



भारत सरकार

Government of India

वित्त मंत्रालय, राजस्व विभाग

Ministry of Finance, Department of Revenue

सीमा शुल्क आयुक्त (निवारक) का कार्यालय

Office of the Commissioner of Customs (Preventive)

पूर्वोत्तर क्षेत्र

North Eastern Region

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FACILITY No. 05/2018

Dated Shillong the 30th October 2018

Subject: Customs clearance procedure for import consignments of commodities which require clearance by other regulatory agencies-reg

Attention of all concerned is brought to the following.

There are imports of commodities which are required to comply with certain standards as determined by specific provisions pertaining to such commodities, inter-alia involving food safety requirements, sanitary & phytosanitary requirements, textile testing requirements etc., which require clearances or "No Objection Certificates" from other import regulatory agencies, before the goods can be cleared for home consumption by Customs. The procedures primarily involve Customs drawing samples from concerned consignments and then sending the samples to authorised laboratories/testing agencies for testing and clearance by concerned agency, storage of the goods till receipt of test report and final clearance by the Customs.

Due to the time taken for the testing procedure and receipt of test report, considerable time is taken for clearance of consignments, which enhances the cost of transaction, congestion at the Customs Stations as well as increase in dwell time.

It is a matter of fact that grant of NOC/issue of Test Report by respective regulatory agency/Laboratory/testing agency is a time consuming process especially as the samples need testing at locations which are away from the Customs stations and where the testing procedure itself is a time consuming one. In such scenario, the time taken for clearance of the consignments i.e. dwell time increases, which needs to be curtailed to increase the overall efficiency, to cut the cost and to make the imports more competitive. At the same time, the strict observance and compliance is required of the Import Policy of the Government and Allied Acts such as Destructive Insects & Pests Act, 1914 read with the Plant Quarantine (regulation of Import into India) Order, 2003,

Livestock Importation Act, 1898 (as amended), Food Safety and Standards Act, 2006 and Rules and Regulations made thereunder.

Facility No. 04/2010 dated 12.05.10 (as amended by Facility No. 09/2010 dated 06.12.10 and Facility No. 01/2013 dated 26.04.13) had allowed for storage of such consignments (particularly non-perishable food items) till receipt of test report at Private or Public Customs Bonded Warehouses in terms of Section 49 of the Customs Act, 1962. However, Section 49 of the Customs Act, 1962 had been substituted on 31.03.17 and storage under this Section became restricted only to Public Warehouses. As at the majority of the customs stations under the jurisdiction there are no public warehouses, storage under Section 49 of the Act *ibid* is not feasible and therefore the customs clearance procedure for import consignments of commodities requiring clearance by other regulatory agencies has been re-examined for proper facilitation of trade. It has therefore been decided to allow the import and storage of such consignments in terms of Section 143 of the Customs Act, 1962 as per procedure prescribed below:

1. The importer shall intimate the jurisdictional Deputy/Assistant Commissioner in writing of the premises proposed by him for storage of goods which require NOC/Test report from regulatory agency/testing agency.
2. The jurisdictional Deputy/Assistant Commissioner will cause verification of the premises and determine the suitability of the premises for storage of goods pending clearance for home consumption till receipt of NOC/Test report from regulatory agency/testing agency. The parameters for determining the suitability of the premises/building will be as in delineated in Sl. Nos 5-14, Checklist-I of this office Standing Order No. 01/2010 dated 22.10.10. The Deputy/Assistant Commissioner will then submit a report to the Commissioner if the building/premises is found suitable for storage of such goods and on acceptance of the report by the Commissioner, and on being intimated of such acceptance, the Deputy/Assistant Commissioner will then inform the importer in writing that the building/premises has been found suitable and that goods can be stored there under Bond and Bank Guarantee in terms of Section 143 of the Customs Act, 1962 and complying with the requirements of instant Facility. If the building/premises is found unsuitable for the purpose, the Deputy/Assistant Commissioner will inform the importer in writing with reasons thereof, and a copy of the same shall be sent to the Commissioner.
3. For import of such goods, the importers/customs brokers will file a Bill of Entry for Home Consumption or even a Bill of Entry for Warehousing if the goods are to be warehoused in importer's licensed Customs Bonded Private Warehouse or in a Public Warehouse, in case of which the requirements of the warehousing regulations shall apply.

4. Thereafter, after grant of entry inwards under Section 31 of the Customs Act by the proper officer, Customs shall examine the goods and appraise the same and also undertake general checks of the consignments in addition to drawal of samples.

5. At customs stations where officials of the concerned regulatory agency are available, the sampling and testing will be done as per their procedure and only the NOC/test report will be communicated to Customs.

At customs stations where officials of concerned regulatory agency are not available, three samples from the import consignment will be drawn at random by the proper officer of Customs and sealed as per procedure. One sample will be sent to the laboratory/testing centre authorised for the relevant testing under proper memorandum alongwith requisite fees collected from the importer (as the case may be) and payable to the concerned authority of the laboratory/testing centre and retain the other two samples for future use. Identifiable marks i.e. serial number and date as appearing in the sample register alongwith signature/thumb impression of the importer/his authorised agent/customs broker will be marked on the seals for ready identification. The customs officer drawing the sample will also affix his signature. The sample will be forwarded to the testing laboratory alongwith test memo. Three copies of the test memo shall be prepared by the Customs officer and will be signed by the Customs Officer and the importer/his authorised agent/customs broker. The original copy of the test memo will be sent alongwith the sample to the testing agency, the duplicate shall be retained by Customs and the triplicate will be the importer's copy. The test memo shall be serially numbered with corresponding Bill of Entry number clearly mentioned on the test memo. The test memo shall be detailed, and containing all particulars of the sample being forwarded and any other details as may be considered necessary. The test memo shall mention the address/fax no./email address to which the concerned agency can send its report. The samples so drawn shall be sent to the laboratory/testing agency by Registered/Speed Post/Parcel or even a Special Messenger who may be engaged by the Customs officer in consultation with the jurisdictional Deputy/Assistant Commissioner of Customs. The samples should be sent within 24 hours of drawal. This procedure of drawal of samples will apply, if otherwise not specifically prescribed.

6. Goods imported conforming to the requirements of Facility No. 04/2017 dated 05.07.17 will not require any samples to be drawn from the import consignments, and the goods can be cleared directly for home consumption. Further, for the procedure of clearance of food articles, sampling and testing requirements will be required to be conducted as per Circular No. 58/01-Cus dated 25.10.01 and Circular No. 03/11-Cus dated 06.01.11.

7. Once the sampling has been done and examination of the consignment has been carried out, the goods will be allowed to be stored outside the Customs Area of the concerned Customs Station of import. This shall be allowed provided the importer has executed a "No Use Bond" and the same has been duly accepted by the jurisdictional Deputy/Assistant Commissioner of Customs. The proforma of the "No Use Bond" is enclosed herewith as Annexure-A. It would be incumbent upon the importer to intimate Customs and concerned regulatory agency/agencies about the place of storage. A sentence about the storage place will be incorporated in the "No Use Bond" itself. Further, importer will bind himself stating that the goods will not be removed during transit and/or from the declared storage place, till clearance for home consumption is given by Customs. The Bond and Bank Guarantee will be executed before the Superintendent in charge of the Customs Station who after due verification will forward the same to the jurisdictional Deputy/Assistant Commissioner of Customs for acceptance. The importer has the option to submit separate "No Use Bond" for each Bill of Entry or "Continuity 'No Use' Bond". The concerned officer will be required to acknowledge and accept the separate "No Use Bond" each time, when Bill of Entry is filed. However, in case of "Continuity 'No Use' Bond", it requires acceptance only for the first time. Details of the bonds shall be entered in a manual register maintained for the purpose at the Customs Station concerned. In case, "Continuity 'No Use' Bond" is preferred, the duty involvement of each consignment/cumulative un-cleared consignments of the importer should not exceed the Bank Guarantee amount. Proper monitoring of the Bank Guarantee(s) will be required to be done so as to ensure that it covers duty liabilities and also that it remains valid to cover the periods involved. Proper monitoring of the number of "No Use Bonds" accepted, closed and pending for closure shall be done by the jurisdictional Deputy/Assistant Commissioner of Customs.

As the goods will be cleared provisionally for such storage and for the fact that the goods will be transported from the Customs Station by the importer, the importer will be required to execute the "No Use Bond" and also submit a Bank Guarantee equivalent to the differential duty applicable on such goods. It may be noted that the importer will deposit the duties as assessed by the proper officer (which might involve concessionary duty treatment) prior to the removal of the goods from the Customs Station for storage, but he will be required to furnish a Bank Guarantee for an amount equal to or higher than the differential duty involved i.e the difference between total duty liability without any concessionary treatment and the duty as assessed by the proper officer with concessionary benefits.

8. For such storage, the Customs will endorse on all copies of the Bill of Entry (except Bills of Entry for warehousing where the procedure for warehoused goods will apply) that the said consignment is allowed to be stored in importer's declared premises. The endorsement on the Bill of Entry will mention that "Goods as mentioned in instant Bill of Entry are being allowed for storage at

(Name & address of declared premises) till final clearance for home consumption is given by Customs. Sample has been sent for testing under Test Memo No. _____ dated _____. The importer's copy with the said endorsement will be returned to the importer/his authorised agent/customs broker for accompanying the goods to the place of storage.

9. It would be binding upon the importer as well as the Customs Broker (if any) to ensure that the goods stored under terms as mentioned above is not tampered with and the cargo is not sold, used, consumed, transferred or dealt with in any manner whatsoever without obtaining clearance/NOC from the concerned regulatory authority. The non-observance and non-compliance of the same would attract legal action including penal action as stipulated in the respective Acts, Rules and Regulations of the regulatory agencies as well as the Customs Act, 1962. In case, the clearance/NOC is not granted by the concerned regulatory agencies (even after exhausting the appellate mechanism by the importer), the goods shall be brought back by the importer to the concerned customs station so that adjudication process can be initiated and re-export/destruction can be done as per procedure.

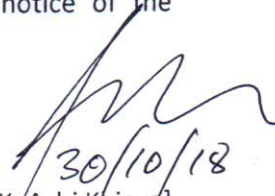
10. The concerned Deputy/Assistant Commissioner will conduct random checks at the declared premises of the importers from time to time, to ensure that goods stored there in terms of the instant Facility are available and have not been removed or otherwise dealt with. Non-compliance of the conditions as mentioned in Para 9 above will also render the importer ineligible to avail the benefits of the instant Facility thereafter.

10. On receipt of the test report by registered post/speed post/fax/email, necessary entries will be made in the sample collection register and the importer duly informed by the customs officer in charge of the Customs Station. On being satisfied that proper clearance/NOC has been given by the concerned regulatory agency, the proper officer will then give order for clearance for home consumption on the body of all copies of the Bill of Entry mentioning the test report number and date of report. The importer can then remove the goods from his declared premises for his usage.

In view of the above, Facility No. 04/2010 dated 12.05.10, Facility No. 09/2010 dated 06.12.10 and Facility No. 01/2013 dated 26.04.13 stand rescinded.

Any difficulty faced in implementation of this Facility may be brought to the notice of the undersigned.

Enclo: Annexure-A


30/10/18
[के. आशी खिएया / K. Ashi Khieya]
आयुक्त/Commissioner

स्पीड पोस्ट/SPEED POST

पत्राचार संख्या:VIII(48)06/CUS/WH/TECH/2014/Pt-I/

दिनांक:

सूचनार्थ एवं आवश्यक कार्यवाही के लिए प्रतिलिपि:

11 Nov 2018

1. The Chief Commissioner, CGST & Customs, Shillong
2. The Deputy/Assistant Commissioner, Agartala/Aizawl/Dhubri/Dimapur/Guwahati/Imphal/Karimganj/Shillong; The Assistant Commissioner, LCS, Agartala/Moreh; The Assistant Commissioner, ICD, Amingaon. They are requested to bring this Facility to the notice of other stakeholders like concerned regulatory agencies, Export/Import Associations, Customs Brokers under their jurisdiction. It is also requested to ensure compliance of this Facility by the officers at the LCSs.
3. The Superintendent, Computer Cell, Customs Hqrs., Shillong to upload the contents of this Facility on the Commissionerate website.
4. The Hindi Translator, Customs Hqrs., Shillong to get issued Hindi version of this Facility.
6. Guard File.

Wazim
30/10/18

[वाज़िम मुस्तफा/Wazim Mustafa]

सहायक आयुक्त (तकनीकी)/Assistant Commissioner (Tech)

Annexure-A

NO USE BOND

KNOW ALL BY THESE PRESENTS THAT M/s....., hereinafter referred to as the "IMPORTER" which impression shall unless excluded by or repugnant to the context include their heirs, executors, administrators and legal representatives hereby firmly bind ourselves unto the President of India (hereinafter referred to as the Government) to pay on demand and without demur Rs. {the differential duty of the goods i.e difference between duty payable without benefit of exemption notification(s) and duty actually paid with benefit of exemption notification(s)} to the Commissioner of Customs (Preventive), NER, Shillong hereinafter called the "Commissioner" which expression shall include the person for the time being performing the duties of the Commissioner of Customs (Preventive), NER, Shillong).

Sealed with our Seal with this day of

The Deputy/Assistant Commissioner of Customs (hereinafter called the Proper Officer) has agreed to allow the clearance of the goods described in schedule mentioned below imported by the Importer for storage at permitted premises pending submission/receipt of mandatory No Objection Certificate/Test Report from the respective Regulatory Agency(ies)/Testing Agencies, i.e. FSSAI, Plant Quarantine and Animal Quarantine Authorities, Authorised laboratory/testing agency etc. as the case may be. And the proper officer has agreed to allow storage of the goods at declared premises pending NOC/Test Report from Regulatory Agency/Authorised Laboratory/Testing Agency subject to the Importer binding himself to produce requisite post-clearance NOC/Test Report from Regulatory Agency/Authorised Laboratory/Testing Agency or receipt of the same directly by Customs, to the satisfaction of the proper officer and upon importer agreeing to furnish such bond as is herein contained.

NOW THE CONDITIONS OF THE ABOVE BOND ARE SUCH THAT:

1. If the importer observes the relevant rules concerning the Regulatory Agency(ies) and does not tamper with the cargo consignment and further the cargo consignment or any portion thereof is not removed, sold, used, consumed, transferred or dealt with in any other manner without obtaining NOC/Test Report from the respective Regulatory Agency/Authorised Laboratory/Testing Agency and subsequently,

2. If the importer produces the NOC/Test Report from concerned Regulatory Agency/Authorised Laboratory/Testing Agency to the proper officer in respect of the goods mentioned in the schedule if the concerned Regulatory Agency/Authorised Laboratory/Testing Agency does not directly submit the NOC/Test Report to Customs and,
3. If the importer indemnifies the Customs Department for any loss arising out of any dispute in the matter of NOC/Test Report from Regulatory Agency/Authorised Laboratory/Testing Agency and,
4. The importer informs Customs about place of storage and binds himself as much as that the cargo consignment will not be shifted to any other premises not authorised by Customs
5. Importer shall provide smooth and unhindered access to various agencies of Customs and Concerned Regulatory Agency(ies) who can at any time verify the condition of the goods
6. The goods will be returned to the proper officer, if clearance/NOC is not granted by the concerned regulatory agencies/laboratory/testing agency (even after exhausting the appellate mechanism by the importer)
7. That any fine and/or penalty and/or punishment for infringement of the relevant provisions of the Customs Act, 1962 and/or the provisions of the Act, Rules, Regulations under which the NOC/Test certificate is required, shall be paid forthwith by the importer as and when found liable for the same.
8. The validity of the bond will remain till the case is closed.

THEN THE ABOVE WRITTEN BOND SHALL BE VOID & OF NO EFFECT OTHERWISE THE SAME SHALL REMAIN IN FULL FORCE AND VIRTUE.

1. This bond is given under the orders of the Central Government for performance of an Act in which the public are interested.
2. The President through the Deputy/Asst. Commissioner of Customs or other officer may recover the amount due in the manner laid down in sub-section 142 of the Customs Act, 1962, without prejudice to any other mode of recovery. Any amount under this bond, may be recovered in the manner laid down in Section 142 of the Customs Act, 1962 without prejudice to any other mode of recovery.

SCHEDULE OF GOODS

1. Customs Station of import:
2. Bill of Entry No. & Date:
3. Bill of Lading/Packing List no.:

4. Vehicle No.
5. Description of goods:
6. Gross Weight
7. Net Weight
8. Country of origin:
9. Marks & batch Nos.:
5. Quantity:
6. Assessable Value:
7. Full duty liability without any exemption:
8. Duty assessed and payable/paid:
9. Complete Address of Place of Storage:

Witness:

- 1.
2. _____

(Signature of Importer)

Accepted by
Deputy/Assistant Commissioner

[dated signature & seal]