any other special circumstances.
		(2) total stay in India on short visit during the 2 preceding years should not exceed 6 months, and	
		(3) passenger has not availed this concession in the preceding three years.	(b) For condition (2): Commissioner of Customs may condone short visits in excess of 6 months in deserving cases. (c) For condition (3): No relaxation
(b)	Jewellery taken out earlier by the passenger or by a member of his family from India.	Satisfaction of the Asstt. Commissioner of Customs regarding the jewellery having been taken out earlier from India.	—

ANNEX.-I

1. Fire arms.
2. Cartridges of fire arms exceeding 50.
3. Cigarettes exceeding 200 or cigars exceeding 50 or tobacco exceeding 250 gms.
4. Alcoholic liquor and wines in excess of one litre each.
5. Gold or silver, in any form, other than ornaments.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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¹[ANNEX.-II

1. Colour Television/ Mohochrome Television.
2. Video Cassette Recorder/ Video Cassette Player/ Video Television Receiver/ Video Cassette Disc Player.
3. Digital Video Disc Player.
4. Video Home Theatre System.
5. Washing Machine.
6. Electrical/ Liquefied Petroleum Gas Cooking Range with four or more burners.
7. Dish Washer.
8. Music System.
9. Personal Computer/ Desktop Computer.
10. Notebook Computer/ Laptop Computer.
11. Air Conditioner.
12. Refrigerator.
13. Deep Freezer.
14. Microwave Oven.
15. Video camera or the combination of any such video camera with one or more of the following goods, namely:
 - (a) Television Receiver;
 - (b) Sound recording or reproducing apparatus;
 - (c) Video reproducing apparatus.
16. Word Processing Machine.
17. Fax machine.
18. Portable Photocopying Machine.
19. Vessels.
20. Aircraft.
21. Cinematographic films of 35 mm and above.
22. Gold or silver, in any form, other than ornaments.]

Baggage (Transit to Customs Stations) Regulations, 1967

Ntfn 61-Cus. (M.F.) (D.R. & I.), dated 03.06.67

(As amended by Ntfn No. 164/77-Cus., dated 30.07.1977, Ntfn No. 229/84-Cus., dated 31.08.1984, Ntfn No. 246/85-Cus., dated 02.08.1985 Ntfn No. 39/86-Cus., dated 12.02.1986, Ntfn No. 43-Cus. (NT), dated 08.07.2002:

In exercise of the powers conferred by section 81 of the Customs Act, 1962 (52 of 1962), and in supersession of its notification No. 135/63-Cus., dated the 25th May, 1963, the Central Board of Excise and Customs hereby makes the following regulations for the transit of unaccompanied baggage from the customs station of arrival at Bombay, Delhi, Calcutta, ²[Madras, Bangalore, ³[Trivandrum], Hyderabad ⁴[Cochin, Ahmedabad, Goa, Calicut, Coimbatore, Lucknow or Amritsar] to any other of the aforesaid customs stations, namely:

¹ Substituted by Ntfn No. 11-Cus. (NT), dated 01.03.2002.

² Substituted by Ntfn No. 246/85-Cus., dated 02.08.1985.

³ Substituted by Ntfn No. 39/86-Cus., dated 12.02.1986.

⁴ Substituted by Ntfn No. 43/2002-Cus., (N.T.) dated 08.07.2002.

1. Short title.

- (1) These regulations may be called the Baggage (Transit to Customs Stations) Regulations, 1967.

2. Conditions for allowing transit.

Where the unaccompanied baggage of any passenger arrives at the customs station at Bombay, Delhi, Calcutta, ¹[Madras, Bangalore, ²[Trivandrum], Hyderabad or ³[Cochin, Ahmedabad, Goa, Calicut, Coimbatore, Lucknow or Amritsar] and the passenger desires that the said baggage may be cleared at any of the aforesaid customs stations other than the customs station at which the baggage has arrived, then, on a request made in this behalf by the passenger, such baggage may be permitted to be transported to the customs station at which the passenger desires the same to be cleared, by ⁴[air, a passenger train or trucks], if –

- (a) all arrangements are made by the passenger or his agent for the transport of such baggage from the customs station of arrival to the customs station at which he desires to have such baggage cleared, for its booking to that station and for its transport to the customs house in the place at which the station is located;
- (b) the baggage remains under the supervision of an officer of customs deputed for the purpose except when it is under the custody of the airline or the railway authorities, and the passenger pays for the services of the officer so deputed; and
- (c) in the case of goods to be transported by rail, such of the goods as can be insured with the railways are so insured.
- ⁵[(d) in the case of goods to be transported by trucks, the carrier shall be responsible for carriage of goods to destination Customs in containerised truck after sealing of the same by one time bottle seal by Customs and on execution of bond and security to the satisfaction of the Commissioner of Customs at the originating Airport/ Air-cargo Complex.]

3. Special provision.

Notwithstanding anything contained in these regulations, the ⁶[Commissioner of Customs] may, at his discretion, permit unaccompanied baggage to be transported for clearance to the customs station at which the passenger desires to have the same cleared by goods train, if–

- (a) the goods are insured; and
- (b) (i) the passenger or his agent satisfied the proper officer that the goods would not be accepted for being carried in a passenger train having regard to the size and weight thereof; or
- (ii) the transport by passenger train would put the passenger to undue financial strain:

Provided that the ⁷[Commissioner of Customs] shall, whenever Quick Transit Service is available, allow the transport of goods only through that Service.

Explanation—"Quick Transit Service" means the special scheme of transit of goods consignments over the Indian Railway System in which the delivery of goods at destination is guaranteed within the stipulated time.

¹ Substituted by Ntfn No. 246/85-Cus., dated 02.08.1985.

² Substituted by Ntfn No. 39/86-Cus., dated 12.02.1986.

³ Substituted by Ntfn No. 43/2002-Cus., (N.T.) dated 08.07.2002.

⁴ Substituted by Ntfn No. 43/2002-Cus., (N.T.) dated 08.07.2002.

⁵ Inserted by Ntfn No. 43/2002-Cus., (N.T.) dated 08.07.2002.

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁷ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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¹[4. Payment of fee.

A fee of ²[twenty rupees] in respect of each application for transshipment of goods shall be charged at all customs stations.]

Explanation—In this regulation one ton or a fraction thereof of iron ore, oil, timber and other bulk commodities, shall be reckoned as one package.

Passenger's Baggage (Levy of Fees) Regulations, 1966

Ntfn 111-Cus. (C.B.E. & C.), dated 08.06.66

In exercise of the powers conferred by sub-section (1) of section 157 read with sub-section (2) of section 158 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 Passenger's Baggage (Levy of Fees) Regulations, 1966.

2. Extent of application.

These regulations shall apply to baggage including any package comprised therein, detained or seized from passengers or taken over as unclaimed, and subsequently released or returned.

3. Levy of fees.

In respect of any such baggage or any package comprised therein, a fee of such amount as the ³[Commissioner of Customs] may fix shall be levied and collected at the time the baggage or package is released or returned, having regard to—

- (i) the nature of the articles contained in the baggage or package;
- (ii) the changes incurred in the transportation of the baggage or package from the landing place to the place of storage including the portorage charges; and
- (iii) any other expenditure incurred for services rendered:

Provided that no fee shall be levied in respect of any baggage or package detained by the customs authorities but released to the passenger on the ground that it has been in his *bona fide* use.

Rules for Shipping of Passenger's Baggage and Passing of the same through Custom Houses

Ntfn 44-Cus. (M.F.) (D.R.), dated 11.05.54

In exercise of the powers conferred by section 75 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rules for the shipping of passenger's baggage and the passing of the same through the Custom Houses, namely:

RULES

- (a) No passenger's baggage shall be shipped for export until the owner has delivered to the Customs ⁴[Commissioner] or other proper officer, a declaration of such baggage in such form and containing such particulars as the Chief Customs Officer may, from time to time, by general or special order direct;

¹ Substituted by Ntfn No. 229/84-Cus., dated 31.08.1984.

² Substituted the words "five rupees" by Ntfn No. 43/2002-Cus. (N.T.), dated 08.07.2002.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

- (b) such owner has paid the duties (if any) payable on the goods contained in such baggage;
- (c) such licences or other authority for the shipment of the goods where necessary under any law for the time being in force are produced; and
- (d) such declaration form has been passed by the proper officer of customs:

Provided that the Chief Customs Officer may, in the case of any Customs port or wharf, by notification in the Official Gazette, and subject to such restrictions and conditions, if any, as he thinks fit, exempt any class of goods or any class of persons from all or any of the provisions of this rule.

Courier Imports and Exports (Clearance) Regulations, 1998

Ntfn 87-Cus. (N.T.), dated 09.11.98

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962) and in supersession of the Courier Imports (Clearance) Regulations, 1995, 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.

- (i) These regulations may be called the Courier Imports and Exports (Clearance) Regulations, 1998.
- (ii) They shall come into force on the date of their publication in the Official Gazette.

2. Application.

- (1) These Regulations shall apply for assessment and clearance of goods carried by the Authorised Couriers on ¹[incoming or outgoing flights or by any other mode of transport] on behalf of a consignee or consignor for a commercial consideration.
- (2) These Regulations shall not apply to—
 - (a) the goods imported or export goods from the airports other than the Customs airports at Mumbai, Delhi, Chennai, Calcutta, Bangalore Hyderabad, ²[Ahmedabad, Jaipur and Land Customs Stations other than at Gopadanga and Petrapole in West Bengal];
 - (b) the goods where the weight of the individual package exceeds ³[70 kilograms];
 - (c) the goods which require specific conditions to be fulfilled under any other Act for the time being in force or any rule or regulation made thereunder.
 - (d) the following import goods requiring testing of samples thereof on reference to the relevant statutory authorities or experts before their clearance, namely:
 - (i) animals and parts thereof, plants and parts thereof;
 - (ii) perishables;
 - (iii) publications containing maps depicting incorrect boundaries of India;
 - (iv) precious and semi-precious stones, gold or silver in any form; and
 - (v) goods falling within Chapters 28, 29 and 38 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).
 - (e) the following export goods, namely:

¹ Substituted by Ntfn No. 11/2001-Cus. (N.T.), dated 14.03.2001.

² Substituted by Ntfn No. 11/2001-Cus. (N.T.), dated 14.03.2001.

³ Substituted for the words '32 kilogram' by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

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- (i) the goods which are subject to levy of any duty on their exports;
- (ii) the goods proposed to be exported with the claim for drawback;
- (iii) the goods proposed to be exported under Duty Entitlement Pass Book Scheme, Duty Exemption Schemes, Export Promotion Capital Goods Scheme or any other similar export promotion schemes;
- (iv) goods in respect of which the proper officer directs the filing of ¹[Shipping Bill or Bill of Export] in prescribed form;
- (v) goods where the value of the consignment is above rupees twenty-five thousand and transaction in foreign exchange is involved.

²[**Provided** that the limit of rupees twenty five thousand as provided in this sub-clause shall not apply to such export consignments where the G.R. Waiver or specific permission has been obtained from the Reserve Bank of India.]

- ³[(3) Notwithstanding anything contained in sub-regulation (2) these regulations shall apply to import of gems and jewellery including samples thereof by Export Oriented Unit or units in Export Processing Zones and export of cut and polished diamond, gems and jewellery under any scheme of Export and Import Policy 1st April, 1997 - 31st March, 2002 published by the Government of India under Ministry of Commerce Notification No. 1/1997-2002, dated the 31st March, 1997 as amended from time to time from Export Oriented Units, Units in Export Processing Zones or units in the Domestic Tariff Area if the value of each export consignment under such export does not exceed rupees twenty lacs.]

3. Definition.

In these Regulations, unless the context otherwise requires—

- (a) “Authorised Couriers” in relation to import or export goods means a person engaged in the international transportation of the goods on express door to door delivery basis and is registered in this behalf by a Commissioner of Customs;
- (b) “documents” include any message, information or data recorded on paper, cards or photographs and of no commercial value which is for the time being not liable to any Customs duty or subject to any prohibition or restriction on their export out of or import into India;
- (c) “samples” means any *bona fide* commercial samples and prototypes of goods supplied free of charge of a value not exceeding ⁴[fifty thousand rupees] for exports or ⁵[five thousand rupees for imports] which are for the time being not subject to any prohibition or restriction on their export out of or import into India and for which no transfer of foreign exchange is involved;
- (d) “free gifts” means any *bona fide* gifts of articles for personal use of a value not exceeding rupees twenty-five thousand ⁶[for a consignment] in case of export goods ⁷[rupees five thousand] for each consignment in case of import goods which are not subject to any prohibition or restriction on their export out of or import into India and for which no transfer of foreign exchange is involved;
- (e) the words used and not defined in these Regulations but defined in the Customs Act, 1962 (52 of 1962) shall have the meanings respectively assigned to them in that Act.

¹ Substituted by Ntfn No. 11/2001-Cus. (N.T.), dated 14.03.2001.

² Inserted by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

³ Inserted by Ntfn No. 28-Cus. (N.T.), dated 28.04.1999.

⁴ Substituted by Ntfn No. 9-Cus. (N.T.), dated 01.03.2001.

⁵ Substituted for the words ‘two thousand ruppess for imports’ by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

⁶ Substituted for the words ‘in a financial year’ by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

⁷ Substituted for the words ‘rupees two thousand’ by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

4. Packaging of goods imported or exported by courier.

- (1) For the purposes of these Regulations, the import or export goods shall be packed separately in identifiable courier company bags, with appropriate labels, in the following categories, namely:
 - (a) documents;
 - (b) samples and free gifts;
 - (c) dutiable or commercial goods.
- (2) Each package of import or export goods shall bear a declaration from the sender regarding the contents of the package and the value thereof.

5. Clearance of import goods.

In case of import of goods through courier, the following procedure shall be followed, namely:

- (1) (a) The on-board courier or the ¹[Person incharge of aircraft or the authorised agent of transport] shall file a statement, immediately on arrival of the import goods at the ²[airport by such aircraft or the land customs station by any other mode of transport, as the case may be] with the proper officer in Form ³[Courier Bill of Entry-I (CBE-I)⁴ or Form Courier Bill of Entry-VI (CBE-VI),⁵ as may be applicable] appended to these regulations;
- (b) The Authorised Courier shall file a statement with the proper officer in respect of such import of goods in ⁶[Courier Bill of Entry-II (CBE-II)⁷ or Form Courier Bill of Entry-II (CBE-II)⁸ as may be applicable] appended to these regulations.
- (2) (a) The Courier bags containing the imported goods shall not be dealt with in any manner except as may be directed by the Commissioner of Customs;
- (b) No person shall, except with the permission of proper officer, open any packages of imported goods brought by an on-board courier or the ⁹[person incharge of aircraft or the authorised agent of courier service carrying goods by any other mode or transport].
- (3) The Authorised Courier shall make entry of goods imported by him by presenting to the proper officer a bill of entry in Form ¹⁰[Courier Bill of Entry-III, (CBE-III)¹¹, Form Courier Bill of Entry-IV (CBE-IV)¹², Form Courier Bill of Entry-V, (CBE-V)¹³, Form Courier Bill of Entry-VIII (CBE-VIII)¹⁴, Form Courier Bill of Entry-IX (CBE-IX)¹⁵, or as the case may be in Form Courier Bill of Entry-X (CBE-X)¹⁶ appended to these regulations:

Provided that the Authorised Courier, or with the concurrence of the Authorised Courier, the consignee or a Customs House Agent on behalf of the consignee, may file a bill of entry in the form prescribed in the Bill of Entry (Forms) Regulations, 1976 for clearance of any of the imported goods:

¹ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

² Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

³ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁴ See Customs Series Form No. 103 to 107I.

⁵ See Customs Series Form No. 103 to 107I.

⁶ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁷ See Customs Series Form No. 103 to 107I.

⁸ See Customs Series Form No. 103 to 107I.

⁹ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

¹⁰ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

¹¹ See Customs Series Form No. 103 to 107I.

¹² See Customs Series Form No. 103 to 107I.

¹³ See Customs Series Form No. 103 to 107I.

¹⁴ See Customs Series Form No. 103 to 107I.

¹⁵ See Customs Series Form No. 103 to 107I.

¹⁶ See Customs Series Form No. 103 to 107I.

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Provided further that for the following goods, the entry shall be made in the form prescribed in the Bill of Entry (Forms) Regulations, 1976, namely:

- (i) goods in respect of which an exemption from the levy of duty applicable to Hundred per cent Export Oriented Undertakings or to units in a Free Trade Zone, as defined under Section 3 of the Central Excise Act, 1944 (1 of 1944), is claimed;
 - (ii) goods imported under the Export Promotion Capital Goods Scheme or the Duty Entitlement Pass Book Scheme or the Duty Exemption Scheme specified under the Export and Import Policy (1st April, 1997 - 31st March, 2002) as amended from time to time or any relevant Export and Import Policy issued by Government of India and in force at the time of the import;
 - (iii) goods imported against any other licence issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);
 - (iv) goods imported by or on behalf of a person who is related to the consignor within the meaning of Rule 2 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988; and
 - (v) goods in respect of which the proper officer directs filing of a bill of entry in such form.
- (4) The Authorised Courier shall present all the imported goods brought by on-board courier or the ¹[person incharge of aircraft or the authorised agent of courier service carrying goods by any other mode of transport] to the proper officer for examination and assessment thereof.
- ²[(5) Any imported goods which are not taken clearance, shall be detained by the customs and shall be disposed of after issuing a notice to the Authorised Courier after the expiry of a period of thirty days of the arrival of the said goods and the charges payable for storage and holding of such goods shall be payable by the Authorised Courier.]

6. Clearance of export goods.

In case of export of goods through courier the following procedure shall be followed, namely:

- (1) The Authorised Courier shall file a statement before departure of any flight containing such export goods at the ³[airport or before crossing the international border by any other mode of transport at the land customs station] with the proper officer in Form ⁴[Courier Shipping Bill-I (CSB-I)]⁵, Form Courier Shipping Bill-II (CSB-II)⁶, Form Courier Bill of Export-I (CBEx-I)⁷ or as the case may be in Form Courier Bill of Export-II (CBEx-II)⁸] appended to these regulations.
- (2) (a) The courier bags containing the export goods shall not be dealt with after presentation of documents to the proper officer in any manner except as may be directed by the Commissioner of Customs;
- (b) no person shall, except with the permission of proper officer, open any package of export goods to be taken on-board a ⁹[flight or across the international border by any other mode of transport].
- (3) The Authorised Courier shall make entry of goods for export in shipping bill in Form ¹[Courier Shipping Bill-I (CSB-I)]², Form Courier Shipping Bill-II (CSB-II)³,

¹ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

² Substituted by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

³ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁴ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁵ See Customs Series Form No. 103 to 1071.

⁶ See Customs Series Form No. 103 to 1071.

⁷ See Customs Series Form No. 103 to 1071.

⁸ See Customs Series Form No. 103 to 1071.

⁹ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

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Form Courier Bill of Export-I (CSEx-I)⁴ or as the case may be in Form Courier Bill of Export-II (CSEx-II)⁵ as the case may be, appended to these regulations before presenting it to the proper officer:

Provided that for the following goods, such entry shall be made in the form prescribed in the shipping bill and Bill of Export (Form) Regulations, 1991 and shall be processed at Air Cargo Complex or the Export Oriented Unit or Export Promotion Zone or Free Trade Zone or Software Technology Park or Electronic Hardware Technology Park and thereafter the ⁶[Assistant Commissioner of Customs or Deputy Commissioner of Customs], may, if requested by the exporter, hand-over such goods to a courier agency for onward despatch subject to such condition and limitation as may be imposed by him—

- (a) goods originated from Hundred per cent Export Oriented Undertaking or unit in a Free Trade Zone or Software Technology Park or Electronic Hardware Technology Park, as defined under Section 3 of the Central Excise Act, 1944 (1 of 1944);
 - (b) goods proposed to be exported under the Export Promotion Capital Goods Scheme or the Duty Entitlement Pass Book Scheme or Duty Exemption Scheme as specified under the Export and Import Policy (1st April, 1997 - 31st March, 2002) issued by the Government of India as amended from time to time or relevant Export and Import Policy issued by the Government of India and in force at the time of the export;
 - (c) goods proposed to be exported under claim for drawback in terms of provisions laid down under the Customs Act, 1962 (52 of 1962);
 - (d) goods which require licence to be issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) for their export;
 - (e) goods in respect of which the proper officer directs filing of a ⁷[Shipping Bill or Bill of export] in such form.
- (4) The Authorised Courier shall present the export goods to the proper officer for inspection, examination and assessment thereof.
- (5) Any export goods brought into customs area for export purpose and have not been exported within seven days of arrival of such goods into such area ⁸[or within such extended period as permitted by the proper officer in case of delay due to such reasons which the proper officer considers to be beyond the control of the concerned courier,] may be detained by the proper officer and disposed of after issuing notice to the concerned courier and the charges payable, for storage and handling of such goods shall be payable by such courier.

7. Registration of Authorised Couriers.

Every person intending to operate as an Authorised Courier shall apply, in writing to the Commissioner of Customs at the Customs airport at Mumbai or Delhi or Chennai or Calcutta or Bangalore or Hyderabad or Ahmedabad or ⁹[Jaipur or as the case may be the Commissioner of Customs, West Bengal at Kolkata in charge of the land customs stations, at Gojadanga and Petrapole] from where the goods are to be imported or exported, for registration in this behalf.

¹ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

² See Customs Series Form No. 103 to 107I.

³ See Customs Series Form No. 103 to 107I.

⁴ See Customs Series Form No. 103 to 107I.

⁵ See Customs Series Form No. 103 to 107I.

⁶ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁷ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁸ Inserted by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

⁹ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

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8. Condition to be fulfilled by the applicant.

The person applying for registration as an Authorised Courier shall disclose to the satisfaction of the Commissioner of Customs that he is financially viable and in support thereof he shall produce to the said Commissioner of Customs a certificate issued by a scheduled bank or such other proof acceptable to the Commissioner of Customs evidencing possession of assets of a value not less than five lakh rupees.

9. Scrutiny of application.

On receipt of application under Regulation 7, the Commissioner of Customs, may make enquiries for verification of the particulars set out in the application and also such other enquiries as the Commissioner of Customs may deem necessary for such registration including enquiries about the identity, *bona fides* and reputation of the applicant.

10. Registration.

(1) If on scrutiny of the application filed by a person under Regulation 7, the Commissioner of Customs is satisfied that the applicant fulfils the requirements of the registration, the said applicant may be so registered as an Authorised Courier:

¹[***]

(2) The registration granted under sub-regulation (1) shall be valid for a period of three years, but may be renewed from time to time in accordance with the procedure provided in sub-regulation (3).

(3) The Commissioner of Customs may, on application made before the expiry of the validity of the registration under sub-regulation (2) renew the registration for a period of three years from the date of expiration of the original registration or of the last renewal of such registration, as the case may be, if the performance of the Authorised Courier is found to be satisfactory with reference to the absence of any complaints of misconduct including non-compliance of any of the obligations specified in regulation 13.

11. Execution of bond and furnishing of security.

The Commissioner of Customs shall require the applicant to enter into a bond in such form with a security of ²[two lakh rupees in case of major international airports of Mumbai, Delhi, Calcutta and Chennai and ³[one lakh rupees in case of other airports and Land Customs Stations] in cash or in the form of postal security ⁴[or bank guarantee] or National Savings Certificate in the name of the Commissioner of Customs for complying with the provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder. The condition of the said bond shall also be that the applicant shall agree to pay the duty, if any, not levied or short levied, with interest if applicable on any goods taken clearance by the Authorised Courier if in the opinion of the ⁵[Assistant Commissioner of Customs or Deputy Commissioner of Customs] the same cannot be recovered from the importer or the exporter.

12. The Authorised Courier.

Who has been granted a registration under Regulation 10 would be entitled to apply for and to be granted registration in any other ⁶[airport or Land Customs Station] provided that he shall furnish the bond and security as prescribed under Regulation 11 for each such registration.

13. Obligations of Authorised Courier.

An Authorised Courier shall—

¹ Omitted by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

² Substituted for the words 'five lakhs rupees' by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

³ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁴ Inserted by Ntfn No. 54-Cus. (N.T.), dated 21.09.1999.

⁵ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁶ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

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- (a) obtain an authorisation, from each of the consignees of the import goods for whom such Courier has imported such goods or consignors of such export goods which such courier proposes to export, to the effect that the Authorised Courier may act as agent of such consignee or consignor, as the case may be, for clearance of such import or export goods by the proper officer;
- (b) advise his client to comply with the provisions of the Customs Act, 1962 (52 of 1962) and rules and regulations made thereunder and in case of non-compliance thereof shall bring the matter to the notice of the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs];
- (c) exercise due diligence to ascertain the correctness and completeness of any information which he submits to the proper officer with reference to any work related to the clearance of import goods or ²[of] export goods;
- (d) not withhold information communicated to him by an officer of Customs, relating to assessment and clearance of import goods as well as inspection, examination and ³[clearance] of export goods, from a client who is entitled to such information;
- (e) not withhold any information relating to assessment and clearance of imported goods or ⁴[of] export goods, from the Assessing Officer;
- (f) not attempt to influence the conduct of any officer of Customs in any matter pending before such officer or his subordinates by the use of threat, false accusation, duress or offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing or value;
- (g) maintain records and accounts in such form and manner as may be directed from time to time by an ⁵[Assistant Commissioner of Customs or Deputy Commissioner of Customs] and submit them for inspection to the said Assistant Commissioner of Customs or an officer authorised by him, wherever required.

14. Deregistration.

- (1) The Commissioner of Customs may revoke the registration of an Authorised Courier and also order forfeiture of security on any of the following grounds, namely:
 - (a) failure of the Authorised Courier to comply with any of the conditions of the bond executed by him under Regulation 11;
 - (b) failure of the Authorised Courier to comply with any of the provisions of these regulations;
 - ⁶[(c) misconduct on the part of the Authorised Courier whether within the jurisdiction of the said Commissioner of anywhere else, which in the opinion of the Commissioner renders him unfit to transact any business in the Customs Station:]

Provided that no such revocation shall be made unless a notice has been issued to the Authorised Courier informing him the grounds on which it is proposed to revoke the registration and he is given an opportunity of making a representation in writing and a further opportunity of being heard in the matter, if so desired:

Provided further that, in case the Commissioner of Customs considers that any of such grounds against an Authorised Courier shall not be established *prima facie* without an inquiry in the matter, he may conduct the inquiry to determine the ground and in the meanwhile pending the completion of such inquiry, may suspend the registration of the Authorised

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

³ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁴ Substituted by Ntfn No. 11-Cus. (N.T.), dated 14.03.2001.

⁵ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁶ Substituted by :Ntfn No. 66-Cus. (N.T.), dated 25.11.1999.

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Courier. If no ground is established against the Authorised Courier, the registration so suspended shall be restored.

- (2) Any Authorised Courier or the officer of the Customs authorised by the Chief Commissioner of Customs in this behalf, if aggrieved by the order of the Commissioner of Customs passed under sub-regulation (1), may represent to the Chief Commissioner of Customs in writing against such order within sixty days of communication of the impugned order to the Authorised Courier and the Chief Commissioner of Customs shall, after providing the opportunity of being heard to the parties concerned, dispose of the representation as expeditiously as may be possible.

For Forms see Part—Customs Forms and Bonds.

Rules regarding Postal Parcels & Letter Packets from Foreign Ports In/Out of India

Ntfn 53-Cus. (C.B.R.), dated 17.06.50

(As amended by Ntfn No. 111/55-Cus., dated 08.07.1955)

In exercise of the powers conferred by section 75 of the Sea Customs Act, 1878 (8 of 1878), and in supersession of all previous notifications on the subject, the Central Board of Revenue is pleased to make the following rules for the landing and clearing at the ports of Bombay, Calcutta, Madras, Dhanushkodi and all the Land Customs Stations and Airports of parcels and packets forwarded by the foreign mails or by passenger vessels or air lines, namely:

I. Postal Parcels and Letter Packets from Foreign Ports out of India

(i) Landing

- (1) The boxes or bags containing the parcels shall be appropriately labelled e.g., "Postal Parcels" ("Colist Postaux"), "Parcel Post", "Parcel Mail", "Letter Mail" and as such will be allowed to land pass, either with or separately from the regular mails, at the Foreign Parcel Department of the Government Post Offices in the case of ports of Calcutta and Madras, at the Foreign Parcel Department of the Foreign Posts in the case of the port of Bombay and the Foreign Parcel Department Office at Madurai in the case of the port of Dhanushkodi, at the Sorting Air Mail Office at Delhi and the Office of Foreign Post at New Delhi in the case of airports of Delhi and at the Foreign Parcel Department of Golakganj in the case of the Land Customs Station at Golakganj in Assam.

(ii) Clearing

- (2) (a) The Postmaster shall, on receipt of the parcel mail, hand over to the Principal Appraiser (a) a memo showing the total number of parcels received by that mail from each country of origin, (b) parcel bills (in triplicate) in the form approved by the Chief Customs Officer, or the senders' declarations and any other relevant documents that may be required for the preparation of the parcel bills by the Customs Department, (c) the relative Customs declarations and despatch notes (if any), and (d) any other information required in connection with the preparation of the parcel bills which the Post Office is able to furnish.
- (b) The Postmaster shall, on receipt of letter mail bags and in consultation with the Principal Postal Appraiser get the bags opened and scrutinised under the supervision of the Customs Appraiser with a view to detain all packets suspected to contain dutiable articles. The packets thus detained will be presented in due course to the Customs Appraiser with letter mail bill and assessment memos for assessment as per rule (6)(b).
- (3) On receipt of those documents, the Customs Appraiser shall scrutinise the particulars given therein and shall mark off on the relative declarations on parcel bills, as may from time to time be directed, all parcels required

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to be detained for examination either for want of necessary particulars or defective description or suspected misdeclaration or undervaluation of contents. They shall assess the remaining parcels by showing the rates of duty on the declarations or parcel bills, as the case may be. For this purpose, they will generally be guided by the particulars given in the parcel bills or Customs declarations and despatch notes (if any). When any invoice, document or information is required whereby the real value, quantity or description of the contents of a parcel can be ascertained, the addressee may be called upon to produce or furnish such invoice, document and information.

- (4) The Customs clerk shall then transcribe on to the parcel bill whenever necessary the values from the declarations and after converting them into Indian currency at the ruling rates of exchange shall calculate and enter the amount of duty. The parcel bills with the declarations so completed, shall then be audited by the Audit clerks and the original and duplicate copies shall be returned to the Postmaster with as little delay as possible, the triplicate being retained in the Customs Department.
- (5) The Postmaster shall then detain all parcels marked for detention in the manner indicated above, and shall allow the rest to go forward for delivery to addressee on payment of the duty marked on each parcel.
- (6) (a) As soon as the detained parcels are ready for examination, they shall be submitted together with the parcel bill to the Customs appraisers who, after examining them and filling in details of contents of value in the parcel bills, will note the rate and amount of duty against each item. The remarks "Examined" shall be entered by the Appraiser against the entry in the parcel bill relating to each parcel examined by him. The parcel bill shall then be audited and the original and triplicate copies returned to the Postmaster, the duplicate being retained in the Customs Department.
- (b) As soon as packets detained as per rule (2)(b) are ready for examination and assessment, they shall be submitted together with the relative letter mail bill and assessment memos to the Customs Appraising Officer who, after examining them and filling the details of contents of value in the bill, will note the rate and amount of duty against each item. He will likewise fill in these details on the assessment memo, to be forwarded along with each packet. The bill and the assessment memo, shall then be audited.
- (7) All parcels or packets required to be opened for Customs examination shall be opened, and after examination re-closed by the Post Office officials and shall then be sealed by them with a distinctive seal. The parcels or packets will remain throughout in the custody of the Post Office officials, but if it comes to the knowledge of the Appraiser at the time of examining any parcel or packet that its contents are damaged or short, a note thereof shall be made on the parcel or packet bill.
- (8) If on examination the contents of any parcel or packet are found to be misdescribed or the value understated or to consist of prohibited goods such parcels or packets shall be detained and reported to the Customs ¹[Commissioner], and the Postmaster shall not allow such parcels or packets to go forward without the Customs Collector's orders.
- (9) The duties as assessed by the Customs Appraiser and noted in the parcel bill or letter mail bill shall be recovered by the Post Office from the addressees at the time of delivery to them. The credit for the total amount of duty certified by the Customs Appraiser at the end of each bill shall be given by the Post Office to the Customs Department in accordance with the procedure settled between the two Departments from time to time.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (10) The duties imposed by these rules upon Customs Appraisers shall be performed at Madurai by such officer as the Chief Customs Officer may determine.
- (11) The parcel bills or letter mail bills and other document on which assessment is made shall remain in the custody of the Post Office, but the duplicates, where these are prepared, shall be kept in the Customs Department for dealing with claims for refunds, etc., and shall be preserved for three years.

The parcel bill or letter mail bill shall show the following particulars:

- (a) Number assigned by office of posting.
- (b) Name of office of posting.
- (c) Name of office of destination.
- (d) Weight of insured parcels.
- (e) Local number.
- (f) Contents as ascertained by the Customs.
- (g) Declared value in foreign currency.
- (h) Rupee value.
- (i) Rate of duty.
- (j) Amount of duty, and
- (k) Remarks.

II. Postal Parcels or Packets from Foreign Ports in India.

- (12) Postal parcels or packets from foreign ports in India may be forwarded as ordinary mails to the Foreign Parcel Department of the General Post Office.
- (13) For assessment and other customs purposes such parcels will be treated in the same manner as postal parcels from foreign ports out of India and the procedure prescribed in Rules (2) to (10) above shall be followed.

Goods Imported (Conditions of Transshipment) Regulations, 1995

Ntfn 61-Cus.; (N.T.), dated 28.09.95

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 Transshipment) 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 Transshipment) 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 purposes 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 purposes of transshipment.

3. Conditions governing transshipment.

Transshipment shall be allowed under these regulations on the conditions that—

- (a) the declarant makes an application to the proper officer of customs seeking permission for transshipment of the goods imported;
- ¹[(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 ²[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 ³[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 ⁴[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 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 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, or as the case may be, the market

¹ Substituted by Ntfn No. 31/98-Cus. (N.T.), dated 02.06.1998.

² Substituted by Ntfn No. 31/98-Cus. (N.T.), dated 02.06.1998.

³ Substituted by Ntfn No. 31/98-Cus. (N.T.), dated 02.06.1998.

⁴ Substituted by Ntfn No. 31/98-Cus. (N.T.), dated 02.06.1998.

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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 station.

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.
 - ¹[(c) in the case of a container which has been sealed by one time bottle seal by shipping lines or their agents and the Customs have been informed of the serial number of such seal, such container shall not be required to be sealed by the Customs as required under clause (a) or clause (b) at the gateway port prior to their despatch to ICDs/ CFSS/ Ports by rail/ motor vehicle/ vessels.]
- (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.

Transportation of Goods (Through Foreign Territory) Regulations, 1965

Ntfn 112-Cus. (C.B.E. & C.), dated 21.08.65

(As amended by Ntfn No. 69/66-Cus., dated 14.05.1966)

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 regulations 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 of a bill (in duplicate) in the form specified in Appendix A [See Form 31 in Part—Customs Forms and Bonds] to these regulations.
- (b) Every such consignor shall, while presenting the bill, make and subscribe to a declaration at the foot thereof as to the truth of its contents.

¹ Inserted by Ntfn No. 59-Cus. (N.T.), dated 10.10.2000.

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 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 [See Form 32 in Part—Customs Forms and Bonds] 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 alongwith 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 (18 of 1947) or the Foreign Exchange Regulation Act, 1947 (7 of 1947) 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 conveyances or the consignor of goods to enter into a gen-

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eral 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.

Specified Goods (Prevention of Illegal Export) Rules, 1969

Ntfn 06-Cus. (M.F.) (D.R. & I.); dated 03.01.69

(As amended by Ntfn No. 13/69-Cus., dated 11.01.1969, Ntfn No. 20/69-Cus., dated 10.01.1969, Ntfn No. 130/69-Cus., dated 06.09.1969 and Ntfn No. 31/90-Cus.(NT), dated 08.06.1990.)

In exercise of the powers conferred by sections 11K, 11L and 11M of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:

1. Short title.

These rules may be called the Specified Goods (Prevention of Illegal Export) Rules, 1969.

2. Definition.

In these rules, "section" means a section of the Customs Act, 1962 (52 of 1962).

3. Particulars, etc. of transport voucher under section 11K.

- (1) The transport voucher required to be prepared under section 11K shall contain the following particulars, namely:
 - (a) name of the specified goods;
 - (b) names of the seller and the purchaser, where the specified goods are transported consequent on sale, and the name of the owner, in all other cases;
 - (c) location of the premises from where the specified goods are being taken out;
 - (d) location of the premises for which the specified goods are being taken;
 - (e) total net weight of the specified goods;
 - ¹[(f) ***]
 - (g) time when the specified goods leave the premises mentioned at (c) above.
- (2) Where the specified goods are to be transported to another city, town or village, the transport vouchers shall, in addition to the particulars specified in sub-rule (1), contain the following particulars:
 - (i) means of transport;
 - (ii) where a motor vehicle is used for transport of the specified goods, the registration number of the motor vehicle;
(When a bus is used as a means of transport, it is not necessary to include the registration number of the bus).
 - (iii) route to be followed for transport of specified goods;
 - (iv) time and date when the specified goods are to be taken from the city, town or village; and
 - (v) time and date when the specified goods are likely to reach the destination.
- (3) The transport voucher referred to in sub-rule (1) shall be prepared and signed by the seller of the specified goods, when the transport of such goods is consequent on sale, by the refiner when the transport of the specified goods is consequent on refining and, in all other cases, by the person owning, possessing or controlling

¹ Omitted by Ntfn No. 31/90-Cus. (N.T.), dated 08.06.1990.

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such goods and when such goods are to be transported, whether consequent on sale or otherwise, to another city, town or village the additional particulars referred to in sub-rule (2) shall be entered by the person owning, possessing or controlling such goods:

¹[***]

- (4) The transport vouchers referred to in sub-rule (1) shall be in duplicate, shall be bound in the form of a book, shall have consecutive serial numbers stamped on them and they shall be issued only in the order of the serial number and shall not be used in respect of any goods other than the specified goods; and the original copy thereof shall accompany the specified goods during their transportation and the duplicate copy thereof shall be retained by the person preparing the same.

4. Form, etc. of accounts to be maintained under section 11L.

- (1) The accounts required to be maintained under Section 11L shall contain the following particulars in respect of each acquisition, sale or disposal of the specified goods:
- (i) name of the specified goods;
 - (ii) name and full business address of the person from whom the specified goods have been acquired or in whose favour the specified goods have been parted with;
 - (iii) net weight of the specified goods;
 - ²[(iv) ***]
 - (v) time and date of acquisition, or parting with, of the specified goods.
- (2) At the end of each day, the person concerned shall total the acquisitions, sales and disposals of the specified goods and enter the closing balance in the accounts.
- (3) All particulars referred to in this rule shall be entered in a register:
Provided that particulars in respect of each sale or disposal of specified goods may be entered in a book of sale or disposal memos in duplicate.
- (4) The pages of the register and the book of sale or disposal memos, shall have consecutive serial numbers stamped thereon and the entries in respect of each acquisition, sale or disposal shall be made immediately after the acquisition, sale or disposal as the case may be.

5. Reasonable steps to be taken under section 11M.

- (1) The reasonable steps to be taken under section 11M by a person selling or transferring any specified goods shall be the following, namely:
He shall satisfy himself about the identity and address of the purchaser or transferee, as the case may be, either—
- (a) from his personal knowledge; or
 - (b) on the strength of a certificate given by a person personally known to the seller or transferee, as the case may be, and with whose handwriting and signature such seller or transferor is familiar; or
 - (c) on the strength of a certificate issued under the Gold Control Act, 1968 (45 of 1968) for recognition as a goldsmith or an identity card issued under that Act to an artisan; or
 - (d) on the strength of a certificate issued to the purchaser or transferee, as the case may be, by the Inspector of Central Excise within whose jurisdiction such purchaser or transferee has his place of business:

¹ Omitted by Ntfn No. 31/90-Cus. (N.T.), dated 08.06.1990.

² Omitted by Ntfn No. 31/90-Cus. (N.T.), dated 08.06.1990.

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Provided that—

- (i) where the identity and address of the purchaser or transferee, as the case may be, is satisfied on the strength of a certificate referred to in (b) above, the seller or transferor, as the case may be, shall retain such certificate for production before the proper officer; and
 - (ii) where the identity and address of the purchaser or transferee, as the case may be, is to be satisfied on the strength of a certificate referred to in (d) above, such certificate shall be got countersigned by the seller or transferor, as the case may be, from the Superintendent of Central Excise within whose jurisdiction he has his place of business.
- (2) The certificate of identity referred to in sub-rule (1)(b) shall be in the following form and shall be written in manuscript by the person issuing it:
- "I, Shri residing at do hereby certify that Shri residing at is personally known to me. His signature is given below. He is not a dealer in/ manufacturer of silver
- Signature
Date
- Signature of the person identified".
- (3) Where the identity and address of the person to whom specified goods are sold or transferred is satisfied on the basis of a certificate referred to in sub-rule (1)(c) or (d), the seller or the transferor, as the case may be, shall record in the accounts of sales maintained under section 11L, the serial number and date of the certificate or identity card and full particulars of the authority who has issued the certificate or the identity card, as the case may be.

Notified Goods (Prevention of Illegal Import) Rules, 1969

Ntfn 10-Cus. (M.F.) (D.R. & I.), dated 03.01.69

(As amended by Ntfn No. 14/69-Cus., dated 11.01.1969, Ntfn No. 77/74-Cus., dated 10.10.1974, Ntfn No. 61/76-Cus., dated 03.04.1976, Ntfn No. 140/77-Cus., dated 01.07.1977, Ntfn No. 85/78-Cus., dated 29.04.1978 and Ntfn No. 04/85-Cus., dated 07.01.1985.)

In exercise of the powers conferred by sections 11C, 11D and 11E, 11F and 11G of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:

1. Short title.

These rules may be called the Notified Goods (Prevention of Illegal Import) Rules, 1969.

2. Definition.

In these rules, "section" means a section of the Customs Act, 1962 (52 of 1962).

3. Particulars, etc. of statements under Section 11C.

- (1) The statement required to be delivered under sub-section (1) or sub-section (2) of section 11C shall contain the following particulars, namely:
 - (a) name and full business address of the person required to deliver the statement;
 - (b) situation and description of the premises where the notified goods are kept or stored;
 - (c) particulars of the notified goods as specified in rule 9;
 - (d) the date of acquisition of the notified goods and the name and full address of the person from whom such goods were acquired.

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- (2) The statement referred to in sub-rule (1) shall be duly signed by the person required to deliver it under section 11C and shall be delivered in duplicate to the proper officer who shall, after recording acknowledgment thereof on the original copy, return that copy and retain the duplicate copy.

4. Particulars, etc. of transport voucher under section 11C.

- (1) The transport voucher required to be prepared under sub-section (6) of section 11C shall contain the following particulars, namely:
 - (a) name of the owner of the notified goods;
 - (b) name of the notified goods;
 - (c) particulars of the notified goods as specified in rule 9;
 - (d) location of the premises from where the notified goods are being taken out;
 - (e) location of the premises to which the notified goods are being taken;
 - (f) means of transport;
 - (g) where a motor vehicle is used for transport for the notified goods the registration number of the motor vehicle. (When a bus is used as a means of transport, it is not necessary to include the registration number of the bus);
 - (h) route to be followed for transport of the notified goods;
 - (i) time and date when transport of the notified goods begins; and
 - (j) time and date when the notified goods are likely to reach the destination.
- (2)
 - (a) The transport voucher referred to in sub-rule (1) shall be prepared in duplicate and both the copies shall be signed by the person required to prepare the same.
 - (b) The original copy of the transport voucher shall accompany the notified goods during the transport of such goods and the duplicate copy thereof shall be retained by the person who has prepared the same.
 - (c) All transport vouchers shall have consecutive serial numbers stamped on them.
 - (d) No transport voucher shall be issued except in the order of the serial number and in respect of the notified goods.
 - (e) All transport vouchers shall be kept in the order of their serial number in the form of a book.

5. Reasonable steps to be taken under section 11D.

The reasonable steps to be taken under section 11D by a person acquiring any notified goods shall be the following, namely:

- (1) If the notified goods are to be acquired from a hawker, the person so acquiring shall satisfy himself that the hawker has entered the acquisition by him of the notified goods, in the accounts maintained under sub-section (1) of section 11E and the said accounts have been certified by a Gazetted officer of Customs.
- (2) If the notified goods are in the use of any person, or are kept for the use of any person, in his residential premises and are to be acquired by any other person, the person so acquiring shall satisfy himself (except when he acquires any notified goods which are being used by any person and the market price of which has depreciated on account of the use to less than two-thirds of their market price if they are new) that the seller or transferor, as the case may be, has evidence of clearance of such goods by the Customs authorities on payment of fine in lieu of confiscation or has permission from a Gazetted officer of Customs for the sale or transfer of such goods.

6. Form, etc. of accounts to be maintained under section 11E.

- (1) The accounts required to be maintained under section 11E of the Customs Act, 1962 (52 of 1962), shall contain the following particulars in respect of each acquisition or disposal (whether by sale or otherwise) of notified goods, namely:

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- (a) name of the notified goods;
 - (b) name and full business address of the person from whom the notified goods have been acquired or in whose favour the notified goods have been parted with;
 - (c) serial number of the voucher or memorandum accompanying the notified goods acquired;
 - (d) particulars as specified in rule 9; and
 - (e) time and date of acquisition, or parting with, of the notified goods.
- (2) All particulars referred to in sub-rule (1) shall be entered in a register:
Provided that particulars in respect of each sale or other disposal of notified goods may be entered in a book of sale or disposal memos, in duplicate.
- (3) The pages of the register and the book of sale or disposal memos, shall have consecutive serial numbers stamped thereon and the entries in respect of each transaction shall be made immediately after the transaction.

7. Particulars of voucher under section 11F.

- (1) The voucher required as evidence under section 11F shall contain the following particulars, namely:
- (a) name and full business address of the person selling or transferring the notified goods;
 - (b) particulars of the notified goods as specified in rule 9;
 - (c) name and full address of the person to whom the notified goods are sold or transferred; and
 - (d) time and date of sale or transfer.
- (2) (a) The voucher referred to in sub-rule (1) shall be prepared in duplicate and both the copies shall be signed by the person required to prepare the same.
- (b) The original copy of the voucher shall accompany the notified goods during the transport of such goods and the duplicate copy thereof shall be retained by the person who has prepared the same.
- (c) All vouchers shall have consecutive serial numbers stamped on them.
- (d) No voucher shall be issued except in the order of the serial number and in respect of the notified goods.
- (e) All vouchers shall be kept in the order of their serial number in the form of a book.

8. Particulars of the memorandum under section 11G.

The memorandum required to be issued under section 11G shall contain the following particulars, namely:

- (a) particulars of the notified goods as specified in rule 9;
- (b) name and full address of the person to whom the notified goods are sold or transferred;
- (c) time and date of sale or transfer of the notified goods;
- (d) name, full address and signature of the seller or transferor of the notified goods; and
- (e) where the market price of the notified goods sold or transferred has not depreciated on account of use to less than two-thirds of their market price, if they are new, the particulars of the permission given by a Gazetted Officer of Customs authorising the sale or transfer of the notified goods, or the number and date of the order passed by such officer evidencing clearance of such goods by the Customs on payment of fine in lieu of confiscation.

9. Particulars of notified goods.

- (1) The particulars of the notified goods required to be given under rule 3(1)(c); 4(1)(c); 6(1)(d); 7(1)(b) and 8(a) shall be the following, namely:

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- (a) the description of the notified goods with such identifying particulars as are specified in sub-rule (2);
 - (b) quantity of the notified goods; and
 - (c) market price of the notified goods on the date of acquisition or sale of such goods.
- (2) (a) The identifying particulars referred to in clause (a) of sub-rule (1) shall be the following, namely:
- (i) serial number, if any;
 - (ii) batch number, if any;
 - (iii) patent number, if any;
 - (iv) make, if any;
 - (v) brand, if any;
 - (vi) trade mark, if any; and
 - (vii) country of origin, if any.
- ¹(b) In addition to the identifying particulars mentioned in clause (a), the particulars mentioned against each of the following articles shall also be given in respect of each such article:
- (i) watches—gents' or ladies'; hand-winding, automatic, quartz or electronic; size; shape; with or without centre-second; calendar or not; rolled-gold, chrome, stainless steel, palladium or plastic; luminous dial or not; type of numerals on dial; combination type or not;
 - (ii) watch movements—model; number; calibre; type—hand-winding or automatic; calendar or not;
 - (iii) watch dials—calibre; size;
 - (iv) watch cases—calibre; size; rolled-gold, chrome, stainless steel, palladium or plastic;
 - (v) synthetic yarn—variety; denier;
 - (vi) metallised yarn—variety; colour; length of yarn;
 - (vii) fabrics and sarees—variety of yarn; type of fabrics; colour;
 - (viii) knit-wear—variety of yarn; gents', ladies' or children's size; colour; type;
 - (ix) fountain pens, ball-point pens—model; colour;
 - (x) perfumes—quantity of contents per bottle/ vial;
 - (xi) T.V. Sets—model; colour or black and white; with or without remote control; screen size; number of channels; combination type or not;
 - (xii) electronic calculators—model; with or without printer; combination type or not;
 - (xiii) Video cassette recorders, video cassette players—model; with or without remote control; combination type or not;
 - (xiv) Video cassette tapes—model; playing time;
 - (xv) Zip fasteners—length; teeth material; colour.]

¹ Substituted by Ntfn No. 04/85-Cus., dated 07.01.1985.

Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957

Ntfn 04-Cus. (M.F.) (D.R.), dated 08.01.57

(As amended by Ntfn C.B.R. No. 15/57-Cus., dated 19.01.1957, Ntfn No. 177/62-Cus., dated 29.11.1962, Ntfn No. 124/63-Cus., dated 11.05.1963, Ntfn No. 221/63-Cus., dated 30.09.1963, Ntfn No. 91/65-Cus., 17.07.1965, Ntfn No. 151/65-Cus., dated 02.10.1965, M.F. (D.R. & I.) Ntfn No. 160/66-Cus., dated 27.08.1966, Ntfn No. 156/66-Cus., dated 26.10.1966, Ntfn No. 111/69-Cus., dated 26.07.1969, Ntfn No. 163/78-Cus., dated 18.08.1978, Ntfn No. 32/79-Cus., dated 09.02.1979 and Ntfn No. 34/85-Cus., dated 20.02.1985, Ntfn 35/99-Cus. (NT), dated 08.06.99, Ntfn 43/99-Cus. (NT), dated 02.07.99, 33/2001-Cus. (NT),. dated 27.06.2001, 71/2002-Cus. (NT), dated 20.11.2002:

In exercise of the powers conferred by clause (c) of section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Excise and Customs hereby makes the following rules for the purpose of laying down the procedure for the recovery of customs duty on goods imported free of such duty in the first instance and sold or otherwise disposed of later on in India by the officers referred to in Serial Nos. 1, 2, 3, 3A, 4, 4A, 5 and 6 in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 3-Customs, dated the 8th January, 1957.

RULES

1. Short title, commencement and application.

- (1) These rules may be called the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957.
- (2) They shall come into force on the 8th January, 1957.
- (3) They shall apply to the goods exempt from customs duty in accordance with the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 3-Customs, dated the 8th January, 1957.

2. Definitions.

In these rules, unless the context otherwise requires,

- (a) "goods" means all articles imported or purchased locally from bonded stocks free of duty in accordance with the notification referred to in sub-rule (3) of rule 1 and includes—
 - (i) motor vehicles so imported or purchased; and
 - (ii) all articles including motor vehicles purchased by any privileged persons from another privileged person, on which customs duty has not been paid;
- (b) "privileged person" means a person entitled to import or purchase locally from bond goods free of duty for his personal use or for the use of any member of his family or for official use in his Mission, Consular Post or Office or in Deputy High Commission/ Assistant High Commission;
- (c) "Non-privileged person" means a person other than a privileged person.

3. Formalities to be observed at the time of clearance of the goods.

- (1) No goods shall be allowed to be cleared free of duty unless in addition to the formalities required to be observed ordinarily for clearing them, exemption from duty is claimed in writing at the time of the clearance of the goods through customs and such claim is accompanied by an exemption certificate in Triplicate in the Forms in Appendix IA, IB, IC, ID, IIA, IIB, IIIA, IIIB, IIIC as the case may be. [See Form Numbers 9, 10, 11, 12, 13, 14, 15, 16 and 17 in Part—Customs Forms and Bonds].
- (2) Such certificate shall be signed by—
 - (a) the Head of the Diplomatic Mission concerned or, in the case of a Diplomatic Mission having more than fifteen Diplomatic Officers, a Diplomatic

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Officer, duly authorised by the Head of the Mission for this purpose, if the goods are meant for official use in the Diplomatic Mission; or

- (b) the Consular Officer or Deputy High Commissioner/ Assistant High Commissioner or Trade Commissioner in-charge of the Consular Post or Deputy High Commission/ Assistant High Commission or Trade Representation, or in the case of a Consular Post or Deputy High Commission/ Assistant High Commission or Trade Representation having more than ten privileged persons a Consular Officer or a Diplomatic Officer or an Officer of the Deputy High Commission/ Assistant High Commission or Trade Representation, authorised for this purpose by the Head of the Consular Post or Deputy High Commission/ Assistant High Commission or Trade Representation, as the case may be, if the goods are meant for the official use in the Consular Post or Deputy High Commission/ Assistant High Commission or Trade Representation; or
- (c) the privileged person concerned if the goods are meant for his personal use or for the use of any member of his family:

Provided that the certificate is countersigned by the Head of the Mission or the Consular Post or the Deputy High Commission/ Assistant High Commission or Trade Representation, as the case may be, and if the privileged person is attached to a Diplomatic Mission or Consular Post or Deputy High Commission or Assistant High Commission or Trade Representation having more than ten privileged persons, by a Diplomatic Officer or Consular Officer or an officer of the Deputy High Commission/ Assistant High Commission or of the Trade Representation, as the case may be, who is duly authorised.

- (3) Two of the three copies of the exemption certificate referred to in sub-rule (1) shall be sent to the ¹[Commissioner of Customs] of the port of importation of the goods and the other copy shall be sent to the Protocol Division, Ministry of External Affairs, Government of India.
- (4) Where exemption from duty is claimed in respect of a motor vehicle, an exemption certificate in triplicate in the Form in Appendix IV-A, or Appendix IV-B [See Form No. 18 or 19 in Part—Customs Forms and Bonds], as the case may be, shall be given. The provisions of sub-rules (2) and (3) shall apply in relation to the signature, countersignature and transmission of copies of exemption certificates.

4. Permission for the sale or disposal of the goods.

- (1) No privileged person shall, without obtaining the prior concurrence of the Central Board of Excise and Customs, sell, or otherwise dispose of, to any privileged person or to any, non-privileged person, any goods in respect of which exemption from customs duty was given at the time of their importation or clearance from bond, within three years from the date on which they are imported.
- (1A) Where the privileged person—
 - (a) relinquishes his post, or
 - (b) is transferred out of India,within the period of three years referred to in sub-rule (1), he shall with the prior concurrence of the Central Board of Excise and Customs effects the sale, or the disposal otherwise, of such goods before the expiry of three months from the date of the relinquishment of his office or, as the case may be, of his departure out of India or within such longer period as the Central Board of Excise and Customs may allow.
- (1B) Nothing contained in sub-rule (1A) shall be deemed to affect the right of the privileged person to take away the goods with him on relinquishing his office or, as the case may be, on being transferred out of India.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (2) Every application for such concurrence shall be made by the privileged person in the Form in Appendix V [See Form No. 20 in Part—Customs Forms and Bonds] to the Central Board of Excise and Customs through the Protocol Division, Ministry of External Affairs, Government of India.
- (3) A copy of the communication of the Central Board of Excise and Customs giving its concurrence to the sale or disposal of the goods shall be sent to the ¹[Commissioner of Customs] nearest to the headquarters of the privileged person concerned in addition to each of the officers to whom copies of the exemption certificate, with undertaking if any, were sent under rule 3.
- (4) Nothing in this rule shall apply to the sale or disposal otherwise of a motor vehicle in respect of which exemption from Customs duty was given at the time of its importation or clearance from Bond.

4A. Permission for the sale or disposal of motor vehicles.

- (1) No privileged person shall sell or otherwise dispose of any motor vehicle in respect of which exemption from customs duty was given at the time of its importation or clearance from bond except in accordance with sub-rule (2).

²[(2) Any privileged person may –

- (a) sell or otherwise dispose of any motor vehicle referred to in sub-rule (1) to another privileged person, with the permission of the Central Board of Excise and Customs through the Ministry of External Affairs;
- (b) may re-export the motor vehicle, with the permission of the Ministry of External Affairs;
- (c) sell or otherwise dispose of the motor vehicle to any non-privileged person, with the permission of Central Board of Excise and Customs through the Ministry of External Affairs, on payment of appropriate customs duty, on expiry of three years from the date on which such motor vehicle was imported :

Provided that a privileged person, on his transfer out of India, may sell or otherwise dispose of a motor vehicle, which was imported within one year of his posting in India, to a non-privileged person prior to expiry of above-said period of three years from the date on which such motor vehicle was imported;

- (d) sell or otherwise dispose of an accidented/ totally damaged motor vehicle, with the permission of Central Board of Excise and Customs, to the Insurance Company with whom the motor vehicle was insured without prejudice to his rights to sell or otherwise dispose of the motor vehicle in terms of clauses (a) and (b).

Provided that in case the insurance company declines to accept the offer for sale of the motor vehicle, the motor vehicle, with the permission of Central Board of Excise and Customs, may be sold to the Metal Scrap Trading Corporation or any other suitable disposal agency for scrapping.]

- ³[(3) Every application for sale or disposal otherwise of a motor vehicle to another privileged person or, as the case may be, to a non-privileged person under clauses (a) and (c) of sub-rule (2) respectively or sale or disposal of an accidented or totally damaged vehicle under clause (d) of sub-rule (2), shall be made to the Ministry of External Affairs, in the Form prescribed by the Ministry of External Affairs for the purpose, and that Ministry shall remit the application to the Central Board of Excise and Customs.]

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by Ntfn No. 33-Cus. (N.T.), dated 27.06.2001.

³ Substituted by Ntfn No. 33-Cus. (N.T.), dated 27.06.2001.

- ¹[(4) Any special purpose vehicle such as communication vehicle or armoured vehicle may only be;
- (a) sold to another privileged person; or
 - (b) re-exported; or
 - (c) surrendered to the nearest Custom House, for scrapping or authorising a suitable Indian agency for scrapping and the sale proceeds, of scrap so obtained, if any, shall be reimbursed to the privileged person after deducting the duty leviable for such vehicle.]

²[4B. Permission to retain the motor vehicle after retirement, etc.

- (1) Where a privileged person on retiring from service or relinquishing his post in India decides to stay in India and retains the motor vehicle, in respect of which exemption from customs duty was given at the time of its importation or purchase from bond, for his *bona fide* use, the Central Board of Excise and Customs may, on an application made to it in this behalf, allow the person concerned to do so without payment of customs duty subject to the condition that the said motor vehicle has been used in India for a period of three years or more on the date on which the said person ceases to be a privileged person or relinquishes his post in India (hereinafter referred to as the relevant date).
- (2) Where the motor vehicle has not been used in India for a period of three years or more on the relevant date or if the said person chooses to sell or otherwise dispose of the motor vehicle at a later date, customs duty shall become payable.
- (3) Where the said person proposes to sell or otherwise dispose of the motor vehicle, he shall offer the same to the State Trading Corporation for the said purpose with the permission of the Central Board of Excise and Customs.
- (4) The provisions of rule 5 shall apply *mutatis mutandis* to the customs duty payable under this rule.]

5. Recovery of goods sold or disposed of to non-privileged persons.

- (1) Where goods, other than motor vehicle, are cleared free of customs duty by a privileged person and they are sold or otherwise disposed of by him (other than re-exported) to a non-privileged person within three years from the date of their importation, customs duty shall be recovered from such privileged person by the ³[Commissioner of Customs] nearest to the headquarters of the privileged person concerned.

⁴[The duty to be recovered shall be assessed in consultation with the Commissioner of Customs nearest to the headquarter of the privileged person in India]

⁵[(1A) ***]

- ⁶[(1B) The Customs duty on any vehicle sold or otherwise disposed of under clause (c) of sub-rule (2) of rule 4A shall be paid to the Commissioner of Customs nearest to the headquarters in India of the privileged person concerned, the duty to be recovered for such motor vehicle, except in case of accidented or totally damaged vehicle, shall be assessed on the depreciated value arrived after providing for depreciation at the scales specified by the Central Board of Excise and Customs in case of import of second-hand motor vehicles and the rate of duty on such vehicle and the exchange rate for conversion of foreign Currency into Indian Currency shall be taken as applicable on the date of approval of such sale or otherwise disposal by the said Board under clause (c) of sub-rule (2) of rule 4A;

¹ Inserted by Ntfn No. 35-Cus. (N.T.), dated 08.06.1999.

² Inserted by Ntfn No. 34/85-Cus., dated 20.02.1985.

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by Ntfn No. 35-Cus. (N.T.), dated 08.06.1999.

⁵ Omitted by Ntfn No. 33-Cus. (N.T.), dated 27.06.2001.

⁶ Substituted by Ntfn No. 33-Cus. (N.T.), dated 27.06.2001.

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Provided that the facility of duty-free sale of vehicles, after four years of import, shall be allowed on reciprocal basis to privileged persons of those countries, which are allowing similar facility of duty-free sale of vehicles to Indian privileged persons posted in those countries, and for this purpose applications made to the Ministry of External Affairs before the applicants leave India shall be entertained.]

¹[**Provided** further that the facility of duty free sale of vehicles, after four years of import, shall be allowed to all privileged persons belonging to the United Nations or any other International Organization irrespective of the fact as to whether the United Nations or such other International Organization is allowing similar facility of duty free sale of vehicles to Indian privileged persons posted in the United Nations or such other International Organization, as the case may be.]

²[(1C) In case of any accidented or totally damaged vehicle referred to in clause (d) in sub-rule (2) of rule 4A, the custom duty shall be calculated taking the sale price as cum-duty price and rate of duty shall be taken as that applicable to such motor vehicles, if it had not been so accidented or damaged at the time of such sale.]

³[(1D) In case of a vehicle has been stolen, customs duty shall be calculated taking the amount of insurance claim as cum duty price and rate of duty shall be taken as that applicable to such motor vehicle.]

(2) The privileged person concerned shall furnish such relevant information and documents relating to the goods as the officer who is to recover duty under sub-rule (1) may require and shall also arrange to produce the goods desired to be sold or sold before that officer or any customs officer for inspection so as to enable that officer to make a correct appraisalment of the value of the goods for the purpose of assessing them to duty.

(3) As soon as the amount of duty leviable has been paid, all the other authorities who received copies of the certificate together with the undertaking if any, in respect of the goods, shall be informed of this fact by the Collector who makes the recovery.

⁴[(4) ***]

6. Sale or disposal of goods to privileged person.

(1) Where goods which were cleared free of customs duty by a privileged person are sold or otherwise disposed of by him in favour of any other privileged person within a period of three years from the date of their importation, it shall be the duty of the privileged person selling or disposing of such goods to obtain from the privileged person buying or taking them, an exemption certificate in duplicate, as required by sub-rules (1) and (2) of rule 3, and in the case of a motor vehicle, also an undertaking in duplicate as required by sub-rule (4) of that rule and to forward copies thereof to the persons referred to in sub-rule (3) of that rule and in every such case, a report shall be sent to the Central Board of Excise and Customs by the privileged person selling or disposing of the goods as well as by the privileged person buying or taking them.

(2) The provisions of this rule shall apply to the goods sold or disposed of under sub-rule (1) as often as they are sold or otherwise disposed of by a privileged person to another privileged person:

Provided that this rule shall cease to apply to such goods other than motor vehicles after the expiry of three years from the date of their importation.

¹ Inserted by Ntfn No. 72-Cus. (N.T.), dated 20.11.2002.

² Substituted by Ntfn No. 33-Cus. (N.T.), dated 27.06.2001.

³ Inserted by Ntfn No. 33-Cus. (N.T.), dated 27.06.2001.

⁴ Omitted by Ntfn No. 33-Cus. (N.T.), dated 27.06.2001.

7. Powers of ¹[Commissioners].

A ²[Commissioner of Customs] may adopt such procedure as he thinks necessary for the purpose of giving effect to these rules.

Shipping Bill for Aircraft Spares Ex-Bond Regulations, 1975

Ntfn 41-Cus. (C.B.E. & C.), dated 24.05.75

In exercise of the powers conferred by section 157 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 Shipping Bill for Aircraft Spares Ex-Bond Regulations, 1975.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Form of Shipping Bill.

In respect of aircraft stores imported and deposited in a warehouse in terms of section 85 of the Customs Act, 1962, Shipping Bills for their re-export shall be presented in the form set out in the Schedule hereto annexed.

THE SCHEDULE

Shipping Bill for Aircraft Spares Ex-Bond

Export Manifest No. Name of Exporter
 Rotation No. Address
 Port of Export S. No.
 Aircraft Registration No. Date of presentation

<i>Sl. No.</i>	<i>Bond No. and date</i>	<i>Particulars of the warehouse from which goods are to be removed</i>	<i>Bill of Entry No. and Date</i>	<i>Name and address of the importer</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>

<i>Description of goods</i>		<i>Quantity</i>	<i>Unit value in Rupees</i>	<i>Total value in Rupees</i>	<i>Remarks</i>
<i>Airlines Part No.</i>	<i>Manufacturers Part No.</i>				
<i>(6)</i>	<i>(7)</i>	<i>(8)</i>	<i>(9)</i>	<i>(10)</i>	<i>(11)</i>

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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Total	Number of Items	Grand Total value in (Figures) Rs.	(Words) Rupees
Export Free Number and Date	Passed for Export	I/ We declare that the particulars given above are true .	
	Signature of Preventive Officer	Signature of Exporter or his authorised agent	

Rule for Acceptance of Shipping Bill Delivered under Section 137(a)

Ntfn 133-Cus. (C.B.R.), dated 22.06.57

In exercise of the powers conferred by clause (c) of section 9 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Board of Revenue hereby makes the following rule, namely:

RULE

The Customs ¹[Commissioner] may, in his discretion, refuse to accept a shipping bill delivered under clause (a) of section 137 of the Sea Customs Act, 1878 (8 of 1878), until after an order for entry outwards of the vessel, by which it is proposed to ship the goods for export, has been given by the Customs ²[Commissioner] under section 61 of the said Act.

Bill of Coastal Goods (Form) Regulations, 1976

Ntfn 424-Cus. (G.I.) (D.R. & B.), dated 23.10.76

(As amended by Ntfn No. 224/77-Cus., dated 22.10.1977)

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 such date³ as the Central Board of Excise and Customs may, by notification in the Official Gazette, appoint.

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 (52 of 1962), shall be in the Form appended to these regulations. [See Form No. 75 in Part—Customs Forms and Bonds].

Imported Stores (Retention on Board) Regulations, 1963

Ntfn 57-Cus. (C.B.R.), dated 01.02.63

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Revenue hereby makes the following regulations, namely:

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Brought into force from 01.01.1978 vide CBE&C Ntfn No. 224/77-Cus., dated 22.10.1977.

1. Short title.

- (1) 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.

Import Report (Form) Regulations, 1976

Ntn 423-Cus. (G.I.) (D.R. & B.), dated 23.10.76

(As amended by Ntn No. 223/77-Cus., dated 22.10.1977)

In exercise of the powers conferred by section 157, read with section 30, 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 Import Report (Form) Regulations, 1976.
- (2) They shall come into force on such date¹ as the Central Board of Excise and Customs may, by notification in the Official Gazette, appoint.

2. Definition.

In these regulations, 'Form' means a Form appended to these regulations.

3. Import Report.

Every import report shall—

- (a) be delivered in duplicate;
- (b) cover all the goods carried in a vehicle.

4. Form of Import Report.

- (1) The Import Report to be delivered under section 30 of the Customs Act, 1962 (52 of 1962), by the person-in-charge of the vehicle carrying imported goods shall be in the form [See Form No. 74 in Part—Customs Forms and Bonds] appended to these regulations.
- (2) It shall be printed on white paper of size 21.5 cms. x 34.5 cms. of durable quality.

5. Manner of declaring cargo.

- (1) The cargo shall be declared separately in respect of each of the following categories of cargo, namely:

¹ Brought into force from 01.01.1978 vide CBE&C Ntn No. 223/77-Cus., dated 22.10.1977.

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- (a) cargo to be landed;
 - (b) unaccompanied baggage;
 - (c) goods to be transhipped;
 - (d) same bottom or retention cargo.
- (2) Notwithstanding anything contained in sub-regulation (1), the declaration in respect of—
- (i) arms;
 - (ii) ammunition;
 - (iii) explosives;
 - (iv) narcotics;
 - (v) dangerous drugs;
 - (vi) gold;
 - (vii) silver,
- irrespective of whether for landing, for transhipment or for being carried as same bottom cargo, shall be furnished in separate sheets.

Export Report (Form) Regulations, 1976

Ntn 422-Cus. (G.I.) (D.R. & B.), dated 23.10.76

(As amended by Ntn No. 222/77-Cus., dated 22.10.1977)

In exercise of the powers conferred by section 157, read with section 41, 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 Export Report (Form) Regulations, 1976.
- (2) They shall come into force on such date¹ as the Central Board of Excise and Customs may, by notification in the Official Gazette, appoint.

2. Definition.

In these regulations, 'Form' means a Form appended to these regulations.

3. Export Report.

Every Export Report shall—

- (a) be delivered in duplicate;
- (b) cover all the goods carried in a vehicle.

4. Form of Export Report.

- (1) The export report to be delivered under section 41 of the Customs Act, 1962 (52 of 1962) by the person-in-charge of the vehicle carrying export goods shall be in the appended Form [See Form No. 73 in Part—Customs Forms and Bonds] to these regulations.
- (2) It shall be printed on white paper of size 21.5 cms. x 34.5 cms. of durable quality.

¹ Brought into force from 01.01.1978 vide CBE&C Ntn No. 222/77-Cus., dated 22.10.1977.

Import Manifest (Aircraft) Regulations, 1976

Ntfn 421-Cus. (G.I.) (D.R. & B.), dated 23.10.76

(As amended by Ntfn No. 221/77-Cus., dated 22.10.1977)

In exercise of the powers conferred by section 157, read with section 30, 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 Import Manifest (Aircraft) Regulations, 1976.
- (2) They shall come into force on such date as the Central Board of Excise and Customs may, by notification in the Official Gazette, appoint.

2. Definition.

In these regulations, 'Form' means a Form appended to these regulations.

3. Import manifest.

Every import manifest shall—

- (a) be delivered in duplicate;
- (b) cover all the goods carried in the aircraft; and
- (c) consist of—
 - (i) a general declaration, in Form I [See Form No. 69 in Part—Customs Forms and Bonds].
 - (ii) a passenger manifest, in Form II [See Form No. 70 in Part—Customs Forms and Bonds].
 - (iii) a cargo manifest, in Form III [See Form No. 71 in Part—Customs Forms and Bonds].
 - (iv) a list of private property in the possession of the Captain of the Aircraft and other members of the crew, in Form IV [See Form No. 72 in Part—Customs Forms and Bonds].

4. Cargo manifest.

- (1) The cargo manifest referred to in sub-clause (iii) of clause (c) of regulation 3 shall be delivered in separate sheets in respect of the following categories of cargo, namely:
 - (a) cargo to be landed;
 - (b) unaccompanied baggage;
 - (c) goods to be transhipped;
 - (d) same bottom or retention cargo.
- (2) (a) Notwithstanding anything contained in sub-regulation (1), the cargo declaration in respect of:
 - (i) arms;
 - (ii) ammunition;
 - (iii) explosives;
 - (iv) narcotics;
 - (v) dangerous drugs;
 - (vi) gold; or
 - (vii) silver,irrespective of whether for landing, for transhipment, or for being carried as same bottom cargo, shall be furnished in separate sheets and shall be set out in the order of the ports of loading.

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- (b) If an aircraft does not carry any of the cargoes referred to in clause (a), a nil declaration shall be furnished.

Import Manifest (Vessels) Regulations, 1971

Ntfn 35-Cus. (M.F.) (D.R. & I.), dated 17.04.71

In exercise of the powers conferred by section 157 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 Import Manifest (Vessels) Regulations, 1971.

2. Definition.

In these regulations, unless the context otherwise requires, "Form" means a Form appended to these regulations.

3. Import manifest.

Every import manifest shall—

- (a) be delivered in duplicate;
- (b) cover all the goods carried in the vessel; and
- ¹[(c) consist of—
 - (i) an application for entry inwards in Form I [See Form No. 56 in Part—Customs Forms and Bonds].
 - (ii) a general declaration in Form II [See Form No. 57 in Part—Customs Forms and Bonds].
 - (iii) a cargo declaration in Form III [See Form No. 58 in Part—Customs Forms and Bonds].
 - (iv) a vessel's stores list in Form IV [See Form No. 59 in Part—Customs Forms and Bonds].
 - (v) a list in Form V of private property in the possession of the Master, officers and crew.] [See Form No. 59A in Part—Customs Forms and Bonds].

²[4. Sizes of Forms I, II, III, IV and V.

Each of the Forms I, II, III, IV and V shall be on paper of durable quality and the forms shall have the following sizes, namely:

Forms I, II, IV and V — 210 x 297 millimetres.
Form III — 430 x 340 millimetres.]

5. Manner of declaring cargo.

- (1) The cargo declaration shall be delivered in separate sheets in respect of each of the following categories of cargo, namely:
- (a) cargo to be landed;
 - (b) unaccompanied baggage;
 - (c) goods to be transhipped;
 - (d) same bottom or retention cargo:

Provided that in respect of cargo to be landed and in respect of unaccompanied baggage the details shall be set out in the order of the ports of loading:

¹ Substituted by Ntfn No. 17/95-Cus. (N.T.), dated 13.03.1995.

² Substituted by Ntfn No. 17/95-Cus. (N.T.), dated 13.03.1995.

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Provided further that in respect of same bottom or retention cargo it will be sufficient if details relating to the nature of the cargo and number of the packages are declared.

- (2) (a) Notwithstanding anything contained in sub-regulation (1), the cargo declaration in respect of—
- (i) arms;
 - (ii) ammunition;
 - (iii) explosives;
 - (iv) narcotics;
 - (v) dangerous drugs;
 - (vi) gold; or
 - (vii) silver,
- irrespective of whether for landing, for transshipment, or for being carried as same bottom cargo, shall be delivered in separate sheets and shall be set out in the order of the ports of loading.
- (b) If a vessel does not carry any of the cargoes referred to in clause (a), a nil declaration shall be delivered.

6. Delivery of vessel's stores list and list of private property.

The vessel's stores list and the list of private property in the possession of the Master, officers and crew may be delivered along with the cargo declaration; but shall not in any case be delivered later than twenty-four hours after the arrival of the vessel at the port.

Export Manifest (Aircraft) Regulations, 1976

Ntfn 419-(G.I.) (D.R. & B.), dated 23.10.76

In exercise of the powers conferred by section 157, read with section 41, 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 Export Manifest (Aircraft) Regulations, 1976.
- (2) They shall come into force on such date as the Central Board of Excise and Customs may, by notification in the Official Gazette, appoint.

2. Definition.

In these regulations, "Form" means a form appended to these regulations.

3. Import manifest.

- (1) Every export manifest shall—
 - (a) be delivered in duplicate;
 - (b) cover all the goods carried in the aircraft;
 - (c) consist of—
 - (i) a general declaration, in Form I [See Form No. 62 in Part—Customs Forms and Bonds],
 - (ii) a passenger manifest, in Form II [See Form No. 63 in Part—Customs Forms and Bonds],
 - (iii) a cargo manifest, in Form III [See Form No. 64 in Part—Customs Forms and Bonds],
 - (iv) a list of private property in the possession of the Captain of the aircraft and other members of the crew, in Form IV [See Form No. 65 in Part—Customs Forms and Bonds].

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- (2) The export manifest for all goods shipped and transhipped and endorsed by the person-in-charge of the aircraft as to the quantities shipped and transhipped shall be delivered to the proper officer of customs at the airport, before the departure of the aircraft.

4. Cargo manifest.

- (1) The cargo manifest referred to in sub-clause (iii) of clause (c) of regulation 3, shall be delivered in separate sheets in respect of the following categories of cargo, namely:
 - (a) cargo shipped;
 - (b) cargo transhipped;
 - (c) goods lying in the aircraft but not landed or transhipped (same bottom cargo);
 - (d) cargo in respect of which drawback has been claimed.
- (2) (a) Notwithstanding anything contained in sub-regulation (1), the cargo declaration in respect of:
 - (i) arms;
 - (ii) ammunition;
 - (iii) explosives;
 - (iv) narcotics;
 - (v) dangerous drugs; or
 - (vi) gold,irrespective of whether for shipment, for transshipment or for being carried as same bottom cargo, shall be furnished in separate sheets and shall be set out in the order of the ports of loading.
- (b) If an aircraft does not carry any of the cargoes referred to in clause (a), a nil declaration shall be furnished.

Export Manifest (Vessels) Regulations, 1976

Ntn 420-(G.I.) (D.R. & B.), dated 23.10.76

As amended by Ntn 220/77-Cus. dated 22.10.1977, Ntn 261/77-Cus. datd 29.12.1977:

In exercise of the powers conferred by section 157, read with section 41, 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 Export Manifest (Vessels) Regulations, 1976.
- (2) They shall come into force on such date as the Central Board of Excise and Customs may, by notification in the Official Gazette, appoint.

2. Definition.

- (1) In these regulations, "Form" means a form appended to these regulations.

3. Export Manifest.

- (1) Every export manifest shall—
 - (a) be delivered in duplicate and shall be signed by the person-in-charge of the vessel;
 - (b) consist of—
 - (i) a cargo manifest, in Form I [See Form No. 66 in Part—Customs Forms and Bonds],

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- (ii) a vessel's stores list, in Form II [See Form No. 67 in Part—Customs Forms and Bonds],
 - (iii) a list of private property in the possession of the Master, officers and crew, in Form III [See Form No. 68 in Part—Customs Forms and Bonds];
 - (c) contain particulars in respect of—
 - (i) (a) goods shipped,
 - (b) goods transhipped at the port,
 - (c) goods lying in the vessel but not landed or transhipped (same bottom cargo), and
 - (d) dutiable goods, including arms and ammunition forming part of the ordinary equipment of a vessel;
Note—In respect of item (d), arms and ammunition forming part of the ordinary equipment of a vessel shall be shown separately.
 - (ii) the names of the ports for which the goods are intended and whether the vessel herself is proceeding to such ports or not;
 - (iii) the names of the ports from which and the vessels by which the goods arrived, in case the goods are transhipped.
- (2) The manifest shall be delivered in separate sheets in respect of cargo on which drawback has been claimed.
- (3) The export manifest for all goods shipped and transhipped and endorsed by the person-in-charge of the vessel as to the quantities shipped and transhipped, shall be delivered to the proper officer in the Export Department, before the departure of the vessel or within seven days from the date of departure of the vessel:

Provided that where the export manifest is delivered within seven days from the date of departure of the vessel, the agent of the person-in-charge of the vessel shall furnish such security as the proper officer deems sufficient for that purpose.

Bonded Aircraft Stores (Procedure) Regulations, 1965

Ntfn 115-Cus. (C.B.E. & C.), dated 28.08.65

In exercise of the powers conferred by section 157 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 Bonded Aircraft Stores (Procedure) Regulations, 1965.

2. Definitions.

In these regulations—

- (a) “Act” means the Customs Act, 1962 (52 of 1962).
- (b) “Form” means a Form specified in the Schedule to these regulations.

3. Warehousing of goods for use as stores—

- (1) Whereas any imported goods for use in a foreign-going aircraft are to be entered for warehousing under section 85 of the Act, an application in Form I [See Form No. 55 in Part—Customs Forms and Bonds] shall be made to the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs].

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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- (2) Every such application shall be deemed to be the bill of entry in relation to the goods specified in that application for the purpose of section 46 of the Act.
 - (3) On receipt of an application under sub-regulation (1), the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may permit, the goods specified in that application to be warehoused without the goods being assessed to duty.
- 4. Clearance of warehoused goods for supply as stores in a foreign-going aircraft.**
- (1) Where goods permitted to be warehoused under sub-regulation (3) of regulation 3 are to be cleared for use as stores in a foreign-going aircraft, an application shall be made to the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs] in Form II [See Form No. 56 in Part—Customs Forms and Bonds].
 - (2) Every such application shall be deemed to be the shipping bill in relation to the goods specified in that application for the purpose of section 50 of the Act.
 - (3) On receipt of an application under sub-regulation (1) the ³[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may permit the clearance of the warehoused goods specified in that application for being taken on board the foreign-going aircraft as stores in accordance with the provisions of section 69 of the Act as applied to stores by section 88 of the said Act.

Denaturing of Spirit Rules, 1972

Ntfn 07-Cus. (M.F.) (D.R. & I.), dated 08.01.72

In exercise of the powers conferred by sections 24 and 158 of the Customs Act, 1962 (52 of 1962) and in supersession of the "Denatured Spirit (Ascertaining and Determining) Rules, 1957", published with notification No. 140-Customs, dated the 6th July, 1957, of the Government of India, Ministry of Finance (Late Department of Revenue), the Central Government hereby makes the following rules for causing imported spirit and spirit contents of imported spirituous preparations to be denatured at the request of the importer:

1. Short title.

These rules may be called the "Denaturing of Spirit Rules, 1972".

2. Application by importer or agent.

An importer or his agent (hereinafter referred to as the Applicant) shall make a request in writing to the proper officer of Customs for the denaturation of imported spirit or preparation containing spirit.

3. Applicant to provide the ingredients for denaturation.

The applicant shall provide all the ingredients (denaturants) of the quality as specified by the proper officer of Customs and in sufficient quantities for the denaturation.

4. Denaturation under Customs Supervision.

All operations of denaturation shall be carried out by the applicant under the supervision of an officer of Customs at such place as may be approved by the proper officer of Customs.

5. Drawal of samples for test.

After denaturation, arrangements shall be made by the applicant for drawal of samples from each cask or vessel for test in a Customs Laboratory. The sample drawn shall be in adequate quantities to permit more than one test, in case such a contingency arises.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

6. Test of samples.

Each sample drawn after denaturation shall be tested in a Customs Laboratory to determine whether denaturation has been properly done. The result of such tests shall be made available to the applicant.

7. Re-denaturation.

Should any one of the samples on test be reported to be not properly denatured, the applicant may make a request for re-denaturation and the proper officer of Customs may, having regard to the reasons for which the request is made and all other circumstances of the case, allow the same:

Provided that the said officer shall not refuse to allow such request without giving the applicant a reasonable opportunity of being heard in the matter.

8. Appeal for re-test.

Where a re-test of the sample is desired by the applicant and a request is made in that behalf within fifteen days of the date of receipt by the applicant of the results of the initial test, the ¹[Commissioner of Customs] may, having regard to the reasons for which the request is made and all other circumstances of the case, allow such re-test to be conducted by the Chief Chemist, Central Revenues Control Laboratory:

Provided that the ²[Commissioner] shall not refuse to allow such re-test without giving the applicant a reasonable opportunity of being heard in the matter.

9. Fees for test and re-test.

For test and re-test of samples, fees at the following rates shall be paid by the applicant:

- (a) Rupees twenty-five for test of each sample.
- (b) Rupees fifty for re-test of each sample.

10. Other charges to be paid by the applicant.

The applicant shall pay supervision charges and all other expenses in connection with the denaturation of spirit, drawal and despatch of samples for test and re-test where necessary, and other incidental charges connected therewith.

11. Disposal of remnants.

Unconsumed samples, if no more required, shall be returned to the applicant.

The Accessories (Condition) Rules, 1963

Ntfn 18-Cus. (M.F.) (D.R.), dated 23.01.63

In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules namely:

- 1. These rules may be called the Accessories (Condition) Rules, 1963.
- 2. Accessories of and spare parts and maintenance or repairing implements for, any article, when imported along with that article shall be chargeable at the same rate of duty as that article, if the proper officer is satisfied that in the ordinary course of trade:
 - (i) such accessories, parts and implements are compulsorily supplied along with that article; and
 - (ii) no separate charge is made for such supply, their price being included in the price of the article.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

Stamping of Piece-Goods and Testing of Yarn Rules, 1949

Ntfn No. 313 (I) Tr. (MM)/ 46 (Ministry of Commerce & Industry), dated 04.06.49

In exercise of the powers conferred by sub-section (2) of section 19-A of the Sea Customs Act, 1878 (8 of 1878), and section 19 and sub-section (1) of section 20 of the Indian Mercandise Marks Act, 1889 (4 of 1889), and in supersession of the rules and orders published with the notification of the Government of India in the late Department of Finance and Commerce No. 1430, dated the 6th April, 1891, the Central Government is pleased to make the following rules the same having been previously published as required under sub-section (6) of section 20 of the last named Act, namely:

- (1) These rules may be called the Stamping of Piece-goods and Testing of Yarn Rules, 1949.
- (2) They shall come into force on the 1st day of November, 1949.

STAMPING OF PIECE-GOODS

2. Piece-goods such as are ordinarily sold by length or by the piece, shall be deemed to include cotton piece-goods, woollen piece-goods, silk piece-goods, art-silk piece-goods and other piece-goods of mixed fabrics, except the description noted below:
 - Alhambras, except alhambras quiltings.
 - Blankets.
 - Blind Cloth in cut-pieces.
 - Book Binding cloth in cut-pieces.
 - Buckrams in cut-pieces.
 - Carpets (in rolls).
 - Counterpanes.
 - Dusters in woven pieces.
 - Embroidered Flounces.
 - Embroidered all-overs and Embroidered Sarees of all sorts.
 - Glass cloth in woven pieces.
 - Handkerchiefs in woven pieces.
 - Lace curtain cloth.
 - Pillow calico (Tubular).
 - Prayer Mats.
 - Press cloth in cut-pieces.
 - Quilts.
 - Rugs.
 - Sarongs up to 2½ yards in length.
 - Shawls (finished) with ends hemmed or fringed, imported singly or in pieces, containing two or more shawls.
 - Sponge cloth (for swabs).
 - Teddy Bear or imitation Seal Skin Cloth.
 - Towels in woven pieces.
 - Woollen knitted cloth.
 - Filter Cloth.
 - Woollen cleaner cloth.
 - Woollen roller cloth.
 - Woollen sizing flannel.

- Decasting wrappers:

Provided that the ¹[Commissioner of Customs] shall not detain any unstamped piece-goods if he is satisfied that, although they are not named in the preceding list, they are of such a nature that they would be liable to serious depreciation in value if stamped.

Note 1.— Whenever a ²[Commissioner] exercises his discretion under this proviso he should forthwith report the cases, sending a sample of the goods, to the Government of India through the Central Board of Revenue, so that the question of issuing general orders in favour of such goods may be considered.

Note 2.— The mention of any items in the list of exemptions has no bearing upon the question whether that item if consisting of cotton is assessable under the Tariff head "Cotton piece-goods".

Note 3.— Unstamped cotton and woollen piece-goods imported for the personal use of individuals or private Association of individuals and not for trade purpose shall not be detained.

Note 4.— Examination of packages to ascertain whether the goods mentioned in rule 3 are stamped shall be made at frequent intervals at the discretion of the Customs ³[Commissioner] either under his personal instructions or under general orders or instructions given by him to an ⁴[Assistant Commissioner or Deputy Commissioner of Customs].

Note 5.— The piece-goods contained in the packages examined need not be examined when found to be stamped, to test the accuracy of the stamping, except on information received or when the Customs ⁵[Commissioner] has reason to suspect that the stamping is false.

Note 6.— All measurements of piece-goods shall be made on the table.

TESTING OF YARNS

Note 7.— Yarns need not be examined or measured except on information received or when the ⁶[Commissioner] has reason to suspect that the trade description is false.

Note 8.— An examination of yarns to test the accuracy of the description of count or length shall be made, in the first instance up to the limit of one bundle in every one hundred bales or fractions of one hundred bales in the consignments.

Note 9.— If on such examination the difference between the average count or length and the described count or length is in excess of the variation permitted in paragraphs III and IV of the notification of the Government of India in the late Home Department, No. 1474-(Judicial), dated the 13th November, 1891, the importer may require a further examination stated in rule II.

Note 10.— The test to determine length of yarns shall be applied as follows:

From every one hundred bales, or fraction of 100 bales, in a consignment one bundle should be selected at random. The hanks in this bundle should then be measured on the wrap wheel one after the other in the presence of the representative of the importer, and the length noted, the process being continued (within the limit of the bundle) until either the importer is satisfied that the yarn is short, or the average of the lengths noted shows that it is of full length.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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When the importer is dissatisfied with this test he may, on payment of the costs, require the Customs ¹[Commissioner] to measure more hanks up to 1 per cent of the total consignment, such hank being taken at random by an officer of the Customs out of any bundle in the consignments.

Note 11.— The Customs ²[Commissioner] may require from any informant a security not exceeding five hundred rupees. If the Collector is satisfied that the information given is wilfully false, the security shall be forfeited

Imported Packages (Opening) Regulations, 1963

Ntfn 182-Cus. (M.F.) (D.R.), dated 13.07.63

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), and in supersession of the notification of the Government of India in the late Finance Department (Central Revenue) No. 53-Cus., dated the 2nd July, 1927, the Central Board of Revenue hereby makes the following regulation, namely:

Short title.

This regulation may be called the Imported Packages (Opening) Regulation, 1963.

Permission to be obtained for opening packages.

No person shall, except with the permission of the proper officer, open any packages of goods imported into India and lying in a Customs area.

Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998

Ntfn No. 69-Cus. (N.T.), dated 04.09.98

In exercise of the powers conferred by section 157 and section 158 of the Customs Act, 1962 (52 of 1962) and in supersession of the Customs (Fees for Rendering Services by Customs Officers) Regulations, 1968, except as respects 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 Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998.
- (2) They shall come into force on the 15th October, 1998.

2. Definitions.

In these Regulations, unless the context otherwise requires—

- (a) "Customs Officer" includes such officers as are appointed under section 4 of the Customs Act, 1962 (52 of 1962);
- (b) "Customs work" means functions to be performed by Customs officers under the Customs Act, 1962 (52 of 1962) or any other law for the time being in force;
- (c) "rendering services by Customs officer" means—
 - (i) performance of Customs work by the Customs officer beyond the working hours but within the Customs area; and
 - (ii) performance of Customs work by the Customs officer beyond the Customs area at any time, and includes:
 - (A) examination of the goods and related functions,

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (B) loading and unloading of the goods whether generally or specifically,
 - (C) escorting goods from one Customs area to the other, and
 - (D) any other customs work authorised by the Commissioner of Customs;
- (d) "Working hours" means the duty hours prescribed by the Commissioner of Customs in his jurisdiction for normal customs work and where different working hours have been prescribed by the said Commissioner for different items of customs work or for different places within his jurisdiction, such working hours.

3. Levy of fees for rendering of services.

- (1) On a request made in that behalf by any person, a fee as given in the Table below shall be levied for rendering of services by the Customs Officers.

TABLE

Category of Officers		Fee per hour or part thereof on Working Days		Fee per hour or part thereof on Holidays	
		6 AM to 8 PM Rs.	8 PM to 6 AM Rs.	6 AM to 8 PM Rs.	8 PM to 6 AM Rs.
(1)		(2)	(3)	(4)	(5)
1.	Appraisers Superintendent Customs Preventive and Superintendent Central Excise	85	125	140	180
2.	Air Customs Officers, Examiners Preventive Officers and Inspectors of Central Excise	75	100	105	145
3.	Class IV Staff	35	45	55	60

- (2) The fees levied under sub-regulation (1) shall be payable by the person requesting for rendering of services or on whose account such services has been requested.
- (3) The fees levied under sub-regulation (1) shall be subject to the following conditions, namely:
- (a) The levy of fees as aforesaid shall be for a minimum of 3 hours in each case, except in case of overtime posting immediately preceding or immediately following the working hours of the concerned cadre of officers.
 - (b) The period between midnight and 6 A.M. shall be treated as a block whether the services are required for the entire block or for a portion thereof.
 - (c) In relation to jobs to be performed by any customs officer during the working hours, there shall be two blocks - one before lunch and the other after lunch respectively and fees shall be charged for the entire block whether the request for the services of such officer relates to the entire block or a portion thereof.

Levy of Fees (Customs Documents) Regulations, 1970

Ntfn 106-Cus. (M.F.) (D.R. & I.), dated 26.12.70

(As amended by Ntfn No. 80/75-Cus., dated 02.08.1975, Ntfn No. 75/91-Cus.(NT), dated 19.11.1991, and Ntfn No. 55/92-Cus.(NT), dated 30.07.1992).

In exercise of the powers conferred by clause (a) of sub-section (2) of section 157, read with clause (1) of sub-section (2) of section 158, 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 Levy of Fees (Customs Documents) Regulations, 1970.
- (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) “Act” means the Customs Act, 1962 (52 of 1962).
- (b) “Customs Document” means document used in compliance with the provisions of the Act and includes a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of shipment, baggage declaration, show cause notice and any order passed under the Act.
- (c) “Section” means section of the Act.

3. Levy of fees.

The proper officer shall for the purposes specified in column (1) of the Table below, levy of fees on a customs document at the rate specified in the corresponding entry in column (2) thereof, namely:

¹[THE TABLE

<i>Purpose</i>		<i>Rate</i>
<i>(1)</i>		<i>(2)</i>
1.	Amendment of import manifest or export manifest including supplementation thereof.	Rs. 10.00
2.	Supply of certified copies of—	
(a)	a bill of entry, if the request is made prior to the passing of an order under section 46 or section 60	² [Rs. 50.00]
(b)	a customs document relating to imports other than that referred to in item (a).	³ [Rs. 50.00]
(c)	a shipping bill, if the request is made prior to the passing of an order under section 51.	⁴ [Rs. 50.00]
(d)	a customs document relating to exports other than that referred to in item (a).	⁵ [Rs. 50.00]
3.	Amendment of vessel's name in a Shipping Bill	Rs. 10.00
4.	Amendment of particulars (other than vessel's name) in a Shipping Bill.	Rs. 10.00
5.	Amendment of particulars in a port clearance application.	Rs. 10.00

¹ Substituted by Ntfn No. 75/91-Cus. (N.T.), dated 19.11.1991.

² Substituted by Ntfn No. 55/92-Cus. (N.T.), dated 30.07.1992 (w.e.f. 03.08.1992).

³ Substituted by Ntfn No. 55/92-Cus. (N.T.), dated 30.07.1992 (w.e.f. 03.08.1992).

⁴ Substituted by Ntfn No. 55/92-Cus. (N.T.), dated 30.07.1992 (w.e.f. 03.08.1992).

⁵ Substituted by Ntfn No. 55/92-Cus. (N.T.), dated 30.07.1992 (w.e.f. 03.08.1992).

6.	Amendment of port on Outward Entry application.	Rs. 10.00
7.	Amendment of Supplementation of a Short-shipment notice.	Rs. 10.00
8.	Cancellation of any document.	Rs. 10.00]

4. Amendment of import manifest to be exempt from payment of fees in certain cases.

No fees shall be levied under these regulations in respect of an import manifest,

- (a) when the manifest is supplemented with entries relating to ports which have not been covered by the manifest.
- (b) which is amended or supplemented in respect of goods which are articles of baggage.

Manufacture & Other Operations in Warehouse Regulations, 1966

Ntfn 155-Cus. (C.B.E. & C.), dated 30.07.66

In exercise of the powers conferred by section 157 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 Manufacture and Other Operations in Warehouse Regulations, 1966.
- (2) They shall be deemed to have come into force on the 4th day of June, 1966.

2. Definitions.

For the purpose of these regulations, unless the context otherwise requires—

- (i) “Act” means the Customs Act, 1962 (52 of 1962);
- (ii) “manufacturer” means the owner of any warehoused goods to whom sanction has been accorded under regulation 5;
- (iii) “proper form” means such form as the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may require to be adopted.

3. Owner to make applications.

- (a) The owner of any goods warehoused under the Act intending to undertake any manufacturing process or other operations in the warehouse in relation to such goods shall make an application to the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs] in the proper form and furnish *inter alia*—
 - (i) information regarding the nature of the manufacturing process or other operations;
 - (ii) particulars of imported and other goods proposed to be used in the manufacturing process or other operations;
 - (iii) the detailed plan and description of the warehouse; and
 - (iv) data regarding the volume of trade anticipated of the manufacturing process or other operations; and
 - (v) the applicant shall, on being called upon to do so, furnish such other information as may be required.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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4. Execution of Bond.

The ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, if he is satisfied that the applicant has carried out such alterations to the warehouse premises as may be required for this purpose and that the volume of trade and other considerations justify grant of sanction direct the applicant to file a bond, undertaking *inter alia* to—

- (i) observe all the provisions of these regulations;
- (ii) maintain detailed accounts of all imported and other goods used in the manufacturing process or other operations in the proper form and to produce such accounts for inspection by the proper officer;
- (iii) submit detailed statements of all imported and other goods used in the manufacturing process or other operations and those remaining in stock, at any time the proper officer directs;
- ²[(iv) provide to the officers of customs office space, wherever required, and access to warehouse, for control and supervision of the manufacturing process or other operations or imported and other goods as may be specified by ³[Assistant Commissioner of Customs or Deputy Commissioner of Customs];
- (v) pay all the charges including pay, allowances, leave and pensionary charges of such officers as may from time to time be posted by the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs] in the warehouse for supervision and control of the manufacturing process or other operations, or imported and other goods.]
- (vi) comply with such conditions as may be imposed by the ⁵[Assistant Commissioner of Customs or Deputy Commissioner of Customs] from time to time for carrying out the purposes of these regulations and the Act.

5. Grant of sanction.

On execution of the bond, in the manner hereinbefore provided, the ⁶[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall accord sanction to the applicant to carry on such manufacturing process or other operations specifying:

- (a) the manufacturing process or other operations permitted to be carried on in the warehouse;
- (b) the types and nature of imported and other goods permitted to be used;
- (c) the period for which the sanction is valid; and
- (d) the conditions, if any, subject to which the manufacturing process or other operations may be carried on in the warehouse.
- ⁷[(e) the input-output norms, wherever considered necessary, for the raw-materials and the finished goods.]

6. Conditions that may be imposed by the ⁸[Assistant Commissioner of Customs or Deputy Commissioner of Customs].

The ⁹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may from time to time:

- ¹⁰[(i) ***]

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 44/98-Cus., dated 02.07.1998.

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁴ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁵ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁶ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁷ Substituted by Ntfn No. 44/98-Cus., dated 02.07.1998.

⁸ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

¹⁰ Omitted by Ntfn No. 44/98-Cus., dated 02.07.1998.

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- (ii) determine the number of customs officers that may be attached to the warehouse for purposes of supervising the manufacturing process or other operations;
- (iii) fix the sum payable by the manufacturer towards the cost of such establishment and the extra charges payable towards the overtime services, if any, performed by such establishment at the request of the manufacturer; and

¹[(iv) ***]

²[7. ***]

³[8. ***]

9. Maintenance of accounts.

The manufacturer shall maintain accounts relating to stocks, raw materials, goods in process, finished goods, waste and refuse in proper form:

Provided that where the manufacturer maintains for his own purpose such detailed accounts and has carried out such alterations in the form of accounts as may be required in this behalf, the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may in his discretion direct such forms of accounts to be adopted as the proper form.

10. Accounts to be accessible to Customs Officer.

The proper officer may, at any time, inspect or call for the accounts and connected records for scrutiny.

⁵[11. Special Audit in certain cases:

- (i) The Chief Commissioner of Customs may, for reasons to be recorded in writing, direct a manufacturer to get the accounts of his warehouse, office, stores, godowns, factory, depot, or other establishment audited by a Cost Accountant, nominated by him in this behalf.
- (ii) The Cost Accountant, shall submit the audit report duly signed and certified by him within the period specified by the Chief Commissioner of Customs, or such extended period as may be allowed by him, to the Commissioner, giving therein such other information or particulars as may have been asked for by the Chief Commissioner.
- (iii) The provisions of sub-regulation (i) shall be in addition to, and not in derogation of any other law for the time being in force.
- (iv) The expenses of, and incidental to, such audit (including the remuneration of the Cost Accountant) shall be determined by the Chief Commissioner and paid by the manufacturer and in default of such payment shall be recoverable from the manufacturer in the manner provided in section 142 of the Customs Act, 1962 (52 of 1962).
- (v) The manufacturer shall be given a copy of the audit report conducted in pursuance of sub-regulation (1) who may make a representation, if he so likes.

Explanation—For the purpose of this regulation “Cost Accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959).]

12. Issue and return of imported goods to/ from the manufacturing process or other operations.

- (a) The ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall, having regard to the manufacturing process or other operations to be car-

¹ Omitted by Ntfn No. 44/98-Cus., dated 02.07.1998.

² Omitted by Ntfn No. 44/98-Cus., dated 02.07.1998.

³ Omitted by Ntfn No. 44/98-Cus., dated 02.07.1998.

⁴ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁵ Substituted by Ntfn No. 44/98-Cus., dated 02.07.1998.

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ried on in the warehouse, direct the manner in which the imported goods shall be issued from and the unused items received back into stock.

- (b) The application for issue of imported goods and the vouchers against which the unused items may be returned shall be in the proper form.

13. Manufacturer to give notice before suspending or discontinuing the manufacturing process or other operations.

No manufacturer shall suspend or discontinue the manufacturing process or other operations authorised to be carried on in the warehouse without giving in writing to the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs], one month's notice of his intention so to do:

Provided that in any particular case the aforesaid period of one month may, on sufficient cause being shown, be reduced by the ³[Assistant Commissioner of Customs or Deputy Commissioner of Customs] by such period as the ⁴[Assistant Commissioner] may deem fit:

⁵[***]

14. Cancellation and suspension of sanctions.

If the manufacturer or any person in his employ commits a breach of the provisions of the Act or the terms and conditions imposed by or under these regulations or if the particulars furnished in the application for sanction are false or incorrect, or if any undertaking given in the bond is not fulfilled the ⁶[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, without prejudice to any other action that he may take under the provisions of the Act or these regulations cancel the sanction for carrying on the manufacturing process or other operations:

Provided that before the sanction is cancelled the manufacturer shall be given reasonable opportunity of being heard.

15. Repeal.

The Rules and Regulations specified in the Schedule to these regulations appended below shall cease to be in force except as respect things done or omitted to be done before such cesser.

SCHEDULE

(See Regulation 15)

1. Rules prescribed for the purpose of operation on goods in a warehouse—Wines and Spirits—vide late C.B.R. Notification No. 56, dated the 2nd July, 1927 as amended by Notifications No. 29-Customs, dated 16th May, 1931 and No. 11-Customs, dated the 22nd January, 1938.
2. Rules for the manufacture of cigarettes in bond from unmanufactured foreign tobacco imported and warehoused under the provisions of section 92 of the Sea Customs Act at an inland bonded warehouse—late C.B.R. Notification No. 34-Cusstoms, dated the 30th May, 1942.
3. Rules for the manufacture of cigarettes or tobacco in bond from unmanufactured foreign tobacco imported and warehoused under the provisions of section 92 of the Sea Customs Act—late C.B.R. Notification No. 54-Customs, dated the 25th October, 1941, as amended by Notifications No. 8-Customs, dated 17th April, 1943 and No. 62-Customs, dated the 8th July, 1950.
4. Rules for manufacture of complete Gramophone machine (including electric gramophones) in bond—late C.B.R. Notification No. 9-Customs, dated the 13th July, 1946.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Omitted by Ntfn No. 44/98-Cus., dated 02.07.1998.

⁶ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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5. Rules for the free-entry at the Madras Customs House of unmanufactured foreign tobacco imported for the manufacture of cigars intended for export to foreign ports—Notification dated the 1st November, 1910, published in pages 1685-86 of Part II of the Fort St. George Gazette, dated the 8th November, 1910 as amended by notification dated the 22nd May, 1920 published on page 1051 of Part II of the Fort St. George Gazette, dated the 1st June, 1920, late C.B.R. Notification No. 79-Customs, dated the 5th December, 1936, Notification No. 12-Customs, dated the 22nd January, 1938 and No. 47-Customs, dated the 12th October, 1940.
6. Rules to regulate the canning of motor spirit and kerosene oil from the stock imported and warehoused in a bonded tank at Bombay—late C.B.R. Notification No. 5-Customs, dated the 5th January, 1935 as amended by Notification No. 70-Customs, dated the 26th March, 1938.
7. Rules for the manufacture or repairs of vessels from material imported by the Hindustan Shipyard Ltd., Visakhapatnam etc.—late C.B.R. Notification No. 78-Customs, dated the 7th August, 1954 as amended by C.B.R. Notification No. 63-Customs, dated the 3rd June, 1961.
8. Motor Vehicles (Manufacture-in-bond) Rules, 1956—late C.B.R. Notification No. 97-Customs, dated the 6th November, 1956.
9. Rules for the manufacture or re-manufacture of cigarettes or tobacco in bond from indigenous or imported duty paid tobacco or cigarettes and unmanufactured imported tobacco warehoused under the provisions of section 92 of the Sea Customs Act—late C.B.R. Notification No. 22-Customs, dated the 29th June, 1957.
10. The Handicrafts (Manufacture-in-bond) Rules, 1958—C.B.R. Notification No. 229-Customs, dated the 13th August, 1958.
11. The Manufacture-in-Bond (General) Rules, 1960—late C.B.R. Notification No. 15-Customs, dated the 27th February, 1960.

Warehoused Goods (Removal) Regulations, 1963

Ntfn 59-Cus. (C.B.R.), dated 01.02.63

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Revenue hereby makes the following regulations, namely:

1. Short title.

- (1) These regulations may be called the Warehoused Goods (Removal) Regulations, 1963.

2. Conditions for transport of warehoused goods in the same town.

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 between the two warehouses be under the supervision of an officer of Customs, the owner meeting the cost of such supervision.

3. Conditions for transport of warehoused goods to another town.

Where the goods are to be removed from one warehouse to another in a different town the proper officer may require the person requesting removal to execute a bond in a sum equal to the amount of import duty leviable on such goods and in such form and manner as the proper officer deems fit.

4. Terms of the bond to be executed.

The terms of the bond shall be that if the person executing the bond produces to the proper officer, within three months or within such extended period as such officer may allow, a certificate issued by the proper officer at the place of destination that the goods have arrived at that place, the bond shall stand discharged, but otherwise an amount

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equal to the import duty leviable on the goods in respect of which the said certificate is not produced shall stand forfeited.

5. Surety or security to be furnished.

The proper officer may require that the bond shall be with such surety or security or both as is acceptable to him.

Notice of Short-Export Rules, 1963

Ntfn 56-Cus. (M.F.) (D.R.), dated 01.02.63

In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules:

1. Short title.

- (1) These rules may be called the Notice of Short-Export Rules, 1963.

2. Exporter to furnish information regarding Short-Export.

If any goods mentioned in a shipping bill or bill of export and cleared for exportation are not exported, the exporter shall, within seven days, from the date of departure of the conveyance by which such goods were intended to be exported,—

- (1) Furnish the following information in writing to the proper officer in respect of the goods not so exported, namely:
 - (i) No. of Packages,
 - (ii) Description of goods,
 - (iii) Quantity,
 - (iv) Value,
 - (v) Country of destination; or
- (2) Present the shipping bill or, as the case may be, the bill of export for cancellation or amendment.

3. Penalty.

Any exporter who fails to comply with the provisions of rule 2 shall be liable to a penalty not exceeding one hundred rupees.

Boat Notes Regulations, 1976

Ntfn 426-Cus. (G.I. D.R. & B.), dated 23.10.76

(As amended by Ntfn No. 226/77-Cus., dated 22.10.1977)

In exercise of the powers conferred by section 157 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 Boat Notes Regulations, 1976.
- (2) They shall come into force on such date¹ as the Central Board of Excise and Customs may, by notification in the Official Gazette, appoint.

2. Definitions.

In these regulations, unless the context otherwise requires,—

- (a) "Act" means the Customs Act, 1962 (52 of 1962);
- (b) "Board" means the Board as defined in clause (6) of section 2 of the Act;

¹ Brought into force from 01.01.1978 vide CBE&C Ntfn No. 224/77-Cus., dated 22.10.1977.

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- (c) "Boat Note" means the Boat Note as indicated in Form I, Form II or Form III, [See Form Nos. 79, 80 & 81 in Part—Customs Forms and Bonds], as the case may be;
- (d) "¹[Commissioner of Customs]" means the ²[Commissioner of Customs] as defined in clause (8) of section 2 of the Act;
- (e) "Form" means a form appended to these regulations;
- (f) "Proper officer" means the officer as defined in clause (34) of section 2 of the Act.

3. Issue of Boat Note.

- (1) Every boat note shall be issued by the proper officer.
- (2) (a) Notwithstanding anything contained in sub-regulation (1), where the ³[Commissioner of Customs] is satisfied that it is necessary so to do, he may authorise an exporter or his authorised agent to issue a boat note.
- (b) Every person who is authorised by the ⁴[Commissioner of Customs] under clause (a) to issue boat notes shall maintain a proper account of boat notes issued by him and furnish to the proper officer such information as may be specified by the ⁵[Commissioner of Customs] in this behalf.
- (3) The boat notes shall be,—
 - (a) of such dimension and colour as are indicated in the forms appended to these regulations; and
 - (b) maintained in duplicate and machine numbered.

4. Boat notes when to be issued.

The boat notes shall be issued in all cases of,—

- (i) export cargo, in Form I; [See Form No. 79 in Part—Customs Forms and Bonds]
- (ii) import cargo, in Form II; [See Form No. 80 in Part—Customs Forms and Bonds]
- (iii) transshipment cargo, reshipment cargo or same bottom cargo, in Form III; [See Form No. 81 in Part—Custom Forms and Bonds].

The Customs (Publication of Names) Rules, 1975

Ntfn 03-Cus. (M.F.) (D.R. & I.), dated 19.01.76

In exercise of the powers conferred by clause (g) of sub-section (2) of section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs (Publication of Names) Rules, 1975.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

In these rules, unless the context otherwise requires,—

- (a) "Act" means the Customs Act, 1962 (52 of 1962);
- (b) "⁶[Commissioner of Customs]" includes an ⁷[Additional Commissioner of Customs];

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁶ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁷ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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- (c) "Proper Officer", in relation to any functions to be performed under the Act, means the officer of Customs who is assigned those functions by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), or the ¹[Commissioner of Customs];
- (d) "Section" means a section of the Act.

3. Publication of names and other particulars of persons.

- (1) Subject to the provisions of these rules, the ²[Commissioner of Customs] shall, once in every three months, cause to be published in the Official Gazette the names and addresses and other particulars specified in sub-rule (2) of the following categories of persons, namely:
 - (a) persons who have been convicted by a court for contravention of any of the provisions of the Act or the rules made thereunder;
 - (b) persons who have been adjudged by a proper officer to have contravened any of the provisions of the Act, or the rules made thereunder, where—
 - (i) the persons had, on a previous occasion, been similarly adjudged by the proper officer or convicted by a court; or
 - (ii) the penalty imposed by the proper officer is ten thousand rupees or above.
- (2) The other particulars referred to in sub-rule (1) are—
 - (a) the provisions of the Act or the rules made thereunder contravened;
 - (b) the particulars regarding the penalty imposed; and
 - (c) where the officer adjudging has directed confiscation under section 111, or section 113, the particulars regarding such confiscation.

Explanation—In the case of a firm, company or other association of persons, the names of partners of the firm, directors, managing agents, secretaries and treasurers, or the names of the manager of the company or the names of the members of the association, as the case may be, may also be published if, in the opinion of the ³[Commissioner of Customs], the circumstances of the case justify such publication.
- (3) Notwithstanding anything contained in sub-rule (1), the Central Government may, if it is satisfied that it is necessary or expedient in the public interest so to do, direct the ⁴[Commissioner of Customs] to publish the names, addresses and other particulars, specified in sub-rule (2), of any other person who has been held guilty of any contravention of the provisions of the Act or of any rule made thereunder.
- (4) Notwithstanding anything contained in this rule, the Central Government may, if it is satisfied that it is necessary or expedient in the interest of investigation under the Act, security of the State, friendly relations with foreign States or otherwise in the interest of the general public, so to do, direct the ⁵[Commissioner of Customs] that names of any person or category of persons may not be published.

4. Publications under rule 3 to be made after the specified period.

No publication under rule 3 shall be made in respect of a person, until the period for preferring an appeal under section 128 has expired without any appeal having been preferred, or such an appeal having been preferred has been disposed of.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁴ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

⁵ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

Rule for Publication of Daily Lists

Ntfn 82-Cus. (C.B.R.), dated 26.11.51

(As amended by Ntfn No. 41/54-Cus., dated 12.04.1954 and Ntfn No. 01/56-Cus., dated 13.01.1956)

In exercise of the powers conferred by clause (c) of section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rule relating to goods imported at and exported from the ports of Calcutta, Madras, Bombay and Cochin:

In each of the ports of Calcutta, Madras, Bombay and Cochin the ¹[Commissioner of Customs] shall publish or cause to be published in such manner as he deems fit daily lists of imports and exports containing the following particulars, namely:

Daily List of Imports—

- (i) Port or country of origin of consignment.
- (ii) Description of goods.
- (iii) Quality of goods.
- (iv) Value of goods.
- (v) Names of the Steamers.
- (vi) Names of the Importers.

Daily List of Exports—

- (i) Destination.
- (ii) Description of goods.
- (iii) Quantity of goods.
- (iv) Value of goods.
- (v) Names of the Steamers.
- (vi) Names of the Shippers.

Rules for Furnishing of Informations by Customs Officers

Ntfn 78-Cus. (C.B.R.), dated 20.11.51

In exercise of the powers conferred by section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rules, namely:

It shall be the duty of every Customs Officer to furnish to such person or authority such particulars learned by him in his official capacity in respect of any goods as the Chief Customs Authority may, by order in writing, specify.

Rules for Grant of Port Clearance to Sailing Vessels in Kandla

Ntfn 116-Cus. (C.B.R.), dated 06.06.59

In exercise of the powers conferred by clause (c) of section 9 read with section 158 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Board of Revenue hereby makes the following rule, namely:

RULE

In the case of sailing vessels clearing in Ballast for a Customs Port from New Kandla, Port Clearance will be granted in the appended form [See Form No. 40 in Part—Customs Forms and Bonds] which shall be filled in counterfoil by the Master or his agent only after entry inwards has

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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been obtained. The original signed by the ¹[Commissioner of Customs], New Kandla or any other officer duly appointed by him in this behalf, will, after completion, be returned to the Master of the vessel.

Rules for Publication of Daily Lists for Imports and Exports from the Port of Kozhikode, Tuticorin, Alleppey and Mangalore

Ntfn 289-Cus. (C.B.R.), dated 07.12.57

In exercise of the powers conferred by clause (c) of section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rule relating to goods imported at, and exported from, the ports of Kozhikode, Tuticorin, Alleppey and Mangalore:

In each of the ports of Kozhikode, Tuticorin, Alleppey and Mangalore, the ²[Commissioner of Customs] shall publish or cause to be published in such manner as he deems fit, weekly lists of imports and exports containing the following particulars, namely:

Daily List of Imports—

- (i) Port or country of origin of consignment.
- (ii) Description of goods.
- (iii) Quality of goods.
- (iv) Value of goods.
- (v) Names of the Steamers.
- (vi) Names of the Importers.

Daily List of Exports—

- (i) Destination.
- (ii) Description of goods.
- (iii) Quantity of goods.
- (iv) Value of goods.
- (v) Names of the Steamers.
- (vi) Names of the Shippers.

Rules for Publication of Daily Lists for Imports and Exports from Port of Visakhapatnam

Ntfn 34-Cus. (C.B.R.), dated 28.02.59

In exercise of the powers conferred by clause (c) of section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rule relating to goods imported at, and exported from, the ports of Visakhapatnam, namely:

RULE

In the port of Visakhapatnam, the ³[Commissioner of Customs] shall publish or cause to be published in such manner as he deems fit weekly lists of imports and exports containing the following particulars, namely:

Daily List of Imports—

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

³ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

- (i) Port or country of origin of consignment.
- (ii) Description of goods.
- (iii) Quality of goods.
- (iv) Value of goods.
- (v) Names of the Steamers.
- (vi) Names of the Importers.

Daily List of Exports—

- (i) Destination.
- (ii) Description of goods.
- (iii) Quantity of goods.
- (iv) Value of goods.
- (v) Names of the Steamers.
- (vi) Names of the Shippers.

Rules for Passing Free of Import Duty Baggage through Custom House at Bombay

Comrs's No. 915, dated 10th February, 1911, B.G.G. Pt. I of 1911, Comrs's No. Se.1-20 of 14th November, 1914, B.G.G. Pt. I, p.2819 of 19th November, 1914, Comrs's No. 1887 of 12th December, 1919, B.G.G. Pt. II of 1919, C.B.R. Ntfn No. 20/35-Cus., dated 30th March, 1935, Ntfn No. 22/44-Cus., dated 2nd September, 1944, Ntfn No. 25/47-Cus., dated 13th December, 1947 and Ntfn No. 202/58-Cus., dated 3rd July, 1958.

In exercise of the powers conferred by section 75 of the Sea Customs Act, 1878 (8 of 1878), and in supersession of all previous rules, the Commissioner of Customs is pleased to make the following rules for passing free of import duty baggage in actual use and for the landing of passenger's baggage and passing the same through the Customs House at Bombay.

All landing charges under the Baggage Rules shall be collected at annas two per package by the Preventive Department at the time the goods are cleared.

LANDING AND PASSING OF BAGGAGE THROUGH THE CUSTOM HOUSE

I. Troopships

1. Returns in the appended Form A [See Form No. 37 in Part—Customs Forms and Bonds] will be supplied to the Commanding Officer on board, who should see that they are filled in as regards columns 1 and 2 and countersign them himself before the arrival of the transport in the harbour.
2. Immediately on the arrival of the transport she will be boarded by a Customs Officer, who will receive all the returns along with the list of all the officers on board.
3. The said Customs Officer will fill up columns 3 and 4 in each return and recover the amount of duty payable from the persons in whose name the goods are entered, and give a receipt.
4. If the said Customs Officer is furnished with a list of all the officers on board and with complete returns duly filled in as aforesaid all passenger's baggage on board may be landed free from Customs control.
5. The foregoing rules will not however preclude the Custom House authorities from examining or detaining any goods as to which any doubt may arise.

II. Steamers arriving at Ballard Pier

1. Duty will be collected and baggage passed upto 12 mid-night. After 12 mid-night no duty will be received and only hand baggage will be passed unless the steamer agents undertake to pay for the attendance of the necessary Customs staff at the rates prescribed for such work done on behalf of masters, agents or owners of goods. The baggage declaration forms [See Form No. 36 in Part—Customs Forms and Bonds] shall be numbered

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and arranged in serial order in two lots, one for special and the other for local passengers by the purser on board before arrival of the vessel and shall be handed over to the boarding officer at the earliest possible moment.

2. The baggage of the special passengers shall be passed into the examination hall by the east gates, at which police officers shall be posted to prevent the ingress of passengers. Passengers shall not be allowed into the hall through the barrier inside the building until the baggage has been sorted by the vessel's agents. The baggage shall be passed out to the Railway Station after check by the Preventive Officers who will endorse on the baggage forms brought to them the number of packages so passed. Only hand-bags shall be allowed to pass out on examination before the Preventive Officer is in possession of the baggage forms.
3. The baggage of local passengers shall be passed out through the west exits, and shall be subject to a check at the Green Gate, through which it must pass.
4. Passengers' friends shall await them inside the station proper or on the wharf, north of the barrier, and not on the wharf enclosed by barriers or in the Customs room. Only passengers, Customs, Police, and Port Trust Officers, vessels' agents, recognised clearing agents and persons holding passes signed by the Docks Manager shall be allowed to pass on to the wharf.
5. Detained packages shall be sent by the bunder officer to the Custom House, with the covering baggage forms as soon as possible after the passing of all the baggage is finished in urgent cases, otherwise he shall send them and also those which are left unclaimed next morning at 10.30 a.m. to the Custom House and shall inform owners or agents calling for them thereafter that they can obtain and clear them from the Custom House on payment of duty and conveyance charges at the rate of eight annas for every package weighing up to 60 lbs. and rupee one for every package weighing over 60 lbs.

III. Other Steamers

- (a) **Passenger steamers departing from, and arriving at Ferry Wharf of Prince's Dock Wall.—**

Passengers having dutiable articles in their possession should declare the same in baggage form [See Form No. 37 in Part—Customs Forms and Bonds]. Such baggage will then be allowed to be cleared on payment of duty at Ferry Wharf or the Dock. A receipt [See Form No. 38 in Part—Customs Forms and Bonds] for the duty paid will be given in the prescribed form.

- (b) **Steamers other than those mentioned in (a) which have come from a foreign port either direct or via a Custom port.—**

A Customs Officer will board the steamer immediately after the vessel has anchored. It is optional for steamers coming under this class to land passengers and baggage either at (1) the Docks, or (2) Ballard Pier, or, during the monsoon, Carnac Bunder (Since the opening of the mole in all seasons at Ballard Pier). But unless previous intimation has been sent by the Agents of the vessel, the Captain should inform the Customs Officer on the latter's arrival on board where it is proposed to land passengers. If discharged in the stream, the baggage will be landed, along with the passengers, under cover of boat-notes, at such place as may be fixed for the purpose by the Customs Officer. Duty will then be collected on all dutiable packages which should be declared by passengers in baggage form. [See Form No. 37 in Part—Customs Forms and Bonds].

- (c) **Steamers other than those coming under clause (a) and which have come from a Customs port.—**

All baggage may be landed free from Customs Control. In the event, however, of the baggage having been transhipped at a Customs port from a vessel from a foreign port, the baggage will be dealt with in the same way as baggage coming direct from foreign ports.

Note—Any baggage if uncleared and removed to the Custom House will be passed subsequently on payment of conveyance charges, if any.

IV. Native Craft from Foreign Ports

Passengers will be required to go with all their baggage to the Customs Officer in charge of the dutiable anchorage who will examine it and pass all free articles contained in cases that he has the means of opening. The Customs Officer will send all dutiable articles and all cases which he cannot open to the Custom House to be cleared by the owner on payment of duty.

V. Transshipment

In the case of baggage to be transhipped direct to another steamer along with the passenger to either a Customs or foreign port, transshipment will be allowed under the supervision of a Preventive Officer and under cover of a written transshipment order obtained from him on a boat-note form. Duty on the dutiable portion of such baggage, if for a Customs port, must be paid at the port of destination, and all such baggage shall be included in the list of transshipment goods for Customs ports put in by the Master of the on-carrying steamer when applying for port clearance.

Rules for Passing of Passenger's Baggage through Saurashtra

Ntfn 107-Cus. (C.B.R.), dated 09.09.50

In exercise of the powers conferred by section 75 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue is pleased to make the following rules for passing free of import duty baggage in actual use, and for the landing of passenger's baggage and passing the same through the ports under the jurisdiction of the ¹[Commissioner of Customs], Saurashtra.²

LANDING AND PASSING OF BAGGAGE THROUGH THE CUSTOM HOUSE

I. Troopships

1. Returns in the appended form [See Form No. 36 in Part—Customs Forms and Bonds] will be supplied to the Commanding Officer on board, who should see that they are filled in as regards columns 1 and 2 countersign them himself before the arrival of the transport in the harbour.
2. Immediately on the arrival of the transport she will be boarded by a Customs Officer, who will receive all the returns along with a list of all the officers on board.
3. The said Customs Officer will fill up columns 3, 4 and 5 in each return and recover the amount of duty payable from the persons in whose name the goods are entered, and give a receipt in the appended form [See Form No. 38 in Part—Customs Forms and Bonds].
4. If the said Customs Officer is furnished with a list of all the officers on board, and with complete returns duly filled in as aforesaid, all passengers' baggage on board may be landed free from Customs control.
5. The foregoing rules will not, however, preclude the Custom House authorities from examining or detaining any goods as to which any doubt may arise.

II. Steamers (other than troopships) and square-rigged vessels from foreign ports

1. In the case of steamers and square-rigged vessels discharging in the stream, immediately after the vessel has anchored, a Custom Officer will examine and pass on board all free cabin baggage not contained in soldered or nailed down cases, which the passenger may offer for examination, including (i) uniform and accoutrements appertaining thereto belonging to a public servant for his personal use; (ii) arms forming part of the equipment of an officer entitled to wear diplomatic, military, naval or police uniforms on his making the following declaration on the baggage form:

"I hereby declare that I am an officer (in the case of a military officer, it should be stated whether in the Military or Civil employment) serving in India."

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Now Commissioner of Central Excise, Baroda.

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In the case of such vessels discharging at a wharf, all baggage will be passed by the Preventive Officer on Board after examination and recovery of duty on such articles as may be liable to it.

2. All baggage passed as above may be landed at any bund and removed without further Customs control.
3. All other baggage must be landed at the Passenger Pier. After landing it may be cleared at any time on the owner or his agent producing the keys of all locked packages and presenting a signed declaration in the appended form [See Form No. 37 in Part—Customs Forms and Bonds], and paying the duty and landing charges, if any, at the Passenger Pier. But in the case of articles imported in other than reasonable quantities and which are evidently intended for sale and not for the personal use of the importer the Preventive Officer shall forward such articles to the Customs House for appraisalment and payment of duty.
4. No firearms belonging to any one passenger in excess of two guns or two rifles and a revolver or a pair of pistols will be passed without the permission of the ¹[Commissioner of Customs].

III. Native Craft from Foreign Ports

Passengers will be required to go with all their baggage to the Customs Officer at the Passenger Pier, who will examine and pass such articles as are intended for the personal use of the passenger and not for sale, after recovering duty thereon. All articles in other than reasonable quantities which are evidently imported for sale and not for the personal use of the passenger shall be detained and forwarded to the Customs House for payment of duty.

IV. Steamers from Customs Ports

- (1) All personal baggage arriving by steamers from Customs Ports will be passed free by the Customs Officer at the Passenger Pier or on board the steamer, on the Passenger making a declaration in the appended form [See Form No. 39 in Part—Customs Forms and Bonds], certifying that the baggage was actually shipped at the Customs port from which the passenger has arrived and not transhipped at such a port from a vessel from a foreign port without payment of duty.
- (2) In the event, however, of the baggage having been transhipped at a Customs Port from a vessel from a foreign port, the baggage will be dealt with in the same way as baggage coming direct from foreign ports.

V. Transhipment

In the case of baggage to be transhipped direct to another steamer to either a Customs or foreign port, transhipment will be allowed under supervision of a Preventive Officer and under cover of a written transhipment order obtained from him on a boat-note form. Duty on the dutiable portion of such baggage, if for a Customs port, must be paid at the port of destination and all such baggage shall be included in the list of transhipment goods for Customs ports put in by the Master of the on-carrying steamer when applying for port clearance.

Rules for Special Pass for Breaking Bulk in any Port in the States of Madras, Pondicherry and Bombay

Ntfn 57-Cus. (C.B.R.), dated 09.07.27

(As amended by Ntfn No. 85/37-Cus., dated 09.10.1937, Ntfn No. 126/38-Cus., dated 15.10.1938 and Ntfn No. 155/59-Cus., dated 19.12.1959)

In exercise of the powers conferred by section 59 of the Sea Customs Act, 1878 (8 of 1878), and in supersession of all notifications on the subject previously in force in any of the Customs ports

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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in the States of Madras, Pondicherry and Bombay, the Central Board of Revenue makes the following rules for granting special passes to break bulk in the said ports:

A special pass may be granted—

- (1) On application in writing on a paper stamped with the proper court-fee stamp, and such application may be received before the arrival of the vessel for which the pass is required.
- (2) In the case of steamers and square-rigged vessels discharging in a dock, the goods in respect of which a special pass has been obtained shall be deposited in a separate shed or portion of a shed and in the case of such vessels discharging in the stream, the said goods shall be stacked in the wharf in such manner as the Customs Officer on duty may direct in order to prevent their being mixed with other goods. In neither case shall the goods be removed from the places of deposit until manifest and bills of entry have been put in.
- (3)(a) In the ports of the State of Bombay a special pass shall be granted to native crafts only when they are employed in bringing from Customs ports, chaunam, cement, sand, stones, flooring tiles or other building materials, green or dry grass, hay, poultry, fresh fruits, vegetables or other market produce.
- (b) To such vessels a special pass may be granted to be in force for one month. 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. If the vessel arrives in ballast or with passengers, only the pass must be produced to the Preventive Officer at the wharf for endorsement before the vessel leaves.

Rules for Special Pass for Breaking Bulk in any port in the States of Mysore and Kerala

Ntfn 126-Cus. (C.B.R.), dated 09.09.50

(As amended by Ntfn No. 166/58-Cus., dated 17.05.1958)

In exercise of the powers conferred by section 59 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rules for granting special passes to break bulk in the Customs ports in the States of Mysore and Kerala, namely:

- (1) A special pass may be granted on application in writing on a paper stamped with the proper court-fee stamp, and such application may be received before the arrival of the vessel for which the pass is required.
- (2) In the case of steamers and square-rigged vessels discharging in a dock, the goods in respect of which a special pass has been obtained shall be deposited in a separate shed or portion of a shed; and in the case of such vessels discharging in the stream, the said goods shall be stacked on the wharf in such manner as the Customs Officer on duty may direct in order to prevent their being mixed with other goods. In neither case shall the goods be removed from the place of deposit until manifest and bills of entry have been put in.

Rules for Special Pass for Breaking Bulk in any Port in the State of Saurashtra

Ntfn 104-Cus. (C.B.R.), dated 09.09.50

In exercise of the powers conferred by section 59 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rules for granting special passes to break bulk in the ports under the jurisdiction of the ¹[Commissioner of Customs], Saurashtra², Jamnagar:

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

² Now Commissioner of Central Excise, Baroda.

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A special pass may be granted—

- (i) On application in writing on a paper stamped with the proper court-fee stamp, and such application may be received before the arrival of the vessel for which the pass is required.
- (ii) In the case of steamers and square-rigged vessels discharging in a dock, the goods in respect of which a special pass has been obtained shall be deposited in a separate shed or portion of a shed; and in the case of such vessels discharging in the stream the said goods shall be stacked on the wharf in such manner as the Customs Officer on duty may direct in order to prevent their being mixed with other goods. In neither case shall the goods be removed from the places of deposit until manifest and bills of entry have been put in.
- (iii) (a) A special pass shall be granted to native craft only when they are employed in bringing from Customs ports, chunam, cement, sand, stones, gypsum, flooring tiles or other building materials, green or dry grass, hay, poultry, fresh fruit, vegetables and other market produce.
(b) To such vessels a special pass may be granted to be in force for one month. 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. If the vessel arrives in ballast or with passengers, only the pass must be produced to the Customs Officer at the wharf for endorsement before the vessel leaves.

Customs Tariff (Determination of Origin of other Preferential Areas) Rules, 1977

Ntfn 99-Cus., dated 01.07.77

In exercise of the powers conferred by sub-section (2) of section 4 of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), and in supersession of the notification of the Government of India in the Department of Revenue and Banking No. 351-Customs, dated the 2nd August, 1976, the Central Government makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Determination of Origin of Other Preferential Areas) Rules, 1977.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.

These rules shall apply to articles consigned from other preferential area.

3. Definitions.

In these rules unless the context otherwise requires,

- (a) "Act" means the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003);
- (b) "country" means a country or territory declared to be other preferential area;
- (c) "expenditure on material" means the cost of the manufacture of the material at the factory or works, including containers but excluding royalties;
- (d) "factory or works cost" means the cost of production to the manufacturer at the factory or works and shall include the value of containers and other forms of interior packing ordinarily sold with an article when it is sold in retail, but shall not include the manufacturer's or exporter's profit or the cost of exterior packing, carriage to port and other charges incidental to the export of the article subsequent to its manufacture;
- (e) "other preferential area" means any country or territory declared to be other preferential area under sub-section (3) of section 4 of the Act;

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- (f) words and expression used in these rules and not defined herein but defined in the Customs Act, 1962 (52 of 1962), shall have the meanings, respectively, assigned to them in that Act.

4. Produce or manufacture of a country.

No article shall be deemed to be the produce or manufacture of a country, unless the proper officer of customs is satisfied,

- (a) that the article has been consigned from such country; and
- (b) (i) where the article is unmanufactured, that it has been grown or produced in such country;
- (ii) where the article is manufactured
- (A) that it has been wholly manufactured in such country from material produced in such country; or
- (B) that it has been wholly manufactured in such country from unmanufactured materials; or
- (C) that it has been partially manufactured in such country and that the final process of manufacture has been performed in such country and that the expenditure on material produced and labour performed in such country in the manufacture of the article is, in the case of an article specified in the Schedule to these rules, not less than one-half and in the case of other articles, not less than one-quarter, of the factory or works cost of the article in its finished state:

Provided that where the articles are consigned from other preferential area the material produced and labour performed in any other preferential area may be reckoned as though it were material produced or labour performed in the preferential area from which the goods were consigned.

Explanation—For the purposes of clause (b)(ii)(C), the final process of manufacture shall not be deemed to have been performed in any country in which no process other than the process of mixing, bottling, labelling, packing into retail containers or the like have been performed, but where the final process as aforesaid has been performed in the country in which the final process of manufacture has been performed, nothing herein shall render the cost of such process ineligible for inclusion in the computation of the fraction of the factory or works cost of the article in its finished state which represents expenditure on material produced and labour performed in that country.

5. Imports by post.

No claim that articles are chargeable with a preferential rate of duty shall be considered by the ¹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] in respect of articles imported by post, unless at the time of arrival in India, such articles are covered by a declaration as to the country of origin entered in the customs declaration form or (in the absence of such a form), on the wrapper of the package.

SCHEDULE

(See Rule 4)

1. Sewing and knitting machines (and parts thereof) to be worked by manual labour or which require for their operation less than one quarter of one brake-horse-power.
2. Cycles (other than motor cycles) imported entire or in sections and parts and accessories thereof, excluding rubber tyres and tubes.
3. Motor cars including taxi cabs and articles (other than rubber tyres and tubes) adapted for use exclusively as parts and accessories thereof.

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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4. Motor omni-buses; chassis of motor omni-buses, motor vans and motor lorries; and parts of mechanically propelled vehicles and accessories excluding rubber tyres and tubes.
5. Motor cycles and motor scooters and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof.

Declaration of Preferential Areas

Ntfn 101-Cus., dated 01.04.82

In exercise of the powers conferred by sub-section (3) of section 4 of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), and in supersession of the notification of the Government of India in the Department of Revenue and Banking No. 352-Customs, dated the 2nd August, 1976, the Central Government hereby declares the countries specified in the Table below to be "preferential areas" for the purposes of said section.

TABLE

S. No.	Countries
(1)	(2)
1.	Mauritius
2.	Seychelles
3.	Tonga

Customs Tariff (Determination of Origin of Goods Under the Agreement on SAARC Preferential Trading Arrangement) Rules, 1995

Ntfn 73-Cus. (N.T.), dated 07.12.95

(As amended by Ntfn No. 7/97-Cus.(NT), dated 01.03.1997)

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Determination of Origin of Goods under the Agreement on SAARC Preferential Trading Arrangement) Rules, 1995.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.

These rules shall apply to products consigned from any Contracting State.

3. Definitions.

In these rules unless the context otherwise requires,—

- (a) "SAPTA" means the Agreement on SAARC Preferential Trading Arrangement, signed at Dhaka, Bangladesh on the 11th day of April, 1993;
- (b) "Contracting State" means any Member State of SAARC listed in Appendix-I or Appendix-II to the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. ¹[15/97-Customs, dated 1st March, 1997];

¹ Substituted by Ntfn No. 7/97-Cus. (N.T.), dated 01.03.1997.

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- (c) "Preferential concession", in relation to any product means the exemption granted under the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. ¹[15/97-Customs, dated 1st March, 1997];
- (d) Words and expressions used in these rules and not defined, but defined in the Customs Act, 1962 (52 of 1962), shall have the meanings, respectively, assigned to them in that Act.

4. Determination of Origin.

No products shall be deemed to be the produce or manufacture of a Contracting State unless the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that the conditions specified in the Schedule to these rules are complied with in relation to such products.

5. Claim at the time of importation.

The importer of the products shall at the time of importation,—

- (a) make a claim that the products are the produce or manufacture of the Contracting State from which they are imported and such products are eligible for preferential concession; and
- (b) produce the evidence specified in the Schedule to these rules.

THE SCHEDULE (See Rules 4 and 5)

1. Originating products.

Products covered by preferential trading arrangements within the framework of the SAPTA imported into the territory of a Contracting State from another Contracting State which are consigned directly within the meaning of paragraph 5, hereof, shall be eligible for preferential concessions if they conform to the origin requirements under any one of the following conditions, namely:

- (a) products wholly produced or obtained in the exporting Contracting State as defined in paragraph 2; or
- (b) products not wholly produced or obtained, in the exporting Contracting State, provided that the said products are eligible under paragraph 4.

2. Wholly produced or obtained.

Within the meaning of paragraph 1(a) the following shall be considered as wholly produced or obtained in the exporting Contracting State, namely:

- (a) raw or mineral products extracted from its soil, its water or its seabeds;³
- (b) agricultural products harvested there;⁴
- (c) animals born and raised there;
- (d) products obtained from animals referred to in clause (c) above;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other marine products taken from the high seas by its vessels;^{5, 1}

¹ Substituted by Ntfn No. 7/97-Cus. (N.T.), dated 01.03.1997.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Include mineral fuels, lubricants and related materials as well as mineral of metal ores.

⁴ Include forestry products.

⁵ "Vessels"—shall refer to fishing vessels engaged in commercial fishing, registered in a Contracting State's country and operated by a citizen or citizens or governments of Contracting State or partnership, corporation or association, duly registered in such Contracting State's country, at cost 60 per cent of equity of which is owned by a citizen or citizens and/ or government of such Contracting State or 75 per cent by citizens and/ or governments of the Contracting States. However, the products taken from vessels engaged in commercial fishing under bilateral agreements which provide for chartering/ leasing of such vessels and/ or sharing of catch between Contracting States will also be eligible for preferential concessions.

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- (g) products processed and/ or made on board its factory ships^{2,3} exclusively from products referred to in clause (f) above;
- (h) used articles collected there, fit only for the recovery of raw materials;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) goods produced there exclusively from the products referred to in clauses (a) to (i) above.

3. Not wholly produced or obtained.

- (a) Within the meaning of paragraph 1(b), products worked on or processed as a result of which the total value of the materials, parts or produce originating from non-Contracting States or of undetermined origin used does not exceed ⁴[60 per cent] of the f.o.b. value of the products produced or obtained and the final process of manufacture is performed within the territory of the exporting Contracting State shall be eligible for preferential concessions subject to the provisions of clause (c) of paragraph 3 and paragraph 4;
- (b) Sectoral agreements;⁵
- (c) The value of the non-originating materials, parts or produce shall be—
 - (i) the c.i.f. value at the time of importation of materials, parts or produce where this can be proven; or
 - (ii) the earliest ascertainable price paid for the materials, parts or produce of undetermined origin in the territory of the Contracting State where the working or processing takes place.

4. Cumulative rules of origin.

Products which comply with origin requirements provided for in paragraph 1 and which are used by a Contracting State as input for a finished product eligible for preferential treatment by another Contracting State shall be considered as a product originating in the territory of the Contracting State where working or processing of the finished products has taken place provided the aggregate content originating in the territory of the Contracting State is not less than ⁶[50 per cent] of its f.o.b. value.⁷

5. Direct consignment.

The following shall be considered as directly consigned from the exporting Contracting State to the importing Contracting State, namely:

- (a) if the products are transported without passing through the territory of any non-Contracting State;
- (b) the products whose transport involves transit through one or more intermediate non-Contracting States with or without transshipment or temporary storage in such countries:

Provided that—

¹ In respect of vessels or factory ships operated by government agencies the requirement of flying the flag of a Contracting State does not apply.

² In respect of vessels or factory ships operated by government agencies the requirement of flying the flag of a Contracting State does not apply.

³ The term "factory ship" means any vessels, as defined, used for processing and/ or making on board products exclusively from those products referred to in clause (f) above.

⁴ Substituted for the words "50 percent" by Ntfn No. 68-Cus. (N.T.), dated 10.11.2000.

⁵ In respect of products traded within the framework of sectoral agreements negotiated under SAPTA, provision may need to be made for special criteria to apply. Consideration may be given to these criteria as and when the sectoral agreements are negotiated.

⁶ Substituted the words "60 percent" by Ntfn No. 68-Cus. (N.T.), dated 10.11.2000.

⁷ "Partial"—cumulation as implied by paragraph 4 above means that only products which have acquired originating status in the territory of one Contracting State may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of another Contracting State.

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- (i) the transit entry is justified for geographical reason or by considerations related exclusively to transport requirements;
- (ii) the products have not entered into trade or consumption there; and
- (iii) the products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

6. Treatment of packing.

When determining the origin of products, packing shall be considered as forming a whole with the product it contains, unless packing has to be treated separately under the national legislation.

7. Certificate of Origin.

Products eligible for preferential concessions shall be supported by a Certificate of Origin,¹ in the form annexed [See Customs Series Form No. 114 in Part—Customs Forms and Bonds], issued by an authority designated by the government of the exporting Contracting State and notified to the other Contracting States in accordance with the Certification Procedures mentioned below the form annexed.

- 8. (a) In conformity with Article 15 of the SAPTA and national legislations, any Contracting State may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations.
- (b) Contracting States will do their best to cooperate in order to specify origin of inputs in the Certificate of Origin.

9. Review.

These Rules may be reviewed as and when necessary upon request of one-third of the Contracting States and may be open to such modifications as may be agreed upon.

10. Special criteria percentage.

Products originating in Least Developed Contracting States can be allowed a favourable 10 percentage points applied to the percentage established in paragraphs 3 and 4. Thus, for paragraph 3, the percentage would not exceed ²[70 per cent], and for paragraph 4, the percentage would not be less than ³[40 per cent].

Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976

Ntfn 430-Cus., dated 01.11.76

(As amended by Ntfn No. 64/78-Cus., dated 01.04.1978, Ntfn No. 22/79-Cus., dated 27.01.1979, and Ntfn No. 192/81-Cus., dated 14.08.1981)

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.

¹ The standard Certificate of Origin to be used by all Contracting States approved by the Contracting States.

² Substituted for the words "60 percent" by Ntfn No. 68-Cus. (N.T.), dated 10.11.2000.

³ Substituted for the words "50 percent" by Ntfn No. 68-Cus. (N.T.), dated 10.11.2000.

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These rules shall apply to goods consigned from Member States which have ratified the Bangkok Agreement.

3. Definitions.

In these rules unless the context otherwise requires,—

- (a) "Bangkok Agreement" means the First Agreement on Trade Negotiations among Developing Member Countries of the Economic and Social Commission for Asia and the Pacific;
- (b) "Exporting Member State" means for Member State from which the goods, in respect of which Special Tariff Concession under the Bangkok Agreement has been claimed are consigned;
- (c) "Member State" means the country which has ratified the Bangkok Agreement;
- ¹(d) "Special Tariff Concession", in relation to any goods, means the exemption granted under the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 26/95-Customs, dated the 16th March, 1995, for the time being in force, from payment of the duty of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003);
- (e) words and expressions used in these rules and not defined herein but defined in the Customs Act, 1962 (52 of 1962), shall have the meanings, respectively, assigned to them in that Act.

4. Determination of origin.

No goods shall be deemed to be the produce or manufacture of a Member State unless the proper officer is satisfied that the conditions specified in the Schedule to these rules are complied with in relation to such goods.

5. Claim at the time of importation.

The owner of the goods shall,

- (a) make a claim, at the time of importation, that the goods are the produce or manufacture of the Member State from which they are imported and such goods are eligible for Special Tariff Concession; and
- (b) produce the evidence prescribed in the Schedule to these rules.

THE SCHEDULE

(See Rules 4 and 5)

- 1. Goods imported into India from a Member State will be eligible to Special Tariff Concession, subject to the following conditions, namely:
 - (i) where the goods are claimed to have been wholly produced within the territory of an exporting Member State, such goods have been so produced within such territory;
 - (ii) where the goods are claimed to have been wholly or partially manufactured within the territory of an exporting Member State:
 - (a) such goods have been so manufactured and the final process of manufacture has been performed within the aforesaid territory;
 - (b) the expenditure on goods produced and labour performed within the territory of the exporting Member State in the manufacture of the goods is not less than fifty per cent of the ex-factory or ex-works cost of the goods in their finished state:

Provided that the goods which comply with the original requirements in the exporting Member State as originating from any other Member State or Member States and which are used in the exporting Member State as inputs for the finished goods eligible for preferential treatment in a Mem-

¹ Substituted by Ntfn No. 30/95-Cus. (N.T.), dated 22.05.1995.

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ber State as inputs for the Member States referred to above, shall be considered in the said Member State as a product originating from the exporting Member State where the last process of manufacture of the finished goods had taken place.

Explanation—"Expenditure on goods" means the cost to the manufacturer of the goods at the factory or works including containers.

2. Any one or more of the following operations or processes shall not, by themselves, constitute the final process of manufacture:
 - (a) packing;
 - (b) mixing;
 - (c) bottling;
 - (d) labelling;
 - (e) splitting into lots;
 - (f) sorting and grading;
 - (g) marking;
 - (h) putting up into sets.
3. The ex-factory or ex-works cost shall include the cost of containers and other forms of interior packing ordinarily sold with the goods when they are sold in retail or wholesale and the cost of exterior packing but shall not include—
 - (i) any charges or expenses incurred subsequent to the manufacture of the said goods; and
 - (ii) any taxes paid in the exporting Member State on the finished goods or on the input used in the manufacture of the finished goods.
4. When determining the origin of goods expenditure on goods incurred in the exporting Member State shall include, *inter alia*, expenses incurred in respect of energy or fuel or plant and machinery or tools in the production or manufacture of goods within the exporting Member State and of materials used in the maintenance of such plant and machinery and of such tools.
5. (1) Each units of goods in consignment shall be considered separately.
(2) For purposes of sub-paragraph (1)
 - (a) tools, parts and accessories which are imported with the goods and the price of which is included in that of the goods or for which no separate charge is made shall be considered as forming a whole with the goods, provided they constitute the standard equipment customarily included in the sale of goods of that kind;
 - (b) in cases not falling under clause (a), goods shall be treated as a single unit if they are treated for purposes of assessing duties of customs.
- (3) Unassembled or disassembled goods which are imported in more than one consignment because it is not feasible for transport or production reasons to import such goods in a single consignment shall, if the importer so requests, be treated as one article if they are so treated for purposes of assessing duties of customs.
6. (1) A claim that goods shall be accepted as eligible to Special Tariff Concession shall be supported by an appropriate certificate of origin given by a Governmental authority or an authorised body nominated by the exporting Member State and notified to the Government of India.
(2) The form of certificate of origin shall be as prescribed in the Annexure appended to this schedule.

ANNEXURE

[See Paragraph 6(2) of the Schedule]

Form of Certificate of Origin of Goods eligible for Preferential Treatment

(To be given by a Governmental authority or an authorised body nominated by the exporting Member State and to be written, typed or printed in the English language on invoice of goods).

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- I. In the case of goods falling under clause (i) of paragraph 1 of the Schedule to the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976 the certificate shall be as follows:

"Having been authorised in accordance with the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976, the undersigned certifies that the goods described in this invoice have been wholly produced/ manufactured¹ within the territory of.....(name of the exporting Member State).

Place:

Date:

Signature and Seal"

- II. In the case of goods falling under clause (ii) of paragraph 1 of the Schedule to the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976, the certificate shall be as follows:

"Having been authorised in accordance with the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976, the undersigned certifies that:

- (1) the goods described in this invoice have been partially/ wholly² manufactured in.....(name of the exporting Member State);
- (2) the final process of manufacture of the goods described in this invoice has been performed within.....(name of the exporting Member State) in accordance with the requirements of paragraphs 1 and 2 of the Schedule to the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976;
- (3) the expenditure on all goods produced and labour performed within the territory of.....(name of the exporting Member State) in the manufacture of the goods described in this invoice is not less than fifty per cent of the ex-factory or ex-works cost of the goods in their finished state;
- (4) the goods originating from.....[name(s) of the Member State(s)] which have been used in the manufacture of the goods described in this invoice, satisfied the requirements of origin.....(name of the exporting Member State) as required under the Bangkok Agreement.

Place:

Date:

Signature and Seal"

Customs Tariff (Determination of Origin of the U.A.R. and Yugoslavia) Rules, 1976

Ntfn 353-Cus., dated 02.08.76

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Determination of Origin of the United Arab Republic and Yugoslavia) Rules, 1976.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.

These rules shall apply to articles consigned from the United Arab Republic and Yugoslavia.

¹ Delete where not applicable.

² Delete where not applicable.

3. Definitions.

In these rules unless the context otherwise requires,—

- (a) "Participating States" means the parties participating in the Trade Expansion and Economic Co-operation Agreement concluded with India on the 23rd December, 1967;
- (b) "Rules of Origin of Goods", in relation to an article, means the conditions of origin set out in Annexure-II appended to the Trade Expansion and Economic Co-operation Agreement concluded on the 23rd December, 1967, and set out in the Schedule to these rules;
- (c) "Special tariff concession", in relation to an article, means the exemption granted by the notification of the Government of India in the Department of Revenue and Banking, No. 341-Customs, dated the 2nd August, 1976 in force for the time being, from the payment of duty of customs;
- (d) words and expressions used in these rules and not defined but defined in the Customs Act, 1962 (52 of 1962), shall have the meanings, respectively, assigned to them in that Act.

4. Determination of origin.

No article shall be deemed to be the produce or manufacture of a Participating State unless the proper officer of Customs is satisfied that the conditions specified in the rules of origin of goods are complied with in relation to such article.

5. Claim at the time of importation.

The owner of the article shall,

- (a) make a claim at the time of importation that the article is the produce or manufacture of a Participating State and is eligible for special tariff concession; and
- (b) produce the evidence prescribed in the Schedule to these rules.

6. Imports by post.

No claim that an article imported by post is eligible for special tariff concession shall be considered by the proper officer of Customs, unless at the time of arrival in India such article is covered by a declaration as to the country of origin entered in the customs declaration form or (in the absence of such a form) on the wrapper of the package.

THE SCHEDULE

[See Rules 3(b) and 5]

Rules of Origin of Goods

- 1. For purposes of Rule 2, the cost of production ("factory or works cost") to the manufacturer at the factory or works shall include also the cost of containers and other forms of interior packing ordinarily sold with the article when it is sold in retail or wholesale and the cost of exterior packing but shall not include any other taxes, charges or expenses incurred subsequent to its manufacture.
- 2. An article imported into India from a Participating State shall be eligible to special tariff concession subject to the following:
 - (a) in the case of articles specified in Schedule A to these rules, that they have been wholly produced or grown within the area of the exporting Participating State; and
 - (b) in the case of all other articles:
 - (i) that they have been wholly manufactured within the territory of the exporting Participating State, or
 - (ii) that they have been partially manufactured and the final process of manufacture has been performed within such territory:

Provided that in both (i) and (ii) above the expenditure on material produced and labour performed within the territory of the exporting Participating State in the manufacture of the article is not less than fifty per cent of the factory or works cost of the article in its finished state.

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Explanation—"Expenditure on material" means the cost to the manufacturer of the material at the factory or works, including containers.

3. Any one or more of the following operations or processes shall not by themselves, constitute the final process of manufacture:
 - (a) Packing.
 - (b) Mixing.
 - (c) Bottling.
 - (d) Labelling.
 - (e) Splitting into the lots.
 - (f) Sorting and grading.
 - (g) Marking.
 - (h) Putting up into sets.
4. In determining the place of production or consignment of marine products taken from the sea or goods produced therefrom at sea, such products shall be regarded as having been consigned from the territory of a Participating State if they were taken or produced in a vessel chartered by, or belonging to, a Participating State and have been brought direct to the exporting Participating State.
5. When determining the origin of goods, "expenditure on material" incurred in the exporting Participating State shall include *inter alia* expenses incurred in respect of energy, fuel, plant, machinery or tools in the manufacture or production of goods within the exporting Participating State and materials used in the maintenance of such plant and machinery, and tools.
6. (1) Each unit of article in a consignment shall be considered separately.
(2) For purposes of clause (1) of this rule—
 - (a) tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article, provided that they constitute the standard equipment customarily included in the sale of articles of that kind;
 - (b) in cases not within sub-clause (a), goods shall be treated as a single unit if they are so treated for purposes of assessing customs duties.
- (3) An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment shall, if the importer so requests, be treated as one article if they are so treated for purpose of assessing customs duty.
7. (1) A claim that goods shall be accepted as eligible to special tariff concession in customs duties shall be supported by an appropriate certificate of origin given by a Governmental authority or an authorised body nominated by the exporting Participating State and notified to the Government of India.
(2) The forms of certification shall be as prescribed in Schedule B to these rules.
8. (1) When it is considered necessary that an enquiry should be made pertaining to any consignment or certificate of origin, the Government of India may make a request to the competent authority of the exporting Participating State. Upon receipt of a request in this behalf the competent authority shall, after verification of the evidence, furnish information to the Government of India.
Information obtained in this respect shall be treated as confidential.
(2) Certificates of an authorised body may not be accepted in case it is shown to have repeatedly issued certificates not in accordance with the provisions of these Rules. Such action shall not, however, be taken without adequate prior notification to the exporting Participating States of the grounds of dissatisfaction.
9. These rules shall be reviewed annually from the commencement of their operation and be open to such modification as may be agreed upon by Government of India and Participating States.

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SCHEDULE A

Serial No.	Heading No. of the First Schedule to the Customs Tariff Act, 1975 as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003)	Description of products
(1)	(2)	(3)
1.	25.01/32	Natural calcium phosphate.
2.	25.01/32	Gypsum (raw).
3.	25.01/32	Natural steatite, including natural steatite not further worked than roughly split, roughly squared or squared by sawing, talc. (1) Talc (2) Others.
4.	27.14/16	Bitumen and asphalt, natural bituminous shale, asphaltic rock and tar sands: (1) Bitumen (2) Asphalt (3) Bituminous shale and tar sands (4) Asphaltic rock.

SCHEDULE B

Form of certification of origin of goods eligible for Special Tariff Concessions

(To be given by a Governmental authority or an authorised body nominated by the exporting Participating State and to be written, typed or printed in the English language on invoices of goods.)

- I. In the case of articles included in Schedule A to these rules, certification shall be as follows:
 "Having been authorised in accordance with Rule 7(1) of the 'Rules of Origin of Goods', the undersigned certifies that the goods described in this invoice have been wholly grown or produced within Yugoslavia/ U.A.R.
 Place:
 Date:

Signature and seal"
- II. In the case of articles other than those specified in Schedule A to these rules, namely, wholly or partially manufactured articles:
 "Having been authorised in accordance with Rule 7(1) of the 'Rules of Origin of Goods' the undersigned certifies that:
 (1) The articles described in this invoice have been partially/ wholly manufactured in Yugoslavia/ U.A.R.
 (2) The expenditure incurred on all materials produced and labour performed within Yugoslavia/ U.A.R. is not less than fifty per cent of the factory or works cost of the articles in its finished state.
 (3) The final process of manufacture of each and every article has been performed within Yugoslavia/ U.A.R., in accordance with the requirements of Rules 2 and 3 of the 'Rules of Origin of Goods'.
 Place:
 Date:

Signature and Seal"

Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995

Ntfn 1-Cus. (N.T.), dated 01.01.95

In exercise of the powers conferred by sub-section (7) of section 9 and sub-section (2) of section 9B of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) and in supersession of the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Bounty-fed Articles and for Determination of Injury) Rules, 1985, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995.
- (2) They shall come into force on the 1st day of January, 1995.

2. Definitions.

In these rules, unless the context otherwise requires,—

- (a) “Act” means the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003);
- (b) “domestic industry” means the domestic producers as a whole of the like article, or domestic producers whose collective output of the said article constitutes a major proportion of the total domestic production of that article, except when such producers are related to the exporters or importers of the alleged subsidised article, or are themselves importers thereof, in which case such producers shall be deemed not to form part of domestic industry:

Provided that in exceptional circumstances referred to in sub-rule (3) of rule 13, the domestic industry in relation to the article in question shall be deemed to comprise two or more competitive markets and the producers within each of such market be deemed as a separate industry if,—

- (i) the producers within such market sell all or almost all of their production of the article in question in that market, and
 - (ii) the demand in the market is not in any substantial degree supplied by producers of the said article located elsewhere in the territory;
- (c) “interested party” includes—
 - (i) an exporter or foreign producer or the importer of an article subject to investigation for being subsidised or a trade or business association a majority of the members of which are producers, exporters or importers of such an article; and
 - (ii) a producer of the like article in India or a trade and business association a majority of the members of which produce the like article in India;
 - (d) “provisional duty” means a countervailing duty imposed under sub-section (2) of section 9A of the Act;
 - (e) “specified country” means a country or territory which includes the country or territory with which the Government of India has an agreement for giving it the most favoured nation treatment;
 - (f) all words and expressions used in these rules, but not defined, shall have the meaning respectively assigned to them in the Act.

3. Appointment of designated authority.

- (1) The Central Government may, by notification in the Official Gazette¹, appoint a person not below the rank of a Joint Secretary to the Government of India or such other person as that Government may think fit as the designated authority for purposes of these rules.
- (2) The Central Government may provide to the designated authority the services of such other persons and such other facilities as it deems fit.

4. Duties of the designated authority.

It shall be the duty of the designated authority in accordance with these rules—

- (a) to investigate the existence, degree and effect of any subsidy in relation to the import of an article;
- (b) to identify the article liable for countervailing duty;
- (c) to submit its findings, provisional or otherwise to the Central Government as to—
 - (i) the nature and amount of subsidy in relation to an article under investigation.
 - (ii) the injury or threat of injury to an industry established in India or material retardation to the establishment of an industry in India consequent upon the import of such articles from the specified countries.
- (d) to recommend the amount of countervailing duty, which if levied would be adequate to remove the injury to the domestic industry and the date of commencement of such duty; and
- (e) to review the need for continuance of countervailing duty.

5. Decision as to country of origin.

In cases where articles are not imported directly from the country of origin but are imported from an intermediate country, the provisions of these rules shall be fully applicable and any such transaction shall, for the purpose of these rules be regarded as having taken place between the country of origin and the country of importation.

6. Initiation of investigation.

- (1) Except as provided in sub-rule (4) the designated authority shall initiate an investigation to determine the existence, degree and effect of alleged subsidy only upon receipt of a written application by or on behalf of the domestic industry.
- (2) An application under sub-rule (1) shall be in the form as may be specified by the designated authority in this behalf and the application shall be supported by evidence of—
 - (a) subsidy and, if possible, its amount,
 - (b) injury where applicable, and
 - (c) where applicable, a casual link between such subsidized imports and alleged injury.
- (3) The designated authority shall not initiate an investigation pursuant to an application made under sub-rule (1) unless—
 - (a) it determines, on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like article, that the application has been made by or on behalf of the domestic industry:
Provided that no investigation shall be initiated if domestic producers expressly supporting the application account for less than twenty-five per cent of the total production of the like product by the domestic industry, and

¹ See Part—Notifications issued under Customs Act, 1962 for Notifications issued under this Section.

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- (b) it examines the accuracy and adequacy of the evidence provided in the application and satisfies itself that there is sufficient evidence regarding—
 - (i) subsidy,
 - (ii) injury, where applicable; and
 - (iii) where applicable, a casual link between such subsidized imports and the alleged injury, to justify the initiation of an investigation.

Explanation—For the purpose of this rule, the application shall be considered to have been made “by or on behalf of domestic industry” if it is supported by those domestic producers whose collective output constitutes more than fifty per cent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition as the case may be, to the application.

- (4) Notwithstanding anything contained in sub-rule (1), the designated authority may initiate investigation *suo motu*, if it is satisfied from the information received from the ¹[Commissioner of Customs] appointed under the Customs Act, 1962 (52 of 1962) or any other source that sufficient evidence exists as to the existence of the circumstances referred to in sub-clause (b) of sub-rule (3).
- (5) The designated authority shall notify the government of the exporting country before proceeding to initiate an investigation.

7. Principles governing investigations.

- (1) The designated authority shall, after it has decided to initiate investigation to determine the existence, degree and effect of any alleged subsidization of any article, issue a public notice notifying its decision. Public notice regarding initiation of investigation shall, *inter alia*, contain adequate information on the following:
 - (i) the name of the exporting countries and the article involved;
 - (ii) the date of initiation of the investigation;
 - (iii) a description of the subsidy practice or practices to be investigated;
 - (iv) a summary of the factors on which the allegation of injury is based;
 - (v) the address to which representations by interested countries and interested parties should be directed; and
 - (vi) the time-limits allowed to interested countries and interested parties for making their views known.
- (2) A copy of the public notice shall be forwarded by the designated authority to the known exporters of the article alleged to have been subsidized, the government of the exporting country concerned and other interested parties.
- (3) The designated authority shall also provide a copy of the application referred to in sub-rule (1) of rule 6 to—
 - (i) the known exporters or the concerned trade association where the number of exporters is large, and
 - (ii) the government of the exporting country:

Provided that the designated authority shall also make available a copy of the application, upon request in writing, to any other interested party.
- (4) The designated authority may issue a notice calling for any information in such form as may be specified by it from the exporters, foreign producers and governments of interested countries and such information shall be furnished by such persons in writing thirty days from the date of receipt of the notice or within such extended period as the designated authority may allow on sufficient cause being shown.

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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Explanation—For the purpose of this sub-rule the public notice and other documents shall be deemed to have been received one week from the date on which these documents were sent by the designated authority or transmitted to the appropriate diplomatic representative of the exporting country.

- (5) The designated authority shall also provide opportunity to the industrial users of the article under investigation, and to representative consumer organisations in cases where the article is commonly sold at retail level, to furnish information which is relevant to the investigation regarding subsidization and where applicable injury and casualty.
- (6) The designated authority may allow an interested country or an interested party or its representative to present information relevant to the investigation orally also, but such oral information shall be taken into consideration only when it is subsequently reproduced in writing.
- (7) The designated authority shall make available the evidence presented by one party to other interested parties participating in the investigation.
- (8) In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances.

8. Confidential information.

- (1) Notwithstanding anything contained in sub-rules (1), (2), (3) and (7) of rule 7, sub-rule (2) of rule 14, sub-rule (4) of rule 17 and sub-rule (3) of rule 19 copies of applications received under sub-rule (1) of rule 6 or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.
- (2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof in sufficient details to permit a reasonable understanding of the substance of the confidential information and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarisation is not possible.
- (3) Notwithstanding anything contained in sub-rule (2), if the designated authority, is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, it may disregard such information.

9. Accuracy of information.

Except in cases referred to in sub-rule (8) of rule 7 the designated authority shall during the course of investigation satisfy itself as to the accuracy of the information supplied by the interested parties upon which its findings are based.

10. Investigation in the territory of other specified countries.

- (1) The designated authority may carry out investigations in the territories of other countries, in order to verify the information provided or to obtain further details:
Provided that the designated authority notifies to such country in advance and such country does not object to such investigation.
- (2) The designated authority may also carry out investigations at the premises of any commercial organisation and may examine its records if such organisation agrees and if the country in whose territory the said commercial organisation is situated, is notified and has not raised any objection for the conduct of such investigation.

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11. Nature of subsidy.

- (1) The designated authority while determining the subsidy shall ascertain as to whether the subsidy under investigation—
 - (a) relates to export performance, or
 - (b) relates to the use of domestic goods over imported goods in the export article, or
 - (c) it has been conferred on a limited number of persons, engaged in manufacturing, producing or exporting the article unless such a subsidy is for—
 - (i) research activities conducted by or on behalf of persons engaged in the manufacture, production or export; or
 - (ii) assistance to disadvantaged regions within the territory of the exporting country; or
 - (iii) assistance to promote adaptation of existing facilities to new environmental requirements:

Provided that for the purposes of sub-clauses (a) and (b), subsidies of a kind mentioned in the Agreement on Agriculture, contained in the Final Act of the Uruguay Round of Multilateral Trade Negotiations, shall not be taken into consideration.

Explanation—

- (1) For the purposes of sub-clause (i) of clause (c) the term “subsidy for research activity” means assistance for research activities conducted by commercial organisations or by higher education or research establishments on a contract basis with the commercial organisations if the assistance covers not more than seventy-five per cent of the costs of industrial research or fifty per cent of the costs of pre-competitive development activity and provided that such assistance is limited exclusively to—
 - (i) costs of personnel (researchers, technicians and other supporting staff employed exclusively in the research activity);
 - (ii) costs of instruments, equipment, land and buildings used exclusively and permanently (except when disposed of on a commercial basis) for the research activity;
 - (iii) costs of consultancy and equivalent services used exclusively for the research activity, including bought in research, technical knowledge, patents, etc.;
 - (iv) additional overhead costs incurred directly as a result of the research activity; and
 - (v) other running costs (such as those of materials, supplies and the like), incurred directly as a result of the research activity.
- (2) For the purposes of sub-clause (ii) of clause (c), the term “subsidy for assistance to disadvantaged regions” means assistance to disadvantaged regions within the territory of the exporting country given pursuant to a general framework of regional development and such subsidy has not been conferred on limited number of enterprises within the eligible region:

Provided that—

- (a) each disadvantaged region must be a clearly designated contiguous geographical area with a definable economic and administrative identity;
- (b) the region is considered as disadvantaged on the basis of neutral and objective criteria, indicating that the region's

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difficulties arise out of more than temporary circumstances; such criteria must be clearly spelled out in law, regulation, or other official document, so as to be capable of verification;

- (c) the criteria shall include a measurement of economic development which shall be based on at least one of the following factors—
 - (i) one of either income per capita or household income per capita, or Gross Domestic Product per capita, which must not be above eighty-five per cent of the average for the territory concerned;
 - (ii) unemployment rate, which must be at least one hundred and ten per cent of the average for the territory concerned, as measured over a three-year period; such measurement, however, may be a composite one and may include other factors.

- (3) For the purposes of sub-clause (iii) of clause (c), “subsidy for assistance to promote adaptation of existing facilities to new environmental requirements” means assistance to promote adaptation of existing facilities to new environmental requirements imposed by law and/ or regulations which result in greater constraints and financial burden on commercial organisations:

Provided that the assistance—

- (i) is a one-time non-recurring measure; and
 - (ii) is limited to twenty per cent of the cost of adaptation; and
 - (iii) does not cover the cost of replacing and operating the assisted investment, which must be fully borne by commercial organisations; and
 - (iv) is directly linked to and proportionate to a commercial organisation's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings which may be achieved; and
 - (v) is available to all firms which can adopt the new equipment and/ or production processes.
- (3) The designated authority while determining the subsidy of a kind as referred to in sub-clause (c) to sub-rule (1) shall take into account, *inter alia* the principles laid down in Annexure II to these rules.

12. Conferment of benefit.

The designated authority while determining the conferment of benefit to the recipient, pursuant to a subsidy, shall take into account the following guidelines—

- (a) government provision of equity capital shall not be considered as conferring a benefit, unless the investment decision can be regarded as inconsistent with the usual investment practice (including for the provision of risk capital) of private investors in the territory of the granting country.
- (b) a loan by a government shall not be considered as conferring a benefit, unless there is a difference between the amount that the commercial organisation receiving the loan pays on the government loan and the amount it would pay on a comparable commercial loan which it could actually obtain on the market. In this case the benefit shall be the difference between these two amounts;
- (c) a loan guarantee by a government shall not be considered as conferring a benefit, unless there is a difference between the amount that the commercial organisation receiving the guarantee pays on a loan guaranteed by the government and the amount that it would pay on a comparable commercial loan in the absence of

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the government guarantee. In this case the benefit shall be the difference between these two amounts adjusted for any differences in fees;

- (d) the provision of goods or services or purchase of goods by a government shall not be considered as conferring a benefit unless the provision is made for less than adequate remuneration, or the purchase is made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for the goods or service in question in the country of provision or purchase (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).

13. Determination of injury.

- (1) In the case of imports from specified countries, the designated authority shall give a further finding that the import of such article into India causes or threatens material injury to any industry established in India, or materially retards the establishment of an industry in India.
- (2) Except when a finding of injury is made under sub-rule (3), the designated authority shall determine the injury, threat of injury, material retardation to the establishment of an industry and the causal link between the subsidised import and the injury, taking into account *inter alia*, the principle laid down in Annexure I to the rule.
- (3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured if—
 - (i) there is a concentration of subsidised imports into an isolated market, and
 - (ii) the subsidised imports are causing injury to the producers of almost all of the production within such market.

14. Preliminary findings.

- (1) The designated authority shall proceed expeditiously with the conduct of the investigation and shall, in appropriate cases, record a preliminary finding regarding existence of a subsidy and its nature and in respect of imports from specified countries, it shall also record its preliminary finding regarding injury to the domestic industry and such finding shall contain sufficiently detailed explanation for the preliminary determination on the existence of a subsidy and injury and shall refer to the matter of fact and law which have led to arguments being accepted or rejected. Such finding shall contain—
 - (i) the names of the suppliers or, when this is impracticable, the supplying countries involved;
 - (ii) a description of the product which is sufficient for customs purposes;
 - (iii) the amount of subsidy established and the basis on which the existence of a subsidy has been determined;
 - (iv) considerations relevant to the injury determination; and
 - (v) the main reasons leading to the determination.
- (2) The designated authority shall issue a public notice recording its preliminary findings.

15. Levy of provisional duty.

The Central Government may, in accordance with the provisions of sub-section (2) of section 9 of the Act, impose a provisional duty on the basis of the preliminary findings recorded by the designated authority:

Provided that no such duty shall be imposed before the expiry of sixty days from the date of issue of the public notice by the designated authority regarding its decision to initiate investigations:

Provided further that such duty shall remain in force for a period not exceeding four months.

16. Termination of investigation.

- (1) The designated authority shall, by issue of a public notice terminate an investigation immediately if—
 - (a) it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated;
 - (b) it is satisfied in the course of an investigation, that there is no sufficient evidence either for subsidisation or, where applicable, injury to justify continuation of the investigation;
 - (c) it determines that the amount of subsidy is less than one per cent *ad valorem* or in the case of a product originating from a developing country the amount of subsidy is less than two per cent.
 - (d) it determines that the volume of the subsidized imports, actual or potential or injury where applicable, is negligible or in the case of a product originating in a developing country the volume of the subsidized imports represents less than four per cent of the total imports of the like product into India, unless imports from developing countries whose individual shares of total imports represent less than four per cent collectively account for more than nine per cent of the total imports of the like product into India.

17. Suspension or termination of investigation on acceptance of price undertaking.

- (1) The designated authority may suspend or terminate an investigation, if—
 - (a) the government of the exporting country—
 - (i) furnishes an undertaking that it would withdraw the subsidy.
 - (ii) in case of specified countries, undertakes to limit the quantum of subsidy within reasonable limit, or to take other suitable measures to neutralise the effect of such subsidy, provided that the designated authority is satisfied that the injurious effect of the subsidy is eliminated, or
 - (b) in case of specified countries the exporters concerned agree to revise their prices so that injurious effect of subsidy is eliminated and the designated authority is satisfied that the injurious effect of the subsidy is eliminated:

Provided that increase in price as a result of this clause is not higher than what is necessary to eliminate the amount of subsidy:

Provided further that the designated authority shall complete the investigation and record its finding, if the Central Government so desires or the government of the exporting country so decides.
- (2) No undertaking as regards price increase under sub-rule (1) shall be accepted unless the designated authority had made preliminary determination of subsidization and the injury:

Provided that an undertaking from an exporter shall be accepted only when the designated authority has also obtained the consent of the exporting country.
- (3) The designated authority, may also not accept undertakings offered by any country or any exporter, if it considers the acceptance of such undertaking as impracticable or as unacceptable for any other reason.
- (4) The designated authority shall intimate the acceptance of an undertaking and suspension or termination of investigation to the Central Government and also issue a public notice in this regard. The public notice shall, contain *inter alia*, the non-confidential part of the undertaking.
- (5) In cases where an undertaking has been accepted by the designated authority the Central Government may not impose a duty under sub-section (2) of section

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9 of the Act for such a period the undertaking acceptable to the designated authority remains valid.

- (6) Where the designated authority has accepted any undertaking under sub-rule (1), it may require the government of the exporting country, or the exporter from whom such undertaking has been accepted to provide from time to time information relevant to the fulfilment of the undertaking and to permit verification or relevant data:

Provided that in case of any violation of any undertaking, the designated authority will intimate the Central Government and complete the investigation expeditiously.

- (7) The designated authority shall *suo motu* or on the basis of any request received from exporters or importers of the article in question or any other interested person review from time to time the need for the continuance of any undertaking given earlier.

18. Disclosure of information.

The designated authority, shall, before giving its final findings, inform all interested parties and interested countries of the essential facts under consideration which form the basis of its decision and permit the interested parties to defend their interest.

19. Final findings.

- (1) The designated authority shall, within one year from the date of initiation of an investigation determine as to whether or not the article under investigation is being subsidized and submit to the Central Government its final finding, as to—

(a) (i) the nature of subsidy being granted in respect of the article under investigation and the quantum of such subsidy;

(ii) whether imports of such articles into India in the case of imports from specified countries, cause or threaten material injury to an industry established in India or materially retards the establishment of any industry in India and a casual link between the subsidized imports and such injury; and

(iii) Whether a retrospective levy is called for and if so, the reasons therefor and the date of commencement of such levy.

(b) its recommendation as to the amount of duty which if levied, would be adequate to remove the injury to the domestic industry:

Provided that the Central Government may in circumstances of exceptional nature extend further the aforesaid period of one year by six months:

Provided further that in those cases where the designated authority has suspended the investigation on the acceptance of a price undertaking as provided in rule 17 and subsequently resumes the same on violation of the terms of the said undertaking, the period for which investigation was kept under suspension shall not be taken into account while calculating the said period of one year.

- (2) The final finding if affirmative, shall contain all information on the matter of facts and law and reasons which have led to the conclusion and shall also contain information regarding—

(i) the names of the suppliers or, when this is impractical, the supplying countries involved;

(ii) a description of the product which is sufficient for customs purposes;

(iii) the amount of subsidy established and the basis on which the existence of a subsidy has been determined;

(iv) considerations relevant to the injury determination; and

(v) the main reasons leading to the determination.

- (3) The designated authority shall issue a public notice regarding its final findings.

20. Levy of duty.

- (1) The Central Government may, within three months of the date of publication of the final findings by the designated authority under rule 19, impose, by notification in the Official Gazette, upon importation into India of the article covered under the final finding, a countervailing duty not exceeding the amount of subsidy as determined by the designated authority under rule 19:

Provided that in case of imports from specified countries the amount of duty shall not exceed the amount which has been found adequate to remove the injury to the domestic industry.

- (2) Notwithstanding anything contained in sub-rule (1) where a domestic industry has been interpreted according to the proviso to clause (b) of rule 2, a countervailing duty shall be levied only after the exporters have been given opportunity to cease exporting at subsidized prices to the area concerned or otherwise give an undertaking pursuant to rule 17 and such undertaking has not been promptly given and in such cases duty cannot be levied only on the product of specified producers which supply the area in question.
- (3) If the final findings of the designated authority is negative, that is contrary to the *prima facie* evidence on whose basis the investigation was initiated, the Central Government shall within forty-five days of the publication of final findings by the designated authority under rule 19, withdraw the provisional duty, imposed, if any.

21. Imposition of duty on non-discriminatory basis.

Any countervailing duty imposed under rule 15 or 20 shall be on a non-discriminatory basis and applicable to all imports of such article, if found to be subsidised and where applicable, causing injury except in the case of imports from those sources from which undertakings in terms of rule 17 have been accepted.

22. Date of commencement of duty.

- (1) The countervailing duty levied under rules 15 and 20 shall take effect from the date of publication of the notification in the Official Gazette.
- (2) Notwithstanding anything contained in sub-rule (1)–
- (a) where a provisional duty has been levied and where the designated authority has recorded a finding of injury or where the designated authority recorded a finding of injury and a further finding that the subsidised imports, in the absence of provisional duty would have led to injury, the countervailing duty may be imposed from the date of imposition of provisional duty;
- (b) in the circumstances referred to in sub-section (4) of section 9 of the Act, the countervailing duty may be levied retrospectively from the date commencing ninety days prior to the imposition of provisional duty:

Provided that in case of violation of an undertaking referred to in sub-rule (6) of rule 17, no duty shall be levied retrospectively on imports which have entered for home consumption before violation of such terms of the undertaking.

23. Refund of duty.

- (1) If the countervailing duty imposed by the Central Government on the basis of the final findings of the investigation conducted by the designated authority is higher than the provisional duty already imposed and collected the differential shall not be collected from importer.
- (2) If the countervailing duty fixed after the conclusions of the investigation is lower than the provisional duty already imposed and collected, the differential shall be refunded to the importer.

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- (3) If the provisional duty imposed by the Central Government is withdrawn in accordance with the provisions of sub-rule (3) of rule 20, the provisional duty already imposed and collected, if any, shall be refunded to the importer.

24. Review.

- (1) The designated authority shall, from time to time, review the need for continued imposition of the countervailing duty and shall, if it is satisfied on the basis of information received by it that there is no justification for the continued imposition of such duty or additional duty, recommend to the Central Government for its withdrawal.
- (2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding 12 months from the date of initiation of such review.
- (3) The provisions of rules 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 22 and 23 shall *mutatis mutandis* apply in the case of review.

ANNEXURE I

Principles governing the determination of injury

The designated authority shall take into account *inter alia*, the following principles while determining injury:

1.
 - (1) A determination of injury for purposes of rule 13 shall be based on positive evidence and involve an objective examination of both (a) the volume of the subsidized imports and the effect of the subsidized imports on prices in the domestic market for like products; and (b) the consequent impact of these imports on the domestic producers of such products.
 - (2) With regard to the volume of the subsidized imports, the designated authority shall *inter alia* consider whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption in India.
 - (3) With regard to the effect of the subsidized import on prices, the designated authority shall, consider whether there has been a significant price undercutting by the subsidized imports and compared with the price of a like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred, to a significant degree.
 - (4) Where imports of a product from more than one country are simultaneously subject to countervailing duty investigations, the designated authority may cumulatively assess the effect of such imports only if it determines that (a) the amount of subsidization established in relation to the imports from each country is more than one per cent ad valorem and the volume of imports from each country is not negligible; and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the like domestic product.
 - (5) The designated authority while examining the impact of the subsidized imports on the domestic industry shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments and, in the case of agriculture, whether there has been an increased burden on government support programmes.
2.
 - (1) It must be demonstrated that the subsidized imports are, through the effects of subsidies, causing injury. The demonstration of a casual relationship between the subsidized imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the designated authority. The designated authority shall also examine any known factors other than the subsidized imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the subsidized imports.

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Factors which may be relevant in this respect include, *inter alia*, the volumes and prices on non-subsidized imports of the product in question, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry.

- (2) The effect of the subsidized imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of that production on the basis of such criteria as the production process, producers sales and profits. If such separate identification of that production is not possible, the effects of the subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.
3. A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, *inter alia*, such factors as:
 - (i) nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom;
 - (ii) a significant rate of increase of subsidized imports into the domestic market indicating the likelihood of substantially increased importation;
 - (iii) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased subsidized exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;
 - (iv) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
 - (v) inventories of the product being investigated.

ANNEXURE II

Principles of determination of subsidy which has been conferred on a limited number of persons as referred to in Rule 11

1. The designated authority in order to determine as to whether a subsidy has been conferred on a limited number of persons engaged in the manufacture or production of an article, shall take the following principles into consideration:
 - (a) whether the granting authority or the legislation pursuant to which the granting authority operates, explicitly limits access to a subsidy to certain enterprises. However, where the granting authority, or the legislation pursuant to which the granting authority operates, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, such subsidy shall not be considered to have been conferred on a limited number of persons engaged in the manufacture or production of an article, provided that the eligibility is automatic and such criteria or conditions are strictly adhered to and such criteria and conditions have been clearly spelt out in the law, regulation or other official document of the granting country or territory and are capable of verification.

Explanation—For the purposes of the above para objective criteria or conditions mean criteria or condition which are neutral, which do not favour certain enterprises over others, and which are economic in nature and horizontal in application, such as number of employees or size of enterprises.
 - (b) Notwithstanding the determination that a subsidy is not being granted to a limited number of enterprises in terms of the provisions contained in para (a) above, if the designated authority has reason to believe that the subsidy has in fact been conferred to a limited number of enterprises, it may consider other factors like (1) use of a subsidy programme by a limited number of certain enterprises or predominant use by certain enterprises; (2) granting of disproportionately large

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amounts of subsidy to certain enterprises; and (3) manner in which discretion has been exercised by the granting authority in decision to grant a subsidy, for determination of subsidy. The designated authority, in applying this clause, shall take into account, the extent of diversification of economic activities within the jurisdiction of the granting authority, as well as the length of the time during which the subsidy programme has been in operation.

- (c) A subsidy which is limited to certain persons engaged in the manufacture or production of an article located within a designated geographical region within the jurisdiction of the granting authority shall be considered to have been granting to a limited number of persons engaged in the manufacture or production.

Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995

Ntfn 2-Cus. (N.T.), dated 01.01.95

In exercise of the powers conferred by sub-section (6) of section 9A and sub-section (2) of section 9B of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) and in supersession of the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1985, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.
- (2) They shall come into force on the 1st day of January, 1995.

2. Definitions.

In these rules, unless the context otherwise requires,—

- (a) “Act” means the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003);
- (b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case ¹[such producers may be deemed] not to form part of domestic industry:

Provided that in exceptional circumstances referred to in sub-rule (3) of Rule 11, the domestic industry in relation to the article in question shall be deemed to comprise two or more competitive markets and the producers within each of such market a separate industry, if—

- (i) the producers within such a market sell all or almost all of their production of the article in question in that market; and
- (ii) the demand in the market is not in any substantial degree supplied by producers of the said article located elsewhere in the territory;

²[**Explanation**—For the purposes of this clause,—

¹ Substituted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

² Inserted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

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- (i) producers shall be deemed to be related to exporters or importers only if,-
 - (a) one of them directly or indirectly controls the other; or
 - (b) both of them are directly or indirectly controlled by a third person; or
 - (c) together they directly or indirectly control a third person, subject to the condition that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.
- (ii) a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.]
- (c) "interested party" includes—
 - (i) an exporter or a foreign producer or the importer of an article subject to investigation for being dumped in India, or a trader or business association a majority of the members of which are producers, exporters or importers of such an article;
 - (ii) the government of the exporting country; and
 - (iii) a producer of the like article in India or a trade and business association a majority of the members of which produce the like article in India;
- (d) "like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such an article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;
- (e) "provisional duty" means an anti-dumping duty imposed under sub-section (2) of section 9A of the Act;
- (f) "specified country" means a country or territory which is a member of the World Trade Organisation and includes the country or territory with which the Government of India has an agreement for giving it the most favoured nation treatment;
- (g) all words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. Appointment of designated authority.

- (1) The Central Government may, by notification in the Official Gazette¹, appoint a person not below the rank of a Joint Secretary to the Government of India or such other person as that Government may think fit as the designated authority for purposes of these rules.
- (2) The Central Government may provide to the designated authority the services of such other persons and such other facilities as it deems fit.

4. Duties of the designated authority.

- (1) It shall be the duty of the designated authority in accordance with these rules—
 - (a) to investigate as to the existence, degree and effect of any alleged dumping in relation to import of any article;
 - (b) to identify the article liable for anti-dumping duty;
 - (c) to submit its findings, provisional or otherwise to Central Government as to—
 - (i) normal value, export price and the margin of dumping in relation to the article under investigation; and
 - (ii) the injury or threat to the establishment of an industry in India consequent upon the import of such article from the specified countries.

¹ See Part—Notifications issued under Customs Act, 1962 for Notifications issued under this Section.

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- ¹[(d) to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry, and the date of commencement of such duty; and]
- (e) to review the need for continuance of anti-dumping duty.

5. Initiation of investigation.

- (1) Except as provided in sub-rule (4), the designated authority shall initiate an investigation to determine the existence, degree and effect of any alleged dumping only upon receipt of a written application by or on behalf of the domestic industry.
- (2) An application under sub-rule (1) shall be in the form as may be specified by the designated authority and the application shall be supported by evidence of—
 - (a) dumping,
 - (b) injury, where applicable, and
 - (c) where applicable, a causal link between such dumped imports and alleged injury.
- (3) The designated authority shall not initiate an investigation pursuant to an application made under sub-rule (1) unless—
 - (a) it determines, on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry:

Provided that no investigation shall be initiated if domestic producers expressly supporting the application account for less than twenty-five per cent of the total production of the like article by the domestic industry, and
 - (b) it examines the accuracy and adequacy of the evidence provided in the application and satisfies itself that there is sufficient evidence regarding—
 - (i) dumping,
 - (ii) injury, where applicable; and
 - (iii) where applicable, a casual link between such dumped imports and the alleged injury,to justify the initiation of an investigation.

Explanation—For the purpose of this rule the application shall be deemed to have been made by or on behalf of the domestic industry, if it is supported by those domestic producers whose collective output constitute more than fifty per cent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition, as the case may be, to the application.
- (4) Notwithstanding anything contained in sub-rule (1) the designated authority may initiate an investigation *suo motu* if it is satisfied from the information received from the ²[Commissioner of Customs] appointed under the Customs Act, 1962 (52 of 1962) or from any other source that sufficient evidence exists as to the existence of the circumstances referred to in clause (b) of sub-rule (3).
- (5) The designated authority shall notify the government of the exporting country before proceeding to initiate an investigation.

6. Principles governing investigations.

- (1) The designated authority shall, after it has decided to initiate investigation to determine the existence, degree and effect of any alleged dumping of any article,

¹ Substituted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

² Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

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issue a public notice notifying its decision and such public notice shall, *inter alia*, contain adequate information on the following

- (i) the name of the exporting country or countries and the article involved;
 - (ii) the date of initiation of the investigation;
 - (iii) the basis on which dumping is alleged in the application;
 - (iv) a summary of the factors on which the allegation of injury is based;
 - (v) the address to which representations by interested parties should be directed; and
 - (vi) the time-limits allowed to interested parties for making their views known.
- (2) A copy of the public notice shall be forwarded by the designated authority to the known exporters of the article alleged to have been dumped, the Governments of the exporting countries concerned and other interested parties.
- (3) The designated authority shall also provide a copy of the application referred to in sub-rule (1) of Rule 5 to—
- (i) the known exporters or to the concerned trade association where the number of exporters is large, and
 - (ii) the governments of the exporting countries:
- Provided** that the designated authority shall also make available a copy of the application to any other interested party who makes a request therefor in writing.
- (4) The designated authority may issue a notice calling for any information, in such form as may be specified by it, from the exporters, foreign producers and other interested parties and such information shall be furnished by such persons in writing within thirty days from the date of receipt of the notice or within such extended period as the designated authority may allow on sufficient cause being shown.
- Explanation—**For the purpose of this sub-rule, the notice calling for information and other documents shall be deemed to have been received one week from the date on which it was sent by the designated authority or transmitted to the appropriate diplomatic representative of the exporting country.
- (5) The designated authority shall also provide opportunity to the industrial users of the article under investigation, and to representative consumer organisations in cases where the article is commonly sold at the retail level, to furnish information which is relevant to the investigation regarding dumping, injury where applicable, and causality.
- (6) The designated authority may allow an interested party or its representative to present the information relevant to the investigation orally but such oral information shall be taken into consideration by the designated authority only when it is subsequently reproduced in writing.
- (7) The designated authority shall make available the evidence presented to it by one interested party to the other interested parties, participating in the investigation.
- (8) In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances.

7. Confidential information.

- (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confi-

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confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.

- (2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarisation is not possible.
- (3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalised or summary form, it may disregard such information.

8. Accuracy of the information.

Except in cases referred to in sub-rule (8) of rule 6, the designated authority shall during the course of investigation satisfy itself as to the accuracy of the information supplied by the interested parties upon which its findings are based.

9. Investigation in the territory of other specified countries.

The designated authority may carry out investigation in the territories of other countries, if the circumstances of a case so warrant:

Provided that the designated authority obtains the consent of the person concerned and notifies the representatives of the concerned government and the concerned government does not object to such investigation.

10. Determination of normal value, export price and margin of dumping.

An article shall be considered as being dumped if it is exported from a country or territory to India at a price less than its normal value and in such circumstances the designated authority shall determine the normal value, export price and the margin of dumping taking into account, *inter alia*, the principles laid down in Annexure I to these rules.

11. Determination of injury.

- (1) In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India.
- (2) The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles, and in accordance with the principles set out in Annexure II to these rules.
- (3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured, if—
 - (i) there is a concentration of dumped imports into an isolated market, and
 - (ii) the dumped articles are causing injury to the producers of all or almost all of the production within such market.

12. Preliminary findings.

- (1) The designated authority shall proceed expeditiously with the conduct of the investigation and shall, in appropriate cases, record a preliminary finding regarding export price, normal value and margin of dumping, and in respect of imports from specified countries, it shall also record a further finding regarding injury to the domestic industry and such finding shall contain sufficiently detailed information for the preliminary determinations on dumping and injury and shall refer to the

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matters of fact and law which have led to arguments being accepted or rejected. It will also contain:

- (i) the names of the suppliers, or when this is impracticable, the supplying countries involved;
 - (ii) a description of the article which is sufficient for customs purposes;
 - (iii) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value;
 - (iv) considerations relevant to the injury determination; and
 - (v) the main reasons leading to the determination.
2. The designated authority shall issue a public notice recording its preliminary findings.

13. Levy of provisional duty.

The Central Government may, on the basis of the preliminary findings recorded by the designated authority, impose a provisional duty not exceeding the margin of dumping:

Provided that no such duty shall be imposed before the expiry of sixty days from the date of the public notice issued by the designated authority regarding its decision to initiate investigations:

Provided further that such duty shall remain in force only for a period not exceeding six months which may upon request of the exporters representing a significant percentage of the trade involved be extended by the Central Government to nine months.

14. Termination of investigation.

The designated authority shall, by issue of a public notice, terminate an investigation immediately if—

- (a) it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated;
- (b) it is satisfied in the course of an investigation, that there is not sufficient evidence of dumping or, where applicable, injury to justify the continuation of the investigation;
- (c) it determines that the margin of dumping is less than two per cent of the export price;
- (d) it determines that the volume of the dumped imports, actual or potential, from a particular country accounts for less than three per cent of the imports of the like product, unless, the countries which individually account for less than three per cent of the imports of the like product, collectively account for more than seven per cent of the import of the like product; or
- (e) it determines that the injury where applicable, is negligible.

15. Suspension or termination of investigation on price undertaking.

- (1) The designated authority may suspend or terminate an investigation if the exporter of the article in question,—
 - (i) furnishes an undertaking in writing to the designated authority to revise the prices so that no exports of the said article are made to India at dumped prices, or
 - (ii) in the case of imports from specified countries undertake to revise the prices so that injurious effect of dumping is eliminated and the designated authority is satisfied that the injurious effect of the dumping is eliminated:
Provided further that the designated authority shall complete the investigation and record its finding, if the exporter so desires, or it so decides.
- (2) No undertaking as regards price increase under clause (ii) of sub-rule (1) shall be accepted from any exporter unless the designated authority had made preliminary determination of dumping and the injury.

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- (3) The designated authority may, also not accept undertakings offered by any exporter, if it considers that acceptance of such undertaking is impractical or is unacceptable for any other reason.
- (4) The designated authority shall intimate the acceptance of an undertaking and suspension or termination of investigation to the Central Government and also issue a public notice in this regard. The public notice shall, contain *inter alia*, the non-confidential part of the undertaking.
- (5) In cases where an undertaking has been accepted by the designated authority the Central Government may not impose a duty under sub-section (2) of section 9A of the Act for such period the undertaking acceptable to the designated authority remains valid.
- (6) Where the designated authority has accepted any undertaking under sub-rule (1), it may require the exporter from whom such undertaking has been accepted to provide from time to time information relevant to the fulfilment of the undertaking and to permit verification of relevant data:
¹[**Provided** that in case of any violation of an undertaking, the designated authority shall, as soon as may be possible, inform the Central Government of the violation of the undertaking and recommend imposition of provisional duty from the date of such violation in accordance with the provisions of these rules.]
- (7) The designated authority shall, *suo motu* or on the basis of any request received from exporters or importers of the article in question or any other interested party, review from time to time the need for the continuance of any undertaking given earlier.

16. Disclosure of information.

The designated authority shall, before giving its final findings, inform all interested parties of the essential facts under consideration which form the basis for its decision.

17. Final findings.

- (1) The designated authority shall, within one year from the date of initiation of an investigation, determine as to whether or not the article under investigation is being dumped in India and submit to the Central Government its final finding—
 - (a) as to,—
 - (i) the export price, normal value and the margin of dumping of the said article;
 - (ii) whether import of the said article into India, in the case of imports from specified countries, causes or threatens material injury to any industry established in India or materially retards the establishment of any industry in India;
 - (iii) a casual link, where applicable, between the dumped imports and injury;
 - (iv) whether a retrospective levy is called for and if so, the reasons therefor and date of commencement of such retrospective levy:
Provided that the Central Government may, ²[in its discretion in special circumstances] extend further the aforesaid period of one year by six months:
Provided further that in those cases where the designated authority has suspended the investigation on the acceptance of a price undertaking as provided in rule 15 and subsequently resumes the same on violation of the terms of the said undertaking, the period for which investigation was kept under suspension shall

¹ Substituted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

² Substituted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

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not be taken into account while calculating the period of said one year,

- ¹[(b) recommending the amount of duty which, if levied, would be remove the injury where applicable, to the domestic industry.]
- (2) The final finding, if affirmative, shall contain all information on the matter of facts and law and reasons which have led to the conclusion and shall also contain information regarding—
- (i) the names of the suppliers, or when this is impracticable, the supplying countries involved;
 - (ii) a description of the product which is sufficient for customs purposes;
 - (iii) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value;
 - (iv) consideration relevant to the injury determination;
 - (v) the main reasons leading to the injury determination; and
- (3) The designated authority shall determine an individual margin of dumping for each known exporter or producer concerned of the article under investigation:
- Provided** that in cases where the number of exporters, producers, importers or types of articles involved are so large as to make such determination impracticable, it may limit its findings either to a reasonable number of interested parties or articles by using statistically valid samples based on information available at the time of selection, or to the largest percentage of the volume of the exports from the country in question which can reasonably be investigated, and any selection, of exporters, producers, or types of articles, made under this proviso shall preferably be made in consultation with and with the consent of the exporters, producers or importers concerned:
- Provided** further that the designated authority shall, determine an individual margin of dumping for any exporter or producer, though not selected initially, who submit necessary information in time, except where the number of exporters or producers are so large that individual examination would be unduly burdensome and prevent the timely completion of the investigation.
- (4) The designated authority shall issue a public notice recording its final findings.

18. Levy of duty.

- (1) The Central Government may, within three months of the date of publication of final findings by the designated authority under rule 17, impose by notification in the Official Gazette, upon importation into India of the article covered by the final finding, anti-dumping duty not exceeding the margin of dumping as determined under rule 17:
- ²[***]
- (2) In cases where the designated authority has selected percentage of the volume of the exports from a particular country, as referred to in sub-rule (3) of rule 17, any anti-dumping duty applied to imports from exporters or producers not included in the examination shall not exceed—
- (i) the weighted average margin of dumping established with respect to the selected exporters or producers or,
 - (ii) where the liability for payment of anti-dumping duties is calculated on the basis of a prospective normal value, the difference between the weighted average normal value of the selected exporters or producers and the export prices of exporters or producers not individually examined:

¹ Substituted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

² Omitted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

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Provided that the Central Government shall disregard for the purpose of this sub-rule any zero margin, margins which are less than 2 per cent expressed as the percentage of export price and margins established in the circumstances detailed in sub-rule (8) of rule 6. The Central Government shall apply individual duties to imports from any exporter or producer not included in the examination who has provided the necessary information during the course of the investigation as referred to in the second proviso to sub-rule (3) of rule 17.

- (3) Notwithstanding anything contained in sub-rule (1), where a domestic industry has been interpreted according to the proviso to sub-clause (b) of rule 2, a duty shall be levied only after the exporters have been given opportunity to cease exporting at dumped prices to the area concerned or otherwise give an undertaking pursuant to rule 15 and such undertaking has not been promptly given and in such cases duty shall not be levied only on the articles of specific producers which supply the area in question.
- (4) If the final finding of the designated authority is negative that is contrary to the evidence on whose basis the investigation was initiated, the Central Government shall, within forty-five days of the publication of final findings by the designated authority under rule 17, withdraw the provisional duty imposed, if any.

19. Imposition of duty on non-discriminatory basis.

Any provisional duty imposed under rule 13 or an anti-dumping duty imposed under rule 18 shall be on a non-discriminatory basis and applicable to all imports of such articles, from whatever sources found dumped and, where applicable, causing injury to domestic industry except in the case of imports from those sources from which undertaking in terms of rule 15 has been accepted.

20. Commencement of duty.

- (1) The anti-dumping duty levied under rule 13 and rule 19 shall take effect from the date of its publication in the Official Gazette.
- (2) Notwithstanding anything contained in sub-rule (1)–
 - (a) where a provisional duty has been levied and where the designated authority has recorded a final finding of injury or where the designated authority has recorded a final finding of threat of injury and a further finding that the effect of dumped imports in the absence of provisional duty would have led to injury, the anti-dumping duty may be levied from the date of imposition of provisional duty;
 - (b) in the circumstances referred to in sub-section (3) of section 9A of the Act, the anti-dumping duty may be levied retrospectively from the date commencing ninety days prior to the imposition of such provisional duty:

Provided that no duty shall be levied retrospectively on imports entered for home consumption before initiation of the investigation:

Provided further that in the cases of violation of price undertaking referred to in sub-rule (6) of rule 15, no duty shall be levied retrospectively on the imports which have entered for home consumption before the violation of the terms of such undertaking.

¹**Provided** also that notwithstanding anything contained in the foregoing proviso, in case of violation of such undertaking, the provisional duty shall be deemed to have been levied from the date of violation of the undertaking or such date as the Central Government may specify in each case.]

21. Refund of duty.

- (1) If the anti-dumping duty imposed by the Central Government on the basis of the final findings of the investigation conducted by the designated authority is higher

¹ Inserted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

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than the provisional duty already imposed and collected, the differential shall not be collected from the importer.

- (2) If, the anti-dumping duty fixed after the conclusion of the investigation is lower than the provisional duty already imposed and collected, the differential shall be refunded to the importer.
- (3) If the provisional duty imposed by the Central Government is withdrawn in accordance with the provisions of sub-rule (4) of rule 18, the provisional duty already imposed and collected, if any, shall be refunded to the importer.

22. Margin of dumping, for exporters not originally investigated.

- (1) If a product is subject to anti-dumping duties, the designated authority shall carry out a periodical review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to India during the period of investigation, provided that these exporters or producers show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product.

- (2) The Central Government shall not levy anti-dumping duties under sub-section (1) of section 9A of the Act on imports from such exporters or producers during the period of review as referred to in sub-rule (1) of this rule:

Provided that the Central Government may resort to provisional assessment and may ask a guarantee from the importer if the designated authority so recommends and if such a review results in a determination of dumping in respect of such products or exporters, it may levy duty in such cases retrospectively from the date of the initiation of the review.

23. Review.

- (1) The designated authority shall, from time to time, review the need for the continued imposition of the anti-dumping duty and shall, if it is satisfied on the basis of information received by it that there is no justification for the continued imposition of such duty recommend to the Central Government for its withdrawal.
- (2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.
- (3) The provisions of rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall be *mutatis mutandis* applicable in the case of review.

24. Dumping causing injury to a third country.

- (1) The designated authority may initiate investigation into any dumping alleged to be taking place into India and causing injury to the domestic industry of any third country which is a member of the World Trade Organisation.
- (2) The designated authority in such cases shall follow the procedures laid down in Article 14 of the Agreement on Implementation of Article VI of the General Agreement on Tariff and Trade, 1994, as contained in the Final Act of Uruguay Round Multilateral Trade Negotiations.

ANNEXURE I

[See Rule 8]

Principles governing the determination of normal value, export price and margin of dumping

The designated authority while determining the normal value, export price and margin of dumping shall take into account *inter alia*, the following principles—

1. The elements of costs referred to in the context of determination of normal value shall normally be determined on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country, and such records reasonably reflect the cost associated with production and sale of the article under consideration.

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2. Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price. The designated authority may disregard these sales, in determining normal value, provided it has determined that—
 - (i) such sales are made within a reasonable period of time (not less than six months) in substantial quantities, i.e. when the weighted average selling price of the article is below the weighted average per unit costs or when the volume of the sales below per unit costs represents not less than twenty per cent of the volume sold in transactions under consideration, and
 - (ii) such sales are at prices which do not provide for the recovery of all costs within a reasonable period of time. The said prices will be considered to provide for recovery of costs within a reasonable period of time if they are above weighted average per unit costs for the period of investigation, even though they might have been below per unit costs at the time of sale.
3.
 - (i) The said authority in the course of investigation shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer provided that such allocation has been historically utilized by the exporter or producer, in relation to establishing appropriate amortization and depreciation periods and allowances for capital expenditure and other development costs.
 - (ii) unless already reflected in allocation of costs referred to in clause (1) and sub-clause (i) above, the designated authority, will also make appropriate adjustments for those non-recurring items of cost which benefits further and/ or current production, or for circumstances in which costs during the period of investigation are affected by start up operation.
4. The amounts for administrative, selling and general costs and profits as referred to in sub-section (1) of section 9A of the Act, shall be based on actual data pertaining to production and sales in the ordinary course of trade, of the like article by the exporter or producer under investigation. When such amounts cannot be determined on this basis, the amounts may be determined on the basis of:
 - (i) the actual amounts incurred and realised by the exporter or producer in question, in respect of production and sales in the domestic market of the country of origin of the same general category of article;
 - (ii) the weighted average of the actual amounts incurred and realized by other exporters or producers subject to investigation in respect of production and sales of the like article in the domestic market of the country of origin; or
 - (iii) any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by the exporters or producers on sales of products of the same general category in the domestic market of the country of origin.
5. The designated authority, while arriving at a constructed export price, shall give due allowance for costs including duties and taxes, incurred between importation and resale and for profits.
6.
 - (i) While arriving at margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability.
 - (ii) In the cases where export price is a constructed price, the comparison shall be made only after establishing the normal value at equivalent level of trade.

- (iii) When the comparison under this para requires a conversion of currencies, such conversion should be made by using the rate of exchange on the date of sale, provided that when a sale on foreign currency on forward markets is directly linked to the export sale involved the rate of exchange in the forward sale shall be used. Fluctuations in exchange rates shall be ignored and in an investigation the exporters shall be given at least sixty days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.
- (iv) Subject to the provisions governing comparison in this paragraph, the existence of margin of dumping during the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value and export prices on a transaction-to-transaction basis. A normal value established on a weighted average basis may be compared to prices of individual export transactions if it is found that a pattern of export prices which differ significantly among different purchasers, regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison.

¹[7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner ²[keeping in view the level of development of the country concerned and the product in question] and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.]

³[8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3).

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economy country.

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).

- (3) The designated authority shall consider in each case the following criteria as to whether :
- (a) the decisions of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs, substantially reflect market values;
 - (b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular

¹ Inserted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

² Inserted by Ntfn No. 28/2001-Cus. (N.T.), dated 31.05.2001.

³ Substituted by Ntfn No. 1-Cus. (N.T.), dated 04.01.2002.

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in relation to depreciation of assets other write-offs, barter trade and payment via compensation of debts;

- (c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
- (d) the exchange rate conversions are carried out at the market rate :

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph].

Note:- For the purposes of this paragraph, the list of non-market economy countries is Albania, Armenia, Azerbaijan, Belarus, People's Republic of China, Georgia, Kazakhstan, North Korea, Kyrgyzstan, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan and Vietnam. Any country among them seeking to establish that it is a market economy country as per criteria enunciated in this paragraph, may provide all necessary information which shall be taken due account by the designated authority.]

ANNEXURE II

[See Rule 9(2)]

Principles for determination of injury

The designated authority while determining the injury or threat of material injury to domestic industry or material retardation of the establishment of such an industry, hereinafter referred to as "injury" and casual link between dumped imports and such injury, shall *inter alia*, take following principles under consideration—

- (i) A determination of injury shall involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article; and (b) the consequent impact of these imports on domestic producers of such products.
- (ii) While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the affect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the designated authority shall consider whether there has been a significant price under cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred, to a significant degree.
- (iii) In cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the designated authority will cumulatively assess the effect of such imports, only when it determines that (a) the margin of dumping established in relation to the imports from each country is more than two per cent expressed as percentage of export price and the volume of the imports from each country is three per cent of the import of like article or where the export of individual countries less than three per cent, the imports collectively accounts for more than seven per cent of the import of like article; and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
- (iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state the of industry, including natural and ¹[potential] decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

¹ Substituted by Ntfn No. 44-Cus. (N.T.), dated 15.07.1999.

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- (v) It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a casual relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the designated authority. The designated authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.
- (vi) The effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.
- (vii) A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, *inter alia*, such factors as:
 - (a) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
 - (b) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
 - (c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
 - (d) inventories of the article being investigated.

ATA Carnet (Form of Bill of Entry & Shipping Bill) Regulations, 1990

Ntfn 14-Cus. (N.T.), dated 06.04.90

In exercise of the powers conferred by section 157 read with sections 46 and 50 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 ATA Carnet (Form of Bill of Entry and Shipping Bill) Regulations, 1990.
- (2) They shall come into force on the 1st day of May, 1990.

3. Definition.

In these regulations "ATA Carnet" means ATA Carnet issued in accordance with the Customs Convention on ATA Carnets by any Issuing Authority affiliated to the International Bureau of Chamber of Commerce and guaranteed in India by the Federation of Indian Chamber of Commerce and Industry.

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4. Form of bill of entry and shipping bill.

The bill of entry or the shipping bill to be presented by an importer or an exporter of any goods for import or export shall be in the form annexed to these regulations. [See Form No. 91 in Part—Customs Forms and Bonds].

Shipping Bill and Bill of Export (Form) Regulations, 1991

Ntfn 61-Cus. (N.T.), dated 29.08.91

In exercise of the powers conferred by section 157, read with sections 50 and 60 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 1st 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 [See Forms No. 93, 94, 95 and 96 in Part—Customs Forms and Bonds], 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 [See Forms No. 97, 98, 99 and 100 in Part—Customs Forms and Bonds], 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 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 Annexure;
- (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

Declaration to be filled in case of Export of Goods under Claim for Drawback

I/ We..... (Name of the Exporter) do hereby declare as follows:

- (a) that the quality 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;

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- (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 licensed 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 Section 65 of the Customs Act, 1962;
- (i) that the goods are not manufactured partly or wholly in bond under Rule 191B 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 & Signature of the exporter.....

ANNEXURE II

Declaration to be filled in the case of Export of Goods under the DEEC Scheme

I/ We.....(Name of the Exporter) do hereby declare as follows:

- (a) 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 & Exports (Name of the office).
- (b) 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/ indigenous
---------	-------------	---------	---------------------------	----------	------------------------------

- (c) that I/ we are not availing the benefit of the provisions of Rule 191A or Rule 191B of the Central Excise Rules, 1944

OR

that I/ we are availing the benefit of the provisions of Rule 191A or Rule 191B of the Central Excise Rules, 1944 in respect of..... (name of the item).

[Note—Strike out the declaration whichever is not applicable]

Name & Signature of the exporter.....

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(for use by the Customs authorities)

Shipping Bill No. & Date.....

Name & Signature of the Customs Officer.....

ANNEXURE III

Declaration to be filled 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/ indigenous
---------	-------------	---------	---------------------------	----------	------------------------------

- (c) that I/ we are not availing the benefit of the provisions of Rule 191A or Rule 191B of the Central Excise Rules, 1944

OR

that I/ we are availing the benefit of the provisions of Rule 191A or Rule 191B of the Central Excise Rules, 1944 in respect of..... (name of the item).

[Note—Strike out the declaration whichever is not applicable]

Name & Signature of the exporter.....

(for use by the Customs authorities)

Shipping Bill No. & Date.....

Name & Signature of the Customs Officer.....

ANNEXURE IV

Declaration to be made on Shipping Bills for Consignments covered by AR-4A pending weighment at the Dock

In consideration of the ¹[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 any 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 & Signature of the exporter.....

(for use by the Customs authorities)

Shipping Bill No. & Date.....

Name & Signature of the Customs Officer.....

¹ Substituted by s.50 of the Finance Act, 1995 (22 of 1995).

ANNEXURE V

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 despatched 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 & Signature of the exporter.....

(for use by the Customs authorities)

Shipping Bill No. & Date.....

Name & Signature of the Customs Officer.....

ABBREVIATIONS

SB No.	—	Shipping Bill No
AR-4	—	Application for removal 4
QC Cert. No.	—	Quality Control Certificate Number
RBI Code No.	—	Reserve Bank of India Code Number
L/C No.	—	Letter of Credit Number
CIF	—	Cost Insurance Freight
FOB	—	Free on Board
CHA	—	Custom House Agent
GR Form	—	Guaranteed Receipt Form
ETC Licence	—	Export Trade Control Licence
QC Certificate	—	Quality Control Certificate
DBK	—	Drawback
AWB No.	—	Air Way Bill No.
EGM No.	—	Export General Manifesto No.
BE	—	Bill of Export

* "CFR" is the revised abbreviation adopted Internationally for 'Cost and Freight' instead of "C & F" used earlier.

**Import of Gold and Silver by Passengers
(Form of Bill of Entry) Regulations, 1994**

Ntfn 49-Cus. (N.T.), dated 30.09.94

In exercise of the powers conferred by section 157, read with section 46, of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely:

Customs Rules & Regulations

1. Short title and commencement.

- (1) These regulations may be called the Import of Gold and Silver by Passengers (Form of Bill of Entry) Regulations, 1994.
- (2) They shall come into force on the 1st day of November, 1994.

2. Form of Bill of Entry.

The Bill of Entry to be presented for *ex-bond* clearance for home consumption of gold or silver from a customs bonded warehouse by a passenger coming into India shall be in the form appended [See Form No. 101 in Part—Customs Forms and Bonds] to these Regulations.

Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996

Ntfn 36-Cus. (N.T.), dated 23.07.96

In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996.
- (2) They shall come into force on the 1st day of September, 1996.

2. Application.

- (1) These rules shall apply to an importer who intends to avail of the benefit of an exemption notification issued under sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and where the benefit of such exemption is dependent upon the use of imported goods covered by the notification for the manufacture of any excisable commodity.

¹[(1A) These rules shall apply only in respect of such exemption notification which prescribes for the observance of these rules.]

- (2) These rules shall also apply even if the excisable goods in or in relation to the manufacture of which the imported goods are used are not chargeable to excise duty or are exempted from whole of excise duty.

3. Registration.

- (1) A manufacturer intending to avail of the benefit of an exemption notification referred to in sub-rule (1) of rule 2, shall obtain a registration from the ²[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] having jurisdiction over his factory.
- (2) The registration shall contain particulars about the name and address of the manufacturer, the excisable goods produced in his factory, the nature and description of imported goods used in the manufacture of such goods.
- (3) The ³[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] shall issue a certificate to the manufacturer indicating the particulars referred to in sub-rule (2).

4. Application by the manufacturer to obtain the benefit.

¹ Inserted by Ntfn No. 43/96-Cus. (N.T.), dated 30.08.1996.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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- (1) A manufacturer who has obtained a certificate referred to in sub-rule (3) of rule 3 and intends to import any goods for use in his factory at concessional rate of duty, shall make an application to this effect to the ¹[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] indicating the estimated quantity and value of such goods to be imported, particulars of the notification applicable on such import and the port of import.
- ²[(1A) The manufacturer may, at his option, file the application specified under sub-rule (1), either in respect of a particular consignment, or indicating his estimated requirement of such goods for a quarter.]
- (2) The manufacturer shall also give undertaking on the application that the imported goods shall be used for the intended purpose.
- (3) The application shall be countersigned by the ³[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] who shall certify therein that the manufacturer is registered in his office and has executed ⁴[a bond to his satisfaction] in respect of end use of the imported goods in the manufacturer's factory and indicate the particulars of such bond.

5. Procedure to be followed by ⁵[Assistant Commissioner of Customs or Deputy Commissioner of Customs].

- (1) On the basis of the application countersigned by the ⁶[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise], the ⁷[Assistant Commissioner of Customs or Deputy Commissioner of Customs] at the port of importation shall allow the benefit of the exemption notification to the importer.
⁸[**Provided** that where the importer has filed the application in respect of his estimated requirement for a quarter, the said ⁹[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall debit in the said application, the quantity and value of imports made under a particular consignment, also indicating particulars of the bill of entry, before allowing the benefit of the exemption notification to the importer.]
- (2) The ¹⁰[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall forward a copy of the bill of entry containing the particulars of import, the amount of duty paid and other relevant particulars to the ¹¹[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise].

6. Procedure to be followed by the ¹²[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise].

The ¹³[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] shall acknowledge the receipt of the intimation received from the ¹⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs].

¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

² Inserted by Ntfn No. 33/98-Cus. (N.T.), dated 02.06.1998.

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁴ Inserted by Ntfn No. 43/96-Cus. (N.T.), dated 30.08.1996.

⁵ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁶ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁷ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁸ Inserted by Ntfn No. 33/98-Cus. (N.T.), dated 02.06.1998.

⁹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

¹⁰ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

¹¹ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

¹² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

¹³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

¹⁴ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

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¹[7. Manufacturer to give information regarding receipt of the imported goods and maintain records.

The manufacturer, obtaining benefit in these rules, shall,—

- (a) give information of the receipt of the imported goods in his factory, within two days (excluding holidays, if any) of such receipt, to the Superintendent of Central Excise having jurisdiction over his factory; and
- (b) maintain a simple account indicating the quantity and value of goods imported, the quantity of imported goods consumed for the intended purpose, and the quantity remaining in stock, bill of entry wise and shall produce the said account as and when required by the ²[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise].]

8. Recovery of duty in certain case.

The ³[Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] shall ensure that the goods imported are used by the manufacturer for the intended purpose and in case they are not so used take action to recover ⁴[the amount equal to the difference between the duty leviable on such goods but for the exemption and that already paid at the time of importation, alongwith interest, at the rate fixed by notification issued under Section 28AB of the Customs Act, 1962, for the period starting from the date of importation of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount of the difference of duty that he is liable to pay.]

Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997

Ntfn 35-Cus. (N.T.), dated 29.07.97

In exercise of the powers conferred by sub-section (5) of section 8B of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

In these rules, unless the context otherwise requires,—

- (a) “Act” means the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003);
- (b) “Critical circumstances” means circumstances in which there is clear evidence that imports have taken place in such increased quantities and under such circumstances as to cause or threaten to cause serious injury to the domestic industry and delay in imposition of provisional safeguard duty would cause irreparable damage to the domestic industry;
- (c) “increased quantity” includes increase in imports whether in absolute terms or relative to domestic production;
- (d) “Interested Party” includes—
 - (i) any exporter or foreign producer or the importer of an article subjected to investigation for purposes of imposition of safeguard duty or a trade or

¹ Substituted by Ntfn No. 43/96-Cus. (N.T.), dated 30.08.1996.

² Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

³ Substituted by Ntfn No. 29-Cus. (N.T.), dated 11.05.1999.

⁴ Substituted by Ntfn No. 12-Cus. (N.T.), dated 01.03.2002.

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business association, majority of the members of which are producers, exporter or importers of such an article;

- (ii) the government of the exporting country; and
 - (iii) a producer of the like article or directly competitive article in India or a trade or business association, a majority of members of which produce or trade the like article or directly competitive article in India;
- (e) "like article" means an article which is identical or alike in all respects to the article under investigation;
 - (f) "Provisional Duty" means a safeguard duty imposed under sub-section (2) of section 8B of the Act;
 - (g) "Specified Country" means a country or territory which is a member of the World Trade Organisation and includes the country or territory with which the Government of India has an agreement for giving it the most favoured nation treatment;
 - (h) all words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. Appointment of Director General (Safeguard).

- (1) The Central Government may, by notification in the Official Gazette¹, appoint an officer not below the rank of a Joint Secretary to the Government of India or such other officer as it may think fit as the Director General (Safeguard) hereinafter referred to as the Director General for the purposes of these rules.
- (2) The Central Government may provide to the Director General the services of such other persons and such other facilities as it deems fit.

4. Duties of the Director General.

Subject to the provisions of these rules, it shall be the duty of the Director General—

- (1) to investigate the existence of "serious injury" or "threat of serious injury" to domestic industry as a consequence of increased import of an article into India;
- (2) to identify the article liable for safeguard duty;
- (3) to submit his findings, provisional or otherwise to the Central Government as to the "serious injury" or "threat of serious injury" to domestic industry consequent upon increased import of an article from the specified country;
- (4) to recommend,—
 - (i) the amount of duty which if levied would be adequate to remove the injury or threat of injury to the domestic industry;
 - (ii) the duration of levy of safeguard duty and where the period so recommended is more than a year, to recommend progressive liberalisation adequate to facilitate positive adjustment.
- (5) to review the need for continuance of safeguard duty.

5. Initiation of Investigation.

- (1) Except as provided in sub-rule (4) the Director General shall, on receipt of a written application by or on behalf of the domestic producer of like article or directly competitive article, initiate an investigation to determine the existence of "serious injury" or "threat of serious injury" to the domestic industry, caused by the import of an article in such increased quantities, absolute or relative to domestic production.
- (2) An application under sub-rule (1) shall be in the form as may be specified by the Director General in this behalf and such application shall be supported by,—
 - (a) evidence of,—
 - (i) increased imports;

¹ See Part—Notifications issued under Customs Act, 1962 for Notifications issued under this Section.

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- (ii) serious injury or threat of serious injury to the domestic industry;
 - (iii) a causal link between imports and the alleged serious injury or threat of serious injury; and
- (b) a statement on the efforts being taken, or planned to be taken, or both, to make a positive adjustment to import competition.
- (3) The Director General shall not initiate an investigation pursuant to an application made under sub-rule (1) unless he examines the accuracy and adequacy of the evidence provided in the application and satisfies himself that there is sufficient evidence regarding—
 - (a) increased imports;
 - (b) serious injury or threat of serious injury; and
 - (c) a causal link between increased imports and alleged injury or threat of serious injury.
- (4) Notwithstanding anything contained in sub-rule (1), the Director General may initiate an investigation *suo motu* if he is satisfied with the information received from any Commissioner of Customs appointed under the Customs Act, 1962 (52 of 1962) or any other source that sufficient evidence exists as referred to in clause (a), clause (b) and clause (c) of sub-rule (3).

6. Principles Governing Investigations.

- (1) The Director General shall, after he has decided to initiate investigation to determine the serious injury or threat of serious injury to domestic industry, consequent upon the increased import of an article into India, issue a public notice notifying his decision thereto. The public notice shall *inter alia*, contain adequate information on the following, namely:
 - (i) the name of the exporting countries and the article involved;
 - (ii) the date of initiation of the investigation;
 - (iii) a summary statement of the facts on which the allegation of serious injury or threat of serious injury is based;
 - (iv) reasons for initiation of investigation.
 - (v) the address to which representations by interested parties should be directed; and
 - (vi) the time-limits allowed to interested parties for making their views known.
- (2) A copy of the public notice shall be forwarded by the Director General to the Central Government in the Ministry of Commerce and other Ministries concerned, known exporters of the article the increased import of which has been alleged to cause or threaten to cause serious injury to the domestic industry, the governments of the exporting countries and other interested parties.
- (3) The Director General shall also provide a copy of the application referred to in sub-rule (1) of rule 5 to—
 - (i) the known exporters, or the concerned trade association;
 - (ii) the governments of the exporting countries; and
 - (iii) the Central Government in the Ministry of Commerce;

Provided that the Director General shall also make available a copy of the application, upon request in writing, to any other interested party.
- (4) The Director General may issue a notice calling for any information in such form as may be specified by him from the exporters, foreign producers and governments of interested countries and such information shall be furnished by such persons and governments in writing within thirty days from the date of receipt of the notice or within such extended period as the Director General may allow on sufficient cause being shown.

Explanation—For the purpose of this rule the public notice and other documents shall be deemed to have been received one week after the date on which these

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documents were sent by the Director General by registered post or transmitted to the appropriate diplomatic representative of the exporting country.

- (5) The Director General shall also provide opportunity to the industrial user of the article under investigation, and to representative consumer organisations in cases where the article is commonly sold at retail level to furnish information which is relevant to the investigation.
- (6) The Director General may allow an interested party or its representative to present the information relevant to investigation orally but such oral information shall be taken into consideration by the Director General only when it is subsequently submitted in writing.
- (7) The Director General shall make available the evidence presented to him by one interested party to the other interested parties, participating in the investigation.
- (8) In case where an interested party refuses access to or otherwise does not provide necessary information with a reasonable period or significantly impedes the investigation, the Director General may record his findings on the basis of the facts available to him and make such recommendations to the Central Government as he deems fit under such circumstances.

7. Confidential information.

- (1) Notwithstanding anything contained in sub-rules (1), (3) and (7) of rule 6, sub-rule (2) of rule 9 and sub-rule (5) of rule 11, any information which is by nature confidential or which is provided on a confidential basis shall, upon cause being shown, be treated as such by the Director General and shall not be disclosed without specific authorisation of the party providing such information.
- (2) The Director General may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, such information cannot be summarised, such party may submit to the Director General a statement of reasons why summarisation is not possible.
- (3) Notwithstanding anything contained in sub-rule (2), if the Director General is satisfied that the request for confidentiality is not warranted or the supplier of the information is unwilling either to make the information public or to authorise its disclosure in a generalised or summary form, he may disregard such information unless it is demonstrated to his satisfaction from appropriate sources that such information is correct.

8. Determination of serious injury or threat of serious injury.

The Director General shall determine serious injury or threat of serious injury to the domestic industry taking into account, *inter alia*, the principles laid down in Annex to these rules.

9. Preliminary findings.

- (1) The Director General shall proceed expeditiously with the conduct of the investigation and in critical circumstances, he may record a preliminary findings regarding serious injury or threat of serious injury.
- (2) The Director General shall issue a public notice regarding his preliminary findings.
- (3) The Director General shall send a copy of the public notice to the Central Government in the Ministry of Commerce and in the Ministry of Finance.

10. Levy of provisional duty.

The Central Government may in accordance with the provisions of sub-section (2) of section 8B of the Act, impose a provisional duty on the basis of the preliminary findings of the Director General:

Provided that such duty shall remain in force only for a period not exceeding two hundred days from the date on which it was imposed.

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11. Final findings.

- (1) The Director General shall, within 8 months from the date of initiation of the investigation or within such extended period as the Central Government may allow, determine whether,—
 - (a) the increased imports of the article under investigation has caused or threatened to cause serious injury to the domestic industry, and
 - (b) a causal link exists between the increased imports and serious injury or threat of serious injury.
- (2) The Director General shall also give its recommendation regarding amount of duty which, if levied, would be adequate to prevent or remedy serious injury and to facilitate positive adjustment.
- (3) The Director General shall also make his recommendation regarding the duration of levy of duty:
Provided that where the period recommended is more than one year, the Director General shall also recommend progressive liberalisation adequate to facilitate positive adjustment.
- (4) The final findings if affirmative, shall contain all information on the matter of facts and law and reasons which have led to the conclusion.
- (5) The Director General shall issue a public notice recording his final findings.
- (6) The Director General shall send a copy of the public notice regarding his final findings to the Central Government in the Ministry of Commerce and in the Ministry of Finance.

12. Levy of duty.

- (1) The Central Government may, impose by a notification in the Official Gazette, upon importation into India of the product covered under the final finding, a safeguard duty not exceeding the amount which has been found adequate to prevent or remedy serious injury and to facilitate positive adjustment.
- (2) If the final finding of the Director General is negative, that is contrary to the *prima facie* evidence on whose basis the investigation was initiated, the Central Government shall within thirty days of the publication of final findings by the Director General under rule 11, withdraw the provisional duty imposed, if any.

13. Imposition of duty on non-discriminatory basis.

Any safeguard duty imposed under rule 10 or 12 shall be on a non-discriminatory basis and applicable to all imports of such article, irrespective of its source.

14. Date of commencement of duty.

- (1) The safeguard duty levied under rule 10 or rule 12 shall take effect from the date of publication of the notification, in the Official Gazette imposing such duty.
- (2) Notwithstanding anything contained in sub-rule (1), where a provisional duty has been levied and where the Director General has recorded a finding that increased imports have caused or threaten to cause serious injury to domestic industry, it shall be specified in the notification under sub-rule (1) that such safeguard duty shall take effect from the date of levy of provisional duty.

15. Refund of duty.

If the safeguard duty imposed after the conclusion of the investigation is lower than the provisional duty already imposed and collected, the differential shall be refunded to the importer.

16. Duration.

- (1) The duty levied under rule 12 shall be only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate positive adjustment.

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- (2) Notwithstanding anything contained in sub-rule (1) of this rule duty levied under rule 12 shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of its imposition:

Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty should continue to be imposed, if any, extend the period of such imposition:

Provided further that in no case the safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.

17. Liberalization of duty.

If the duration of the duty levied under rule 12 exceeds one year, the duty shall be progressively liberalized at regular intervals during the period of its imposition.

18. Review.

- (1) The Director General shall, from time to time, review the need for continued imposition of the safeguard duty and shall, if he is satisfied on the basis of information received to him that,—
- (i) safeguard duty is necessary to prevent or remedy serious injury and there is evidence that the industry is adjusting positively, it may recommend to the Central Government for the continued imposition of duty;
 - (ii) there is no justification for the continued imposition of such duty, recommend to the Central Government for its withdrawal:

Provided that where the period of imposition of safeguard duty exceeds three years the Director General shall review the situation not later than the mid-term of such imposition, and, if appropriate, recommend for withdrawal of such safeguard duty or for the increase of the liberalisation of duty.

- (2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding 8 months from the date of initiation of such review or within such extended period as the Central Government may allow.
- (3) The provisions of rules 5, 6, 7 and 11 shall *mutatis mutandis* apply in the case of review.

ANNEXURE

(See Rule 8)

- (1) In the investigation to determine whether increased imports have caused or are threatening to cause serious injury to a domestic industry, the Director General shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular, the rate and amount of increase in imports of the article concerned in absolute and relevant terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.
- (2) The determination referred to in paragraph (1) shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between increased imports of the article concerned and serious injury or threat thereof. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports. In such a case, the Director General may refer the complaint to the authority for anti-dumping or countervailing duty investigations, as appropriate.

Customs (Settlement of Cases) Rules, 1999

Ntfn No. 59-Cus., dated 22.10.1999

In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely :-

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1. Short title and commencement.

- (1) These rules may be called the Customs (Settlement of Cases) Rules, 1999.
- (2) They shall come into force on such date of their publication in the Official Gazette.

2. Definitions.

In these rules, unless the context otherwise requires,—

- (a) "Act" means the Customs Act, 1962 (52 of 1962);
- (b) "Form" SC(C)-1 means the form appended to these rules.
- (c) "Settlement Commission" means the Customs and Central Excise Settlement Commission constituted under section 32 of the Central Excise Act, 1944 (1 of 1944).
- (d) "Officer of Customs" means an officer of Customs as referred to in section 3 of the Act.

3. Form and manner of application.

- (1) An application under sub-section (1) of section 127B of the Act shall be made in Form SC(C)-1. [See Customs Series Form No. 121 in Part Customs Forms and Bonds].
- (2) The application referred to in sub-rule (1), the verification contained therein and all relevant documents accompanying such application shall be signed,—
 - (a) in case of an applicant, by the applicant himself or where the applicant is absent from India, then, either by the applicant himself or by any other person duly authorised by him in this behalf and where the applicant is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
 - (b) in the case of a Hindu undivided family, by *Karta* of such family and, where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family,
 - (c) in the case of a company or local authority, by the principal officer thereof,
 - (d) in the case of a firm, by any partner thereof, not being a minor,
 - (e) in the case of any other association, by any member of the association or the principal officer thereof, and
 - (f) in the case of any other person, by that person or some person competent to act on his behalf.
- (3) Every applicant in Form SC(C)-1 shall be filed in quintuplicate and shall be accompanied by a fee of one thousand rupees.

4. Disclosure of information in the applicant for settlement of cases.

- (1) The Settlement Commission may, while calling for a report from the Commissioner of Customs under sub-section (1) of section 127C of the Act, forward a copy of the application referred to in sub-rule (1) of rule 3 (other than the annexure and the statements and other documents accompanying such annexure).
- (2) Where an order under sub-section (1) of section 127C of the Act, has been made to proceed with the application by the Settlement Commission, the information contained in the Annexure to the application in Form SC(C)-1 and the statements and other documents accompanying such annexure shall be sent to the Commissioner of Customs along with a copy of the said order.

5. Manner of Provisional Attachment of Property.

- (1) Where the Settlement Commission, order attachment of property under sub-section (1) of section 127D of the Act, it shall send a copy of such order to the Commissioner of Customs or the Commissioner of Central Excise having jurisdiction over the place in which the applicant owns any movable or immovable property or resides or carries on his business or has his bank account.

- (2) On receipt of the order referred to in sub-rule (1), the Commissioner may authorise any officer subordinate to him ¹and not below the rank of an Assistant Commissioner of Customs or and Assistant Commissioner of Central Excise, as the case may be] to take steps to attach such property of the applicant.
- (3) The officer authorised under sub-rule (2) shall prepare an inventory of the property attached and specify in it, in the case of the immovable property the description of such property sufficient to identify it and in the case of the movable property the place where such property is lodged or kept and shall hand over a copy of the same to the applicant or to the person from whose charge the property is attached.
- (4) The officer authorised under sub-rule (2) shall send a copy of the inventory so prepared each to the Commissioner of Customs or the Commissioner of Central Excise as the case may be and also to the Settlement Commission.

6. Fee for copies of reports.-

Any person who, under section 127G of the Act, makes an application for obtaining copies of reports made by any Officer of Customs, shall pay a fee of rupees five per page of each report or part thereof.

Customs Tariff (Determination of Origin of goods under the Free Trade Agreement between the Democratic Socialist Republic of Sri Lanka and the Republic of India) Rules, 2000

Ntfn 19 (N.T.) dated 01.03.2000

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.

- (1) These rules may be called the Customs Tariff (Determination of Origin of Goods under the Free Trade Agreement between the Democratic Socialist Republic of Sri Lanka and the Republic of India) Rules, 2000.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.

These rules shall apply to goods consigned from the territory of either of the Contracting Parties.

3. Determination of Origin

No product shall be deemed to be the produce or manufacture of either country unless the conditions specified in these rules are complied with in relation to such products, to the satisfaction of the appropriate Authority.

4. Claim at the time of importation

The importer of the product shall, at the time of importation -

- (a) make a claim that the products are the produce or manufacture of the country from which they are imported and such products are eligible for preferential treatment under the India- Sri Lanka Free Trade Agreement, (hereinafter referred to as the Agreement), and
- (b) produce the evidence specified in these rules.

¹ Inserted by Ntfn No. 20-Cus. (N.T.), dated 08.03.2000.

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Explanation—For the purposes of this notification, “Preferential treatment” in relation to any product means the exemption granted under the notification of the Government of India in the Ministry of Finance(Department of Revenue), No.26/2000- Customs dated 1st March, 2000 and includes preferential concessions.

5. Originating products

Products covered by the Agreement imported into the territory of any signatory party to the Agreement(hereinafter referred to as the Contracting Party) from another Contracting Party which are consigned directly within the meaning of rule 9 , shall be eligible for Preferential Concessions if they conform to the origin requirement under any one of the following conditions:

- (a) products wholly produced or obtained in the territory of the exporting Contracting Party as defined in rule 6; or
- (b) products not wholly produced or obtained in the territory of the exporting Contracting Party, provided that the said products are eligible under rule 7 or rule 8.

6. Wholly produced or obtained

Within the meaning of condition (a) of rule 5, the following shall be considered as wholly produced or obtained in the territory of the exporting Contracting Party, namely :-

- (a) raw or mineral products ,including mineral fuels, lubricants and related materials as well as mineral or metal ores, extracted from its soil, its water or its sea bed;
- (b) vegetable products, including agricultural and forestry products, harvested there;
- (c) animals born and raised there;
- (d) products obtained from animals referred to in clause (c) ;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other marine products from the high seas by its vessels;
- (g) products processed and/or made on board its factory ships exclusively from products referred to in clause (f) ;
- (h) used articles collected there, fit only for the recovery of raw materials;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from the seabed or below seabed which is situated outside its territorial waters, provided that it has exclusive exploitation rights;
- (k) goods produced there exclusively from the products referred to in clauses (a) to (j) .

Explanation—For the purposes of this notification.,-

- (A) “Vessels” shall refer to the fishing vessels engaged in commercial fishing, registered in the country of the Contracting Party and operated by a citizen or citizens of the Contracting Party or partnership, corporation or association, duly registered in such country, at least sixty per cent. of equity of which is owned by a citizen or citizens and/or Government of such Contracting Party or seventy five per cent. by citizens and/or Government of the Contracting Parties. However, the goods taken from vessels, engaged in commercial fishing under Bilateral Agreements which provide for chartering/leasing of such vessels and/or sharing of catch between Contracting Party will also be eligible for Preferential treatment. In respect of vessels or factory ships operated by Government agencies, the requirements of flying the flag of the Contracting Party does not apply.
- (B) “Factory Ship” means any vessel, as defined, used for processing and/or making onboard goods exclusively from those products referred to in clause (f) of rule 6

7. Not wholly produced or obtained

- (a) Within the meaning of condition (b) of rule 5, products worked on or processed as a result of which the total value of the materials, parts or produce originating from countries other than the Contracting Parties or of undetermined origin used does

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not exceed sixty five per cent. of the f.o.b. value of the products produced or obtained and the final process of manufacture is performed within the territory of the exporting Contracting Party shall be eligible for Preferential treatment, subject to the provisions of clauses (b), (c), (d) and (e) of this rule and rule 8.

- (b) Non-originating materials shall be considered to be sufficiently worked or processed when the product obtained is classified in a heading, at the four digit level, of the Harmonised Commodity Description and Coding System different from those in which all the non-originating materials used in its manufacture are classified.
- (c) In order to determine whether a product originates in the territory of a Contracting Party, it shall not be necessary to establish whether the power and fuel, plant and equipment, and machines and tools used to obtain such products originate in third countries or not.
- (d) The following shall in any event be considered as insufficient working or processing to confer the status of originating products, whether or not there is a change of heading, namely:-
 - (1) Operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations).
 - (2) Simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up.
 - (3)
 - (i) changes of packing and breaking up and assembly of consignments,
 - (ii) simple slicing, cutting and re-packing or placing in bottles, flasks, bags, boxes, fixing on cards or boards, etc., and all other simple packing operations.
 - (4) The affixing of marks, labels or other like distinguishing signs on products or their packaging.
 - (5) Simple mixing of products, whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down in these rules to enable them to be considered as originating products.
 - (6) Simple assembly of parts of products to constitute a complete product.
 - (7) a combination of two or more operations specified in (a) to (f).
 - (8) Slaughter of animals.
- (e) The value of the non-originating materials, parts or produce shall be:
 - (i) the c.i.f. value at the time of importation of the materials, parts or produce where this can be proven; or
 - (ii) the earliest ascertainable price paid for the materials, parts or produce of undetermined origin in the territory of the Contracting Parties where the working or processing takes place.

8. Cumulative rules of origin

In respect of a product, which complies with the origin requirements provided in condition (b) of rule 5 and is exported by any Contracting Party and which has used material, parts or products originating in the territory of the other Contracting Party, the value addition in the territory of the exporting Contracting Party shall be not less than twenty five per cent. of the f.o.b. value of the product under export subject to the condition that the aggregate value addition in the territories of the Contracting Parties is not less than thirty five per cent. of the f.o.b. value of the product under export.

Explanation—Cumulation as implied by Rule 8 means that only goods which have acquired originating status in the territory of one Contracting Party may be taken into ac-

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count when used as inputs for a finished product eligible for Preferential Concession in the territory of the other Contracting Party.

9. Direct consignment

The following shall be considered to be directly consigned from the exporting country to the importing country, namely:-

- (a) if the products are transported without passing through the territory of any country other than the countries of the Contracting Parties.
- (b) the products whose transport involves transit through one or more intermediate countries with or without transshipment or temporary storage in such countries:

Provided that—

- (i) the transit entry is justified for geographical reason or by considerations related exclusively to transport requirements;
- (ii) the products have not entered into trade or consumption there; and
- (iii) the products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

10. Treatment of Packing

When determining the origin of products, packing should be considered as forming a whole with the product it contains. However, packing may be treated separately if the national legislation so requires.

11. Certificates of origin

Products eligible for a Certificate of origin in the form annexed shall support Preferential treatment issued by an authority designated by the Government of the exporting country and notified to the other country in accordance with the certification procedures to be devised and approved by both the Contracting Parties.

12. Prohibitions

Either country may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations.

13. Co-operation between contracting parties

- (1) The Contracting Parties will do their best to co-operate in order to specify origin of inputs in the Certificate of origin.
- (2) The Contracting Parties will take measures necessary address, to investigate and, where appropriate, to take legal and/or administrative action to prevent circumvention of this Agreement through false declaration concerning country of origin or falsification of original documents.
- (3) Both the Contracting Parties will co-operate fully, consistent with their domestic laws and procedures, in instances of circumvention or alleged circumvention of the Agreement to address problems arising from circumvention including facilitation of joint plant visits and contacts by representatives of both Contracting Parties upon request and on a case-by-case basis.
- (4) If either Party believes that the rules of origin are being circumvented, it may request consultation to address the matter or matters concerned with a view to seeking a mutually satisfactory solution. Each party will hold such consultations promptly.

14. Review

These rules may be reviewed as and when necessary upon request of either Contracting Party and may be open to such modifications as may be agreed upon.

CERTIFICATE OF ORIGIN

1. Goods consigned from (Exporters' Business Name, Address, Country)			Reference No. INDO-SRI LANKA FREE TRADE AGREEMENT (ISFTA) (Combined declaration and certificate) Issued in (Country) (See notes overleaf)		
2. Goods consigned to (Consignee's Name, Address, Country)			4. For Official use		
3. Means of transport and Route (as far as known)					
5. Tariff item number	6. Marks and numbers of packages	7. Number and kind of packages: description of goods	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity	10. Number and date of invoice
11. Declaration by the Exporter. The undersigned hereby declares that the above details and statements are correct; That all the goods were produced in (Country) and that they comply with the origin requirements specified for those goods in ISFTA for goods exported to (Importing Country) Place and date, signature of the authorised signatory			12. Certificate: It is hereby certified, on the basis of control carried out that the declaration by the exporter is correct. Place and date, signature and stamp of certifying authority.		

I. General Conditions

To qualify for preference, products must :

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- (a) fall within a description of products eligible for concessions in the country of destination under this agreement;
- (b) comply with ISFTA Rules of Origin. Each Article in a consignment must qualify separately in its own right; and
- (c) comply with the consignment conditions specified by the ISFTA Rules of Origin. In general, products must be consigned directly within the meaning of Rule 9 hereof from the country of exportation to the country of destination.

II. Entries to be made in Box 8

Preference products must be wholly produced or obtained in the exporting Contracting Party in accordance with Rule 6 of the ISFTA Rules of Origin, or where not wholly produced or obtained in the exporting Contracting Party must be eligible under rule 7 or rule 8.

- (a) Products wholly produced or obtained enter the letter 'A' in box 8.
- (b) Products not wholly produced or obtained; the entry in box 8 should be as follows:
 - 1. Enter letter 'B' in box 8 for products, which meet the origin criterion according to rule 7. Entry of letter would be followed by the sum of the value of materials, parts or produce originating from non-contracting parties or undetermined origin used, expressed as a percentage of the f.o.b. value of the products; [example 'B' - () percent].
 - 2. Enter letter 'C' in box 8 for products, which meet the origin criteria according to rule 8. Entry of letter 'C' would be followed by the sum of the aggregate content originating in the territory of the exporting Contracting Party expressed as a percentage of the f.o.b. value of the exported product: [example 'C' () percent].

Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002

Ntfn 34-Cus.(N.T.), dated 11.06.2002

In exercise of the powers conferred by sub-section (6) of section 8C of the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.

- (i) These rules may be called the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002.
- (ii) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

In these rules, unless the context otherwise requires, -

- (a) "Act" means the Customs Tariff Act, 1975 (51 of 1975) as amended by Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003);
- (b) "Critical circumstances" means circumstances in which there is clear evidence that imports have taken place in such increased quantities and under such circumstances as to cause or threaten to cause market disruption to the domestic industry and delay in imposition of provisional safeguard duty would cause irreparable damage to the domestic industry;
- (c) "Increased quantity" includes increase in imports whether in absolute terms or relative to domestic production;
- (d) "Interested Party" includes -
 - (i) any exporter or foreign producer or the importer of an article subjected to investigation for purposes of imposition of safeguard duty under section

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8C of the Act or a trade or business association, majority of the members of which are producers, exporters or importers of such an article;

- (ii) the government of the People's Republic of China; and
- (iii) a producer of the like article or directly competitive article in India or a trade or business association, a majority of members of which produce or trade the like article or directly competitive article in India;
- (e) "like article" means an article which is identical or alike in all respects to the article under investigation under section 8C of the Act;
- (f) "Provisional Duty" means a safeguard duty imposed under sub section (2) of section 8C of the Act;
- (g) all words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. Appointment of Director General (Specific Safeguard).

- (1) The Central Government may, by notification in the official Gazette, appoint an officer not below the rank of a Joint Secretary to the Government of India or such other officer as it may think fit as the Director General (Specific Safeguard) hereinafter referred to as the Director General for the purposes of these rules.
- (2) The Central Government may provide to the Director General the services of such other persons and such other facilities as it deems fit.

4. Duties of the Director General.

Subject to the provisions of these rules, it shall be the duty of the Director General -

- (1) to investigate the existence of "market disruption" or "threat of market disruption" to domestic industry as a consequence of increased import of an article into India;
- (2) to identify the article liable for safeguard duty under section 8C of the Act;
- (3) to submit his findings, provisional or otherwise to the Central Government as to the existence of "market disruption" or "threat of market disruption" to the domestic industry consequent upon increased import of an article from the People's Republic of China;
- (4) to recommend, -
 - (i) the amount of duty which if levied would be adequate to remove the "market disruption" or "threat of market disruption" to the domestic industry;
 - (ii) the duration of levy of safeguard duty under section 8C of the Act;
- (5) to review the need for continuance of such safeguard duty.

5. Initiation of investigation.

- (1) Except as provided in sub-rule (4), the Director General shall, on receipt of a written application by or on behalf of the domestic producer of like article or directly competitive article, initiate an investigation to determine the existence of "market disruption" or "threat of market disruption" to the domestic industry, caused by the import of an article in such increased quantities, absolute or relative to domestic production.
- (2) An application under sub-rule (1) shall be in the form as may be specified by the Director General in this behalf and such application shall be supported by evidence of -
 - (i) increased imports;
 - (ii) "market disruption" or "threat of market disruption" to the domestic industry; and
 - (iii) a causal link between imports and the alleged "market disruption" or "threat of market disruption".

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- (3) The Director General shall not initiate an investigation pursuant to an application made under sub-rule (1) unless he examines the accuracy and adequacy of the evidence provided in the application and satisfies himself that there is sufficient evidence regarding-
 - (a) increased imports;
 - (b) "market disruption" or "threat of market disruption"; and
 - (c) a causal link between increased imports and "alleged market disruption" or "threat of market disruption".
- (4) Notwithstanding anything contained in sub-rule (1), the Director General may initiate an investigation *suo motu* if he is satisfied with the information received from any Commissioner of Customs appointed under the Customs Act, 1962 (52 of 1962) or any other source that sufficient evidence exists as referred to in clause (a), clause (b) and clause (c) of sub-rule (3).

6. Principles Governing Investigations.

- (1) The Director General shall, after he has decided to initiate investigation to determine the "market disruption" or "threat of market disruption" to domestic industry, consequent upon the increased import of an article into India, issue a public notice notifying his decision thereto. The public notice shall, *inter alia*, contain adequate information on the following, namely :-
 - (i) the article involved;
 - (ii) the date of initiation of the investigation;
 - (iii) a summary statement of the facts on which the allegation of "market disruption" or "threat of market disruption" is based;
 - (iv) reasons for initiation of investigation.
 - (v) the address to which representations by interested parties should be directed; and
 - (vi) the time-limits allowed to interested parties for making their views known.
- (2) A copy of the public notice shall be forwarded by the Director General to the Central Government in the Ministry dealing with Commerce and other Ministries concerned, known exporters of the article the increased import of which has been alleged to cause or threaten to cause "market disruption" to the domestic industry, the government of the People's Republic of China and other interested parties.
- (3) The Director General shall also provide a copy of the application referred to in sub-rule (1) of rule 5 to -
 - (i) the known exporters, or the concerned trade association;
 - (ii) the government of the People's Republic of China, and
 - (iii) the Central Government in the Ministry dealing with Commerce :

Provided that the Director General shall also make available a copy of the application, upon request in writing, to any other interested party.
- (4) The Director General may issue a notice calling for any information in such form as may be specified by him from the exporters, foreign producers and government of the People's Republic of China and such information shall be furnished by them in writing within thirty days from the date of receipt of the notice or within such extended period as the Director General may allow on sufficient cause being shown.

Explanation—For the purpose of this rule the public notice and other documents shall be deemed to have been received one week after the date on which these documents were sent by the Director General by registered post or transmitted to the appropriate diplomatic representative of the People's Republic of China.
- (5) The Director General shall also provide opportunity to the industrial user of the article under investigation, and to representative consumer organisations in

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cases where the article is commonly sold at retail level to furnish information which is relevant to the investigation.

- (6) The Director General may allow an interested party or its representative to present the information relevant to investigation orally but such oral information shall be taken into consideration by the Director General only when it is subsequently submitted in writing.
- (7) The Director General shall make available the evidence presented to him by one interested party to the other interested parties, participating in the investigation.
- (8) In case where an interested party refuses access to or otherwise does not provide necessary information within a reasonable period or significantly impedes the investigation, the Director General may record his findings on the basis of the facts available to him and make such recommendations to the Central Government as he deems fit under such circumstances.

7. Confidential information.

- (1) Notwithstanding anything contained in sub-rules (1), (3) and (7) of rule 6, sub-rule (2) of rule 9 and sub-rule (5) of rule 11, any information which is by nature confidential or which is provided on a confidential basis shall, upon cause being shown, be treated as such by the Director General and shall not be disclosed without specific authorisation of the party providing such information.
- (2) The Director General may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, such information cannot be summarised, such party may submit to the Director General a statement of reasons why summarisation is not possible.
- (3) Notwithstanding anything contained in sub-rule (2), if the Director General is satisfied that the request for confidentiality is not warranted or the supplier of the information is unwilling either to make the information public or to authorise its disclosure in a generalised or summary form, he may disregard such information unless it is demonstrated to his satisfaction from appropriate sources that such information is correct.

8. Determination of “market disruption” or “threat of market disruption”.

The Director General shall determine “market disruption” or “threat of market disruption” to the domestic industry taking into account, *inter alia*, the principles laid down in Annexure to these rules.

9. Preliminary findings.

- (1) The Director General shall proceed expeditiously with the conduct of the investigation and in critical circumstances, he may record a preliminary findings regarding “market disruption” or “threat of market disruption”.
- (2) The Director General shall issue a public notice regarding his preliminary findings.
- (3) The Director General shall send a copy of the public notice to the Central Government in the Ministry dealing with Commerce and in the Ministry dealing with Finance.

10. Levy of provisional duty.

The Central Government may in accordance with the provisions of sub-section (2) of section 8C of the Act, impose a provisional duty on the basis of the preliminary findings of the Director General :

Provided that such duty shall remain in force only for a period not exceeding two hundred days from the date on which it was imposed.

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11. Final findings.

- (1) The Director General shall, within 8 months from the date of initiation of the investigation or within such extended period as the Central Government may allow, determine whether, -
 - (a) the increased imports of the article under investigation under section 8C of the Act has caused or threatened to cause "market disruption" to the domestic industry; and
 - (b) a causal link exists between the increased imports and "market disruption" or "threat of market disruption".
- (2) The Director General shall also give his recommendation regarding the amount of duty which, if levied, would be adequate to prevent or remedy "market disruption".
- (3) The Director General shall also make his recommendations regarding the duration of levy of duty.
- (4) The final findings, if affirmative, shall contain all information on the matter of facts and law and reasons which have led to the conclusion.
- (5) The Director General shall issue a public notice recording his final findings.
- (6) The Director General shall send a copy of the public notice regarding his final findings to the Central Government in the Ministry dealing with Commerce and in the Ministry dealing with Finance.

12. Levy of duty.

- (1) The Central Government may impose, by a notification in the Official Gazette, upon importation into India of the article covered under the final findings, a safeguard duty under section 8C of the Act not exceeding the amount which has been found adequate to prevent or remedy "market disruption".
- (2) If the final finding of the Director General is negative, that is contrary to the *prima facie* evidence on the basis of which the investigation under section 8C of the Act was initiated, the Central Government shall within thirty days of the publication of final findings by the Director General under rule 11, withdraw the provisional duty, if any, imposed under sub-section (2) of section 8C of the Act.

13. Imposition of duty on non-discriminatory basis.

Any safeguard duty under section 8C of the Act imposed under rule 10 or rule 12 shall be on a non-discriminatory basis and applicable to all imports of such article from the People's Republic of China.

14. Date of commencement of duty.

- (1) The safeguard duty levied under rule 10 or rule 12 shall take effect from the date of publication of the notification in the Official Gazette imposing such duty.
- (2) Notwithstanding anything contained in sub-rule (1), where a provisional duty under sub-section (2) of section 8C of the Act has been levied and where the Director General has recorded a finding that increased imports have caused or threaten to cause "market disruption" to domestic industry, it shall be specified in the notification under sub-rule (1) that such safeguard duty shall take effect from the date of levy of the provisional duty.

15. Refund of duty.

If the safeguard duty imposed after conclusion of the investigation under section 8C of the Act is lower than the provisional duty under sub-section (2) of that section already imposed and collected, the differential shall be refunded to the importer.

16. Duration.

- (1) The duty levied under rule 12 shall be only for such period of time as may be necessary to prevent or remedy "market disruption".

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- (2) Notwithstanding anything contained in sub-rule (1) of this rule, the duty levied under rule 12 shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of its imposition :

Provided that if the Central Government is of the opinion that the article on which such safeguard duty is imposed continues to be imposed into India, from People's Republic of China, in such increased quantities so as to cause or threatening to cause "market disruption" to domestic industry and the safeguard duty should continue to be imposed, it may extend the period of such imposition :

Provided further that in no case such safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.

17. Review.

- (1) The Director General shall, from time to time, review the need for continued imposition of the safeguard duty imported under section 8C of the Act and shall, if he is satisfied on the basis of information received by him that -

- (i) such safeguard duty is necessary to prevent or remedy "market disruption", recommend to the Central Government for the continued imposition of that duty;
- (ii) there is no justification for the continued imposition of such safeguard duty, recommend to the Central Government for its withdrawal :

Provided that where the period of imposition of such safeguard duty exceeds three years, the Director General shall review the situation not later than the mid-term of such imposition, and, if appropriate, recommend for withdrawal of such safeguard duty or for the variation of that duty.

- (2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding 8 months from the date of initiation of such review or within such extended period as the Central Government may allow.
- (3) The provisions of rules 5, 6, 7 and 11 shall *mutatis mutandis* apply in the case of review.

ANNEXURE

(See rule 8)

- (1) In the investigation to determine whether increased imports have caused or are threatening to cause "market disruption" to a domestic industry, the Director General shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular, the rate and amount of the increase in imports of the article concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.
- (2) The determination referred to in paragraph (1) shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between increased imports of the article concerned and "market disruption" or threat thereof. When factors other than increased imports are causing "market disruption" to the domestic industry at the same time, such "market disruption" shall not be attributed to increased imports. In such case, the Director General may refer the complaint to the authority for anti-dumping or countervailing duty investigations, as appropriate.

Customs (Advance Rulings) Rules, 2002

Ntfn 55-Cus. (N.T.), dated 23.08.2002

In exercise of the powers conferred by section 156 read with sub-section (1) and (3) of section 28 H, sub-section (7) of section 28-I of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely :-

1. Short title, extent and commencement, -

- (1) These rules may be called the Customs (Advance Rulings) Rules, 2002.

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- (2) They extend to the whole of India.
- (3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions –

In these rules, unless the context otherwise requires, -

- (a) “Act” means the Customs Act, 1962 (52 of 1962);
- (b) “Authority” means the authority for Advance Rulings constituted under section 28F of the Customs Act, 1962 (52 of 1962),
- (c) “Form – Application for Advance Ruling (Customs)” means the form annexed to these rules.
- (d) Words and expressions used and not defined herein but defined in the Act, shall have the meanings respectively, assigned to them in the Act.

3. Form and manner of application –

- (1) An application for obtaining an advance ruling under sub-section (1) of section 28H of the Act shall be made in the Form – Application for Advance Ruling (Customs).
- (2) The application referred to in sub-rule (1), the verification contained therein and all relevant documents accompanying such application shall be signed, -
 - (a) In the case of an individual, by the individual himself, or where the individual is absent from India, by the individual concerned or by some person duly authorized by him in this behalf, and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
 - (b) In the case of a Hindu undivided family, by the Karta of that family and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of that family;
 - (c) In the case of a company or local authority, by the principal officer thereof authorized by the company or the local authority, as the case may be, for such purpose;
 - (d) In the case of a firm, by any partner thereof, not being a minor;
 - (e) In the case of an association, by any member of the association or the principal officer thereof; and
 - (f) In the case of any other person, by that person or some person competent to act on his behalf.

3. Every application shall be filed in quadruplicate and shall be accompanied by a fee of two thousand five hundred rupees.

4. Certification of copies of the advance rulings pronounced by the Authority –

A copy of the advance ruling pronounced by the Authority for Advance Rulings and duly signed by the Members to be sent to each of the applicant and to the Commissioner of Customs under sub-section (7) of section 28-I of the Act, shall be certified to be true copy of its original by the Commissioner, Authority for Advance Rulings, or any other officer duly authorized by the Commissioner, Authority for Advance Rulings, as the case may be.

Note: Please see Form AAR (Cus.) in Part-Customs Forms and Bonds.

Chief Commissioner of Central Excise, Delhi appointed as Director General (Safeguards)

Ntnfn 72-Cus. (N.T.), dated 22.11.2002

In exercise of the powers conferred by sub-rule (1) of rule 3 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997, the Central Government hereby appoints Shri B. K. Mishra, Chief Commissioner of Central Excise, Delhi, as the Director General (Safeguards) for the purposes of the said rules.

Director General (Safeguard) appointed as Director General (Specific Safeguard)

Ntfn 04-Cus. (N.T.), dated 16.01.2003

In exercise of the powers conferred by sub-rule (1) of rule 3 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, and in supersession of notifications of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. 45/97-Customs(NT), issued vide G.S.R. No. 542(E), dated the 16th September, 1997 and No. 42/2002-Customs(NT), issued vide G.S.R. No. 464(E) dated 28th June, 2002, except as respects things done or omitted to be done before such supersessions, the Central Government hereby appoints Shri B. K. Mishra, Director General (Safeguard), as Director General (Specific Safeguard) for the purposes of the said rules.

Customs Tariff Rules under Section 5 (Amendment) Rules, 2003

Ntfn 07-Cus. (N.T.), dated 24.01.2003

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, hereby makes the following rules to amend all the rules made under the said sub-section and for the time being in force on the date of commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), except as respects things done or omitted to be done before such amendment, namely:-

1. (1) These rules may be called Customs Tariff Rules under section 5 (Amendment) Rules, 2003.
(2) They shall come into force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).
2. In each of the rules made under sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975), for any reference to the Chapter, heading or sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, relating to any goods or class of goods, wherever referred to in the said rule, the corresponding reference to the Chapter, heading and sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) shall be deemed to have been substituted.

Customs Regulations under Section 157 (Amendment) Regulations, 2003

Ntfn 08-Cus. (N.T.), dated 24.01.2003

In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs, hereby makes the following regulations to amend all regulations made under the said section and for the time being in force on the date of commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003), namely:-

1. (1) These regulations may be called the Customs Regulations under section 157 (Amendment) Regulations, 2003.
(2) They shall come into force on the date of the commencement of the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003).
2. In each of the regulations made under section 157 of the Customs Act, 1962 (52 of 1962), for any reference to the Chapter, heading or sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, relating to any goods or class of goods, wherever referred to in the said regulation, the corresponding reference to the Chapter, heading and sub-heading of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as amended by the Customs Tariff (Amendment) Ordinance, 2003 (1 of 2003) shall be deemed to have been substituted.