

Arrival of Goods and Procedures Prior to Lodgement of Goods Declaration

Conveyances to call only at Notified Customs Ports / Airports:

Customs Act, 1962, envisages that only places notified by the Government shall be Customs ports or Customs airports for the unloading of imported goods and loading of export goods. At each such customs ports, the Commissioner of Customs is empowered to approve proper places for the unloading and loading of goods and he also specifies the limits of any Customs area. The law further provides that the person in charge of the vessel or an aircraft shall not call or land at any place other than the Customs port/airport, except in cases of emergencies.

Power to board conveyance, to question and to demand documents :

2. Section 37 empowers the proper officer to board any conveyance carrying imported goods or export goods. He may remain on board as long as he decides to remain. The proper officer may question the person in charge of the vessel or aircraft. He may demand production of documents and also ask questions, to be answered by such person. The person in charge of the conveyance is bound to comply with these requirements [Section 38].

Delivery of Import Manifest:

3. The Master / Agent of the vessel or an aircraft has to deliver an import manifest (an import report in case of a vehicle), within 24 hours after arrival in the case of a vessel and 12 hours after arrival in the case of an aircraft or a vehicle in the prescribed form. The time limit for filing the manifest is extendable on showing sufficient cause. In the case of a vessel or an aircraft, a manifest may also be filed even before arrival of the vessel or aircraft (known as Prior Entry Manifest). In the case of vessels, for administrative convenience, such advance manifests are accepted on any day within 14 days before the expected arrival of the vessel.

4. If the vessel does not arrive within the stipulated time of 14 days or such extended time as may be granted by the Assistant Commissioner (Imports), the manifest accepted provisionally is cancelled and the fact circulated through public notices. All the Bills of Entry filed against the

cancelled manifest, become void. The importers have to return those Bills of Entry to the Import Department and to claim refund of duty, if paid on any such Bills of Entry. If the same vessel enters the port after the cancellation of the original manifests, it will be treated as a fresh entry and a fresh manifest is insisted upon.

General conditions:

5. A person filing declarations under this section has to declare the truthfulness of contents. This declaration has legal consequences, which bind the carrier. [Section 30(2)].

Amendments:

6. If for any reason, the carrier desires to amend or supplement the IGM, it will be permitted by the proper officer on payment of prescribed fees, if he is satisfied that there is no fraudulent intention behind the move. [Section 30(3)].

Penal liability:

7. Any mis-declaration in this document will attract the penal provisions of Section 111(f) and Section 112.

Excision from IGMs of items originally manifested:

(a) Excision from I.G.Ms of items originally manifested are permitted only:

- (a) On application in writing from the ship's Agents;
- (ii) On production of the documentary evidence of short shipment of goods;
- (iii) On payment of a fee as prescribed.

(b) (i) Excisions or amendments of items in the Import Manifest involving reduction in number of Packages:

8. An application from the steamer agents for excisions or amendments in the Import Manifest involving reduction in the number of packages or quantity or weight thereof, should be submitted with the connected documentary evidence. Such excisions or amendments will only

be allowed; if after due investigation, it is proved that the excess quantity was originally shown in the import manifest as a result of an error. In the absence of such proof, the application will be kept over for being dealt with by the Manifest Clearance Section at the time of closure of the ship's file.

(ii) Applications for the excision or amendments of items for which Bills of Entry have been noted will be dealt with by the Manifest Clearance Section if made two months after the arrival of the vessel.

Matters such as the number of copies of manifests to be filed, nature of forms, manner of declaring cargo etc. are governed by the following Regulations:

- (i) Import Report (Form) Regulation, 1976;
- (ii) Import Manifest (Aircraft) Regulation, 1976; and
- (iii) Import Manifest (Vessels) Regulation, 1971;

Generally speaking, the above Regulations stipulate declaring separately cargo to be landed, unaccompanied Baggage, goods to be transported and same bottom or retention cargo. Separate declarations are also to be filed in respect of dangerous/prohibited/ sensitive goods such as Arms and Ammunitions, Narcotics, Gold etc. The prime condition in the Regulations is that the manifest shall cover all the goods carried in the conveyance.

In respect of a vessel, an import manifest shall, in addition, consist of an application for entry inwards.

Entry Inwards:

9. The Master of the vessel is not to permit the unloading of any imported goods until an order has been given by the proper officer granting Entry Inwards of such vessel. Normally, Entry Inwards is granted only after the import manifest has been delivered. This entry inward date is crucial for determining the rate of duty, as provided in section 15 of the Customs Act, 1962. Unloading of certain items like accompanied baggage, mail bags, animals, perishables and hazardous goods are exempted from this stipulation.

Enclosures to Import General Manifest:

10. The amendment made in 1995 (w.e.f. 1-7-1995) introduces a new form for obtaining entry inwards. The forms are designed according to IMO-FAL Convention. The forms have to be filed in prescribed sizes only. Host of enclosures are sought along with these forms. This practice has its origin in other statutes such as Merchant Shipping Act, 1880. However, keeping the said convention in view, Board has issued instructions dispensing with submission of various documents. The following declarations have, however, to be filed along-with IGM:

- (a) Deck Cargo Declaration / Certificate.
- (b) Last port clearance copy.
- (c) Amendment application (when relevant).
- (d) Income Tax Certificate in case of Export Cargo.
- (e) Nil export cargo certificate.
- (f) Port Trust "No Demand" certificate.
- (g) Immigration certificate.
- (h) Application for sign on/sign off of crew (when relevant).
- (i) Application for crew baggage checking when they sign on (When relevant).

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Procedure for filing IGM at Custom Houses operating EDI service centres:

(i) IGM by Shipping lines:

11. The shipping line/steamer agent needs to submit the manifest in prescribed form at the Service Centre. The shipping lines are required to submit the electronic version of the Import General manifest in floppies, containing all the details and particulars. It is to be ensured by the Shipping Lines that all the particulars and details of the Import general manifest submitted either manually or through floppies are correct. The shipping agents who do not have arrangement for data in floppy, may approach the Service Center of Customs and get the data of IGM submitted in system. They are also to ensure that details of House Bill of Lading are also incorporated in the IGM in case of consol cargo.

12. On arrival of the vessel, the shipping line needs to approach the Preventive officer for granting entry inwards. Before making the application, the shipping line has to make payment of the Light House dues.

13. In case the shipping line is filing an IGM after arrival of the vessel, the procedure as mentioned above for prior IGM, is to be followed except that the date of arrival of vessel is also indicated. After submission, the shipping line has to approach the proper officer for grant of entry inwards in the system.

(ii) IGM by Air:

14. The airlines are required to file IGM in prescribed format. In case of Air Cargo Complexes having EDI, the IGMs may be filed through electronic mode. The IGMs to be submitted need to contain all details and particulars. In other words, the airlines would not only be furnishing the details of the Master Airway Bills but also the House Airway bills in the case of console cargo. The airlines are also to furnish the additional information, namely, the ULD Nos. for use by the custodians.

Filing of Stores List:

15. When entering any port, all ships are required to furnish to the Commissioner of Customs, a list (or nil return) of ships stores intended for landing (excluding any consumable stores issued from any dutified shops in India). Retention on board of imported stores is governed by Import Store (Retention on board) Regulations, 1963. The consumable stores can remain on board without payment of import duties during the period the vessel/Aircraft remains foreign going. Otherwise, such consumable stores are to be kept under Customs seal. Even in respect of foreign going vessels, only the stores required for immediate use of the personnel may be left unsealed. Excessive stocks of stores such as liquor, tobacco, cigarettes, etc are kept under Customs seal.

Unloading and Loading of Goods:

16. Imported goods are not to be unloaded from the vessel until Entry Inwards is granted. No imported goods are to be unloaded unless they are specified in the import manifest/report for being unloaded at that Customs station. No imported goods shall be unloaded at any place other than the places provided for such unloading. Further, imported goods shall not be

unloaded from any conveyance except under the supervision of the proper officer. Similarly, for unloading imported goods on any Sunday or on any holiday, prior notice shall be given and fees prescribed in this regard shall be paid.

Other liabilities of carriers:

17. Under Section 115 and 116, the persons in charge of vessel or aircraft have other liabilities, which are important and noteworthy. Section 115 provides for confiscation of vessel or other conveyance under the following circumstances:

- (a) A conveyance within Indian waters or port or customs area which is adopted, fitted, modified or altered for concealing goods.
- (b) A conveyance from which goods are thrown overboard, staved or destroyed so as to prevent seizure by customs officers.
- (c) A conveyance which disobeys any order under Section 106 to stop or land, without sufficient cause.
- (d) A conveyance from which goods under drawback claim are unloaded without proper officer's permission.
- (e) A conveyance which has entered India with goods, from which substantial portion of goods are missing and failure of the master to account therefor.

Any vessel when used as means of transport for smuggling of any goods or in the carriage of any smuggled goods, is liable to confiscation, unless the owner establishes that it was used without the knowledge or connivance of the owner, his agent and the person in-charge of the vessel. When any such conveyance is confiscated, an option to pay redemption fine has to be given to the owner of the conveyance. The upper limit for imposing the redemption fine is the market value of impugned goods.

18. Under Section 116, penalty may be imposed on the person incharge of vessel if there is failure to account for all goods loaded in the vessel for importation into India or transhipped under the provisions of Customs Act and these are not unloaded at the place of destination in India or if the

quantity unloaded is short of the quantity to be unloaded at particular destination. Penalty may be waived if failure to unload or deficiency in unloading is accounted for to the satisfaction of competent officer. Thus, if there is any shortage which is not satisfactorily accounted for, the person incharge of the vessel will be liable to penalty, which may be twice the duty payable on the import goods not accounted for.
