

Chapter 2

**Arrival of Conveyances and Related Procedures**

**1. Introduction:**

1.1 Customs control over conveyances that bring imported goods and take out export goods is necessitated by the fact that all imports and exports are required to be subjected to appropriate Customs clearance procedures. Hence, legal provisions are in place to monitor such conveyances and the goods carried thereon. Furthermore, in terms of Section 2 of the Customs Act, 1962 conveyances include a vessel, an aircraft and a vehicle thereby covering all possible modes of transport and carriage of goods.

**2. Conveyances to call only at notified Customs ports/airports:**

2.1 Section 7 of the Customs Act, 1962 envisages that the unloading/clearance of imported goods and loading/clearance of export goods shall be allowed only at places notified by the Board as Customs ports or Customs airports or Land Customs Stations, Inland Container Depots or Air Freight Stations. At each such Customs ports or airport, the Commissioner of Customs is empowered to approve proper places for the unloading and loading of goods, and specify the limits of such Customs area. It is further provided vide Section 29 *ibid* that the person in charge of the vessel or an aircraft shall not call or land at any place other than a Customs port/airport without approval of the Board, except in emergencies.

**3. Power to board conveyance, to question and to demand documents:**

3.1 Section 37 of the Customs Act, 1962 empowers the proper officer of Customs to board any conveyance carrying imported goods or export goods and Section 38 *ibid* provides that the proper officer may question the person in charge of the vessel or aircraft or demand production of any documents. The person in charge of the conveyance is bound to comply with these requirements.

**4. Delivery of Import Manifest:**

4.1 In accordance with Section 30 of the Customs Act, 1962 the person in charge (Master / Agent) of the vessel or an aircraft has to deliver an import manifest (an import report in case of a vehicle), in electronic form, prior to arrival in the case of a vessel and an aircraft or within 12 hours of arrival in case of a vehicle in the prescribed form. The time limit for filing the manifest is extendable on showing sufficient cause, but otherwise a penalty not exceeding Rs.50,000/- can be imposed on account of any delay. A person filing the manifest/report declarations under this section has to declare the truthfulness of contents, which has legal consequences.

**5. Person filing the manifest to be registered:**

5.1 In terms of the Import Manifest (Vessels) Regulations, 1971 and Import Manifest (Aircrafts) Regulations, 1976 any person, who delivers the import manifest for a vessel or an aircraft to the proper officer under Section 30 of the Customs Act, 1962 is required to be registered with Customs.

5.2 In order to ensure that the Import Manifest for vessel or aircraft is filed prior to arrival of vessel or aircraft, the following procedure has been formulated:

- (i) The person responsible for filing of the Import Manifest, both at Master as well as House-level details, shall register with the Customs in advance. The application for registration shall be made to the jurisdictional Commissioner in Form V or Form VI, as the case may be, of the said Regulations. The application should be accompanied by an undertaking to file the manifest details as required.
- (ii) Airlines/Steamer Agents/Shipping Lines/Consol Agents (including 'any other person' notified as per Section 30 of the Customs Act, 1962) are assigned business category codes as AL, SA, SL and CN, respectively. For the purpose of registration of Airlines/Steamer Agents/Shipping Lines, the existing Airline Code or Steamer Agents Code or Shipping Lines Code already allotted to them shall be used for filing manifest and same shall be their registration number. As regards consol agents, their registration number shall be of 12 digits (10-digit Income Tax PAN, followed by business category code, i.e. CN). A sample of registration number of a consol agent will look like AAACK8719PCN.
- (iii) Airlines/Steamer Agents/Shipping Lines/Consol Agents are required to submit the information as per the prescribed Annexure "A", which is a system compliant form that contains information prescribed as per the Form V and Form VI of the Import Manifest (Aircraft) Regulations, 1976 and Import Manifest (Vessels) Regulations, 1971 respectively, to the respective Commissioners, where they are operating, for capturing the details in the EDI System.
- (iv) In the case of chartered flights where the consol agents themselves are entrusted with the responsibility of filing both Master as well as House-level details, the consol agents will have to be registered with the Customs as airline agent and will be allotted an ad-hoc/temporary code (accepted by system), as per existing format for each such flight.
- (v) Access to the system for filing IGM details will be allowed after the receipt of the applications, in the Annexure "A" along with a self-declaration of the correctness of the particulars, by the jurisdictional Commissioner. The verification of details will be done subsequently and for this the applicant will mention in Annexure "A" the name of the Commissionerate i.e. "Port/Airport/ICD of verification" where their details would be verified. In the case of any discrepancies observed at the time of verification the registered party would be debarred from filing IGM. The concerned Commissionerate after the verification will send the registration number along with the name of the registered entity to webmaster of [www.cbec.gov.in](http://www.cbec.gov.in) who in turn will post the details on the website for the information of all stakeholders. Verification of the declaration will be done only by the "Port/Airport/ICD of verification" mentioned in Annexure "A" and no other port etc. will be required to do further verification. In case of doubt, they may refer the same to the Commissioner of "Port/Airport/ICD of verification".
- (vi) The responsibility for filing the import manifest with Master level details shall rest with the person in-charge of the vessel or aircraft or their agent while the House level details shall be filed by "any other person" specified under Section 30 of the

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Customs Act, 1962. In case the “any other person” is not registered under the said Regulations, then, the responsibility to file House level details shall also rest with the person in-charge of the vessel or aircraft or their agent. The shipping lines or airlines should, therefore, ensure that the person authorized to issue delivery orders in respect of goods carried by them, are duly registered with Customs. Failure to file the IGM in advance will invite action as per Section 30(1) of the Customs Act, 1962.

- (vii) At Customs stations having operational Indian Customs EDI (ICES) system, the IGM shall be filed through electronic mode. At other i.e. non-EDI Customs stations, the hard copies of IGM shall be required to be filed manually, in advance as per the Section 30 of Customs Act, 1962. Where ICES is operational but some Bills of Entry are filed manually, hard copy of IGM will have to be filed but late filing of hard copy will not be considered as non-filing or late filing of IGM, provided that the soft copy is filed in time.
- (viii) In the case of vessels, where the voyage from the last port of call exceeds 4 days, the IGM shall be filed at least 48 hours before the entry inward of such vessels. In the case of short haul voyages, i.e., where the voyage from the last port of call is less than 4 days, the IGM is required to be filed 10 hours before entry inward of the vessel.
- (ix) In the case of long haul flights i.e. flight time of at least 3 hours from the last airport, the IGM shall be filed within 2 hours before the arrival of the aircraft and for short haul flights, before the arrival of the aircraft. Further, flights in domestic sector, which carry transshipped imported goods from one Indian airport to another airport in India, would be treated as short haul flight for the purpose of filing IGM under Section 30 of the Customs Act, 1962.
- (x) The vessel's stores list and list of private property in possession of the Master, officer and crew etc. should contain the quantity of store on board at the time of departure from the last port of call and estimated quantity likely to be consumed till the grant of entry inward.
- (xi) At the time of registration, the requirement stipulated in the para 5 of Form V and Form VI of the Import Manifest (Aircraft) Regulations, 1976 and Import Manifest (Vessels) Regulations, 1971 respectively.

[Refer Circulars No.110/2003-Cus, dated 22-12-2003, No. 15/2004-Cus, dated 16-2-2004 and No. 30/2004-Cus, dated 16-4-2004]

### 6. Amendments of IGM:

6.1 Section 30(3) of the Customs Act, 1962 read with Levy of Fee (Customs Documents) Regulations, 1970 allows the proper officer to permit an IGM to be amended or supplemented, on payment of prescribed fees, if he is satisfied that there is no fraudulent intention. Further, Board has placed all amendments in two broad categories - Major and Minor:

(a) Major Amendments:

- (i) Addition of extra entries (Line numbers in the IGM).
- (ii) Amendment in the quantity of goods already declared.

- (iii) Changing the date of the Bill of Lading mentioned in the IGM.
  - (iv) Changing the Importer's/consignee name.
  - (v) Commodity description.
  - (vi) Conversion of general description of goods from cargo to un-accompanied baggage and vice-versa.
- (b) Minor Amendments:
- (i) Changing the Importers address only.
  - (ii) Correcting any spelling mistakes.
  - (iii) Conversion from one unit of measurement to another.
  - (iv) Change in the container number (only alphabetic prefix and last 10th test numerical).
  - (v) Change/addition of marks and numbers.
  - (vi) Conversion from local to TP/SMTP and vice-versa.
  - (vii) Port of Loading.
  - (viii) Size of containers (provided there is no change in weight of consignment).
  - (ix) Port of discharge;
  - (x) Type of packages.
  - (xi) Number of packages (provided there is no change in the weight).
  - (xii) Seal number.
- 6.2 The need for adjudication will arise only in cases where there are major amendments involving fraudulent intention or substantial revenue implication. Further it is possible that in certain special situations such as mother/daughter vessel operation for lighterage on account of shortage of draft, congestion of port, natural calamity, the final quantity of goods covered by the IGM would be known only after completion of such lighterage operation, requiring amendment in quantity originally declared at the time of filing IGM. These exceptional situations need to be taken care so that penal action is not initiated mechanically.
- 6.3 Amendment of IGM after the arrival of vessel or aircraft would not be treated as late filing. However, the veracity of the amendment would be examined by the Assistant/ Deputy Commissioner of Customs for the purpose of invoking penal provisions under Section 116 of the Customs Act, 1962.

[Refer Circulars No. 13/2005-Cus., dated 11-3-2005 and No. 44/2005-Cus., dated 24-11-2005]

## 7. Penal liability:

- 7.1 Any mis-declaration in the IGM will attract the penal provisions of Sections 111(f) and 112 of the Customs Act, 1962. Thus, the goods concerned would be liable to confiscation and the person concerned liable to penalty.

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### **8. Exclusion from IGMs of items originally manifested:**

- 8.1 Exclusion from IGMs of items originally manifested is permitted only on the basis of an application from the person filing the IGM and on production of the documentary evidence of short shipment of goods. Further, prescribed fee will have to be paid for the amendment, if permitted.
- 8.2 Exclusions or amendments of items in the IGM involving reduction in number of packages or weight thereof is allowed on an application from the person filing the IGM and on the basis of connected documentary evidence. Such excisions or amendments will only be allowed if investigation proves that the excess quantity was originally shown in error. In the absence of such proof, the application will be dealt with by the Manifest Clearance Section at the time of closure of the manifest file.
- 8.3 Applications for the exclusion or amendments of items for which Bills of Entry have been noted will be dealt with by the Manifest Clearance Section if made within two months of the arrival of the vessel.
- 8.4 Matters such as the number of copies of IGMs to be filed, nature of forms, manner of declaring cargo etc. are governed by the Regulations listed below. Generally, these Regulations stipulate declaring separately cargo to be landed, unaccompanied Baggage, goods to be transhipped and same bottom / retention cargo. Separate declarations are to be filed in respect of dangerous / prohibited / sensitive goods such as Arms and Ammunitions, Narcotics, Gold etc. These Regulations require that the IGM shall cover all the goods carried in the conveyance.
- (i) Import Manifest (Vessels) Regulation, 1971;
  - (ii) Import Report (Form) Regulation, 1976; and
  - (iii) Import Manifest (Aircraft) Regulation, 1976.
- 8.5 In respect of a vessel, an IGM shall, in addition, consist of an application for grant of Entry Inwards.

### **9. Enclosures to Import General Manifest:**

- 9.1 The various IGM forms are designed according to IMO-FAL Convention. The forms have to be filed in prescribed sizes alongwith the following declarations:
- (i) Deck Cargo declaration/certificate.
  - (ii) Last port clearance copy.
  - (iii) Amendment application (when relevant).
  - (iv) Income Tax Certificate in case of export cargo.
  - (v) Nil export cargo certificate.
  - (vi) Port Trust "No Demand" certificate.
  - (vii) Immigration certificate.
  - (viii) Application for sign on/sign off of crew (when relevant).
  - (ix) Application for crew baggage checking when they sign on (when relevant).

[Refer Circular No.36/95-Cus., dated 10-4-1995]

**10. Procedure for filing IGM at EDI Custom Houses:**

- 10.1 In case of sea cargo the shipping lines are required to submit the electronic version of the IGM through the EDI Service Centre or through internet at ICEGATE, containing all the details and particulars. It is to be ensured that all the particulars and details of the IGM are correct and that details of House Bill of Lading are also incorporated in case of consol cargo.
- 10.2 In case of air cargo the airlines are required to file IGM in prescribed format through electronic mode. The IGMs should contain all details and particulars, including the details of the Master Airway Bills and the House Airway Bills in the case of consol cargo. The airlines are also required to furnish the additional information, namely, the ULD numbers for use by the custodians.

**11. Filing of Stores List:**

- 11.1 When entering any port/airport, all vessels are required to furnish to the proper officer, a list (or 'nil' return) of ships stores intended for landing (excluding consumable stores issued from any Duty Free 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 the vessel without payment of duties during the period the vessel/ aircraft remains as 'foreign going' Otherwise, such consumable stores are to be kept under Customs seal. Even in respect of foreign going vessels, only stores for immediate use may be left unsealed while excessive stores such as liquor, tobacco, cigarettes, etc are kept under Customs seal.

**12. Entry Inwards and unloading and loading of goods:**

- 12.1 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, as may be applicable.
- 12.2 Section 31 of the Customs Act, 1962 requires that the Master of the vessel shall not permit unloading of any imported goods until an order is given by the proper officer granting Entry Inwards to such vessel. Normally, Entry Inwards is granted only after the IGM is delivered. The date of Entry Inwards is crucial for determining the rate of duty in case of filing of prior Bill of Entry, as provided in Section 15 of the Customs Act, 1962. However, unloading of items like accompanied baggage, mail bags, animals, perishables and hazardous goods are exempt from this stipulation.
- 12.3 No imported goods are to be unloaded unless specified in the IGM/Import Report for being unloaded at that Customs station and such unloading shall only be at places provided therefor. Further, imported goods shall not be unloaded except under the supervision of the proper officer. Similarly, for unloading imported goods on a Sunday or on any holiday, prior notice shall be given and prescribed fees paid.
- 12.4 Board has clarified that unloading of liquid bulk cargo from the ship to the bonded storage tanks through pipe lines is allowed under the provisions of Section 33 of Customs Act, 1962 subject to the conditions that the premises where the goods are received through

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pipe lines is a bonded warehouse under Section 58 or 59 of Customs Act, 1962; permission of the proper officer is obtained for unloading prior to discharge of such cargo; and other requirements under the Customs Act, 1962 are fulfilled. If the bonded tanks are located outside the jurisdiction of the Commissioner in charge of port permission may be granted subject to concurrence of Commissioner in whose jurisdiction the bonded tanks are located, and other safeguards as necessary.

[Refer Instruction F.No.473/19/2009-LC, dated 9-5-2011]

### 13. Other liabilities of carriers:

- 13.1 The person in charge of vessel/aircraft has other legal liabilities under the Customs Act, 1962, the non-fulfillment of which may result in suitable penal action, as reflected in Sections 115 and 116 of the Customs Act, 1962. For instance, Section 115 provides for confiscation of vessel / conveyance in the following circumstances:
- (a) A conveyance within Indian waters or port or Customs area, which is constructed, adopted, altered 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 an order under Section 106 to stop or land, without sufficient cause.
  - (d) A conveyance from which goods under drawback claim are unloaded without the 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.
  - (f) Any conveyance, when used as means of transport for smuggling of any goods or in the carriage of any smuggled goods, 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.
- 13.2 Under Section 116 of the Customs Act, 1962, penalty may be imposed on the person in-charge of vessel if there is failure to account for all goods loaded in the vessel for importation into India or transshipped 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 in-charge of the vessel will be liable to penalty, which may be twice the duty payable on the import goods not accounted for.

[Refer Circulars No.36/95-Cus., dated 10-04-1995, No.110/2003-Cus.,dated 22-12-2003, No.15/2004-Cus., dated 16-2-2004, No.30/2004-Cus., dated 16-4-2004, No.34/2004-Cus., 13-5-2004, No.13/2005-Cus., dated 11-3-2005, and No.44/2005-Cus., dated 24-11-2005]

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