

Import/Export Restrictions and Prohibitions

1. Introduction:

- 1.1 Deliberate evasion of duty or violation of prohibition/restriction imposed upon import of export of specified goods invites penal action under the Customs Act, 1962 or any of the allied legislations that are enforced by the Customs in terms of the said Act. Thus, importers and exporters and other connected with international trade require to be well conversant with the provisions of Customs Act, 1962, the Foreign Trade Policy, as well as other relevant allied Acts and make sure that before any imports are effected or export planned, they are aware of any prohibition/restrictions and requirements subject to which alone goods can be imported/exported.

2. Legal provisions governing restrictions/prohibitions:

- 2.1 Some of the relevant penal legal that come into play when there is violation of the Customs Act, 1962 or any allied Acts are as follows:

- (a) The terms “Prohibited Goods” are defined in Section 2(33) of the Customs Act, 1962 as meaning “any goods the import or export of which is subject to any prohibition under the Customs Act or any other law for the time being in force”. Thus, a prohibition under any other law can be enforced under the Customs Act, 1962. For instance, under Sections 3 and 5 of the Foreign Trade (Development and Regulation) Act, 1992, the Central Government can make provisions for prohibiting, restricting or otherwise regulating the import of export of the goods, which finds reflected in the Foreign Trade Policy, laid down by the DGFT, Department of Commerce. Some of the goods are absolutely prohibited for import and export whereas some goods can be imported or exported against a licence and/or subject to certain restrictions. One example is provided by Notification No.44(RE-2000)1997-2002, dated 24.11.2000 in terms of which all packaged products which are subject to provisions of the Standards of Weights and Measures (Packaged Commodities) Rules, 1997, when produced/packed/sold in domestic market, shall be subject to compliance of all the provisions of the said Rules, when imported into India. Thus, all such packaged commodities imported into India shall carry the name and address of the importer, net quantity in terms of standard unit of weights measures, month and year of packing and maximum retail sale price including other taxes, local or otherwise. In case any of the conditions is not fulfilled, the import of packaged products shall be held as prohibited, rendering such goods liable to confiscation. Another example is that certain products are required to comply with the mandatory Indian Quality Standards (IQS) and for this purpose exporters of these products to India are required to register themselves with Bureau of Indian Standards (BIS). Non-

fulfillment of the above requirement shall render such goods prohibited for import. Action on such goods and persons involved can be taken under the Customs Act, 1962.

- (b) Under Section 11 of the Customs Act, 1962 the Central Government has the power to issue notification under which export or import of any goods can be declared as prohibited. The prohibition can either be absolute or conditional. The specified purposes for which a notification under Section 11 can be issued are maintenance of the security of India, prevention and shortage of goods in the country, conservation of foreign exchange, safeguarding balance of payments etc.
- (c) Section 111(d) and Section 113(d) of the Customs Act, 1962 provide that any goods which are imported or attempted to be imported and exported or attempted to be exported, contrary to any prohibition imposed by or under the said Act or any other law for the time being in force shall be liable to confiscation.
- (d) Section 112 of the Customs Act, 1962 provides for penalty for improper importation and Section 114 of the said Act provides for penalty for attempt to export goods improperly. In respect of prohibited goods the adjudicating Officer may impose penalty upto five times the value of the goods. It is, therefore, absolutely necessary for the trade to know what are the prohibitions or restrictions in force before they contemplate to import or export any goods.

3. Prohibitions/restrictions under Foreign Trade Policy / other Allied Acts:

- 3.1 Apart for collection of duty, Customs has also been entrusted with the responsibility to ensure compliance with prohibitions or restrictions imposed on the import and export of goods under the Foreign Trade Policy (FTP) and other Allied Acts. The Customs has a pivotal role to play because, it is the agency stationed at the border to enforce the rules, regulations and orders issued by various administrative Ministries. For instance, import and export of specified goods may be restricted/prohibited under other laws such as Environment Protection Act, Wild Life Act, Indian Trade and Merchandise Marks Act, Arms Act, etc. and these will apply to the penal provisions of the Customs Act, 1962 rendering such goods liable to confiscation under Sections 111(d) – for import - and 113(d) – for export - of the said Act. Thus, for the purpose of the penal provisions of the Customs Act, 1962 it is relevant to appreciate the provisions of these allied legislations.

4. The Prevention of Food Adulteration Act, 1954 and Food Safety and Standards Authority Act, 2006

- 4.1 As per the Prevention of Food Adulteration Act, 1954 (PFA), any product not fulfilling the statutory provisions is not allowed to be imported into the country. Likewise, there are several rules, regulations, orders, notifications, etc. issued by the Government, laying down procedures as to how the imports of above products are to be dealt with. Further, the Food Safety and Standards Authority Act, 2006 (FSSA) seeks to replace many of the existing legislations including the PFA Act relating to import of edible

items. The FSSAI has been established to lay down standards and regulate/monitor the manufacturing, import, processing, distribution and sale of food. The FSSAI has taken over PHO functions at select ports such as Nava Sheva and Mumbai with effect from 13-9-2010 with the stipulation that the existing rule and procedures will continue to be followed without any change till FSSAI regulations are notified. Thus, FSSAI has replaced PHO with its authorized officers at abovementioned ports in terms of Section 47 (5) of the FSSA Act, 2006.

4.2 PFA/FSSAA lay down detailed guidelines for examination and testing of food items prior to Customs clearance. It is, thus, provided that the Customs shall undertake the following general checks and if the product does not satisfy these requirements, clearance shall not be allowed:

- (i) All consignments of high risk food items, as listed in DGFT Policy Circular No. 37(RE-2003)/2002-2007 dated 14.06.2004 (as may be modified from time to time), shall be referred to Authorised Representative of FSSAI or PHOs, as the case may be, for testing and clearance shall be allowed only after receipt of the test report as per the instructions contained in the Customs Circular No. 58/2001-Cus,, dated 25-10-2001.
- (ii) All consignments of perishable items like fruits, vegetables, meat, fish, cheese, etc., will continue to be handled in terms of the guidelines contained in Para 2.3 of the Board's Circular No.58/2001-Customs dated 25-10-2001.
- (iii) In respect of food items not covered under (a) and (b) above, the following procedure would be adopted in addition to the general checks prescribed under Para 2.1 of the Circular No. 58/2001-Cus,, dated 25-10-2001:
 - (a) Samples would be drawn from the first five consecutive consignments of each food item, imported by a particular importer and referred to Authorised Representative of FSSAI or PHOs, as the case may be, for testing to ascertain the quality and health safety standards of the consignments.
 - (b) In the event of the samples conforming to the prescribed standards, the Customs would switch to a system of checking 5% - 20% of the consignments of these food items on a random basis, for checking conformity to the prescribed standards. The selection of food items for random checking and testing would be done by the Customs taking into consideration factors like the nature of the food products, its source of origin as well as track record of the importers as well as information received from FSSAI from time to time.
 - (c) In case, a sample drawn from a food item in a particular consignment fails to meet the prescribed standards, the Customs would place the import of the said consignment on alert, discontinue random checking for import of such food items and revert to the procedure of compulsory checking. The system of random sampling for import of such food items would be restored only if the test results of the samples drawn from the 5 consecutive consignments

re-establish that the food items are in conformity with the prescribed standards.

- 4.3 The 'general checks' include checking the condition of the hold in which the products were transported to see whether they meet the requirements of storage, as per the nature of the product, and does not in any way cause deterioration or contamination of the products. Also, physical/ visual appearance in terms of possible damage - whether it is swollen or bulged in appearance; and also for rodent/insect contamination or presence of filth, dirt etc. - should be checked. Finally, it should be checked that the product meets the labelling requirements under the Prevention of Food Adulteration Rules and the Packaged Commodities Rules. This includes ensuring that the label is written not only in any foreign language, but also in English. The details of ingredients in descending order, date of manufacture, batch no., best before date etc. are mandatory requirements. All products will also have to indicate details of best before on all food packages.
- 4.4 Authorised Officers of FSSAI will ascertain that for the imported pre-packaged good items, the language and other major requirements of the label like mention of best before date, nutrition information etc. should comply the labeling provisions under PFA Rules, failing which sample may not be drawn from such consignment for testing.
- 4.5 Risk Management System (RMS) module for import consignments of edible / food items, presently does not provide for random sampling as it is one of its CCR (Compulsory Customs Requirements) targets. Accordingly, Risk Management System (RMS) shall take necessary steps to modify the RMS module to conform to the new requirements. Till such time, this modification is carried out, Customs shall take appropriate decision to waive the CCR requirements in respect of food items not covered under clause (a) and (b) above and to the extent mentioned under clause (c) above. Such a course of action shall, however, be taken only with the prior approval of the jurisdictional Commissioner of Customs or an officer authorized by him for this purpose, who shall not be below the rank of Addl./Joint Commissioner of Customs, and after recording the reasons for the same. A brief remark on the reasons and the particulars of Commissioner/ADC/JC authorization should be made by the officer examining the goods in the departmental comments in the EDI system.
- 4.6 As per Para 13 of Chapter IA (General Notes Regarding Import Policy) of the ITC (HS) Classification of Export and Import items, import of all such edible/ food products, domestic sale and manufacture which are governed by PFA Act, 1954 shall also be subject to the condition that at the time of importation, the products are having a valid shelf life of not less than 60% of the original shelf life. Shelf life of the product is to be calculated based on the declaration given on the label of the product, regarding its date of manufacture and the due date for expiry. Therefore, Customs shall ensure that this condition is complied with before allowing clearance of such consignments.
- 4.7 At certain ports / airports / ICDs / CFSS where Port Health Officers (PHO) under PFA, 1954 or Authorised officers under FSS Act, 2006 are not available, the samples will

be drawn by Customs and these may be got tested from the nearest Central Food Laboratory or a laboratory authorized for such testing by DGHS or FSSAI.

- 4.8 RMD shall develop an application software that incorporates the stipulation of testing of imported foodstuff and alerts the Customs officer to the effect the number of past shipments already tested and found fit warrants future shipments need not ordinarily be tested. This should apply regardless of port of import so long as the importer, supplier and item of import do not change. In other words, if such a shipment is imported say, at Mumbai and the previous 5 shipments imported at, say, Delhi have passed the test, then the next shipment at Mumbai need not be tested. A suitable data base would also be prepared at each Custom House to indicate the compliance history of importers.

[Refer Circular No.58/2001-Cus., dated 15-6-2001;
No.43/2005-Cus., dated 24-11-2005; and
Circular No.3/2011-Cus., dated 6-1-2011]

5. Labeling of the goods imported into India:

- 5.1 DGFT Notification No.44 (RE-2000)/1997-2002 dated 24-11-2000 provides for labeling of the goods imported into India which are covered by the provisions of Standards of Weights & Measures (Packaged Commodities) Rules, 1977. This Notification mandates that compliance of labeling conditions have to be ensured before the import consignment of such commodities are cleared by Customs for home consumption.
- 5.2 In order to redress the issue and to remove the difficulties faced by importers on account of space constraints at CFSs/ Port / ICDs and the nature of goods, etc., the Board has allowed the labeling on imported goods in Bonded warehouses subject to certain procedural conditions. It is clarified that the importers should first ascertain that for such marking / labeling facility, space, is available in warehouse prior to exercising this option. In such cases, importers may file Warehousing Bill of Entry and the Assessing Group will give suitable directions to Dock staff to allow bonding of the goods without labeling and with endorsement on the Warehousing Bill of Entry that verification of compliance of DGFT Notification No.44 (RE-2000)/1997-2002 is to be done prior to de-bonding by Bond Superintendent. The goods will then be labeled in the bonded premises and compliance of said DGFT Notification will be ensured at the time of ex-bonding of the goods, by the Bond Officer, by examining the goods again and endorsing the Examination Report on the Ex-bond Bill of Entry. 100% examination at the time of Ex-bond clearance of goods should be done to ensure compliance of the said DGFT Notification. The Examination Report can be endorsed on hard copy of Ex-bond Bill of Entry where EDI facility is not extended, and on hard copy as well as EDI system where EDI facility is extended to Bonded Warehouses. It is also clarified that this facility is applicable only to goods that cannot be easily labeled in ports / CFS, having regard to their size and other factors such as sensitivity to temperature and dust.

- 5.3 Further, as the activity of labeling and re-labeling including declaration of Retail Sale Price (RSP) on goods amounts to manufacture in terms of section 2(f) of the Central Excise Act, 1944, if the same is carried out on goods warehoused, it would be considered as manufacturing operations having been undertaken in bond/warehouse and accordingly, the provisions of 'Manufacture and Other Operations in Warehouse Regulations, 1966' would apply on those goods. Importers can, therefore, avail the facility of carrying out labeling in warehouse after following above procedure and the provisions of 'Manufacture and Other Operations in Warehouse Regulations, 1966'.

[Refer Circular No.19/2011-Cus., dated 15-4-2011]

6. The Livestock Importation Act, 1898:

- 6.1 The import of livestock and livestock products is regulated by the Livestock Importation Act, 1898. The objective of this Act and the notifications/orders issued therein is to regulate the import of livestock products in such a manner that these imports do not adversely affect the country's human and animal health population.
- 6.2 The livestock products are allowed to be imported into India only through the sea ports or airports located at Delhi, Mumbai, Kolkata and Chennai, where the Animal Quarantine and Certification Services Stations are located. In addition, import of perishable fish items, exclusively meant for human consumption but excluding seed material for breeding or rearing purposes, is allowed at Petrapole, District North 24 Parganas, West Bengal, through land route. On arrival at the port/seaport, the livestock product is required to be inspected by the officer in-charge of the Animal Quarantine and Certification Services Station or any other veterinary officer duly authorized by the Department of Animal Husbandry and Dairying. After inspection and testing, wherever required, quarantine clearance is accorded by the concerned quarantine or veterinary authority for the entry of the livestock product into India. If required in public interest, the quarantine or veterinary authority may also order the destruction of the livestock product or its return to the country of origin. The Customs will have to ensure that the livestock products are granted clearance for home consumption only after necessary permission is granted by the quarantine or veterinary authorities.
- 6.3 Wherever any disinfection or any other treatment is considered necessary in respect of any livestock product, it is the importer who has to arrange the same at his cost under the supervision of a duly authorized quarantine or veterinary officer.

[Refer Circulars No.43/2001-Cus., dated 6-8-2001, No.48/2005-Cus., dated 28-11-2005 and No. 13/2007-Cus., dated 2-3-2007 and Instructions F.No.450/132/2004-Cus.IV, dated 4-1-2005 and F.No.450/122/2005-Cus.IV, dated 13-10-2005]

7. Destructive Insects & Pests Act, 1914, PFS Order, 1989 and Plant Quarantine (Regulation of Import into India) Order, 2003:

- 7.1 Import of plants and plant materials into the country is regulated under the Destructive Insects & Pests (DIP) Act, 1914 and PFS Order, 1989 and Plant Quarantine (Regulation

of Import into India) Order, 2003. As per the requirements of these enactments, subject to exemptions, as may be applicable, no consignment shall be imported even for consumption unless it is accompanied by an Import Permit and an Official Phytosanitary Certificate. However, cut flowers, garlands, bouquets, fruits and vegetables weighing less than 2 kgs. Imported for personal consumption is allowed without a Phytosanitary Certificate or an Import Permit. Likewise, the requirement of Import Permit is relaxed for import of (a) mushroom spawn culture by EOUs and (b) tissue culture materials of any plant origin and flower seeds.

7.2 The Department of Agriculture and Co-operation has issued detailed guidelines for inspection and clearance of plant/plant materials, the basis features of which are as follows:

- (i) Registration of application: The importer or his authorized representative is required to file an application at the Plant Quarantine Station in respect of each consignment immediately upon arrival at the port. In case of perishable consignments, such application can be filed in advance to enable the Plant Quarantine authorities to organize inspection/testing on priority. Alongwith application for registration, copies of documents namely, import permit, phytosanitary certificate issued at the country of origin, copy of bill of entry, invoice, packing list and fumigation certificate, etc. are required to be submitted. The Plant Quarantine Officer shall register the application and the assessed inspection fee is required to be paid by the importer or his agent. No such application is required to be filed in the case of import of plant and plant materials through passenger baggage and post parcels.
- (ii) Sampling/inspection/fumigation of consignments: The importer or his agent is required to arrange for inspection/sampling of the consignment. In the event of live insect infestation having been noticed, the importer or his agent shall arrange for fumigation of consignment by an approved pest control operator at his own cost under the supervision of the Plant Quarantine officer.
- (iii) Release/detention of consignments: A release order is issued to Customs, if a consignment on inspection is found to be free from pests. However, in case it is found infested with live pests, the same is permitted clearance only after fumigation and re-inspection. The detention order is issued, if the consignment is imported in contravention of the PQ Regulations, for arranging deportation failing which the same shall be destroyed at the cost of importer under the supervision of the Plant Quarantine Officer, in presence of Customs Officers after giving due notice in advance i.e. for perishable plant material 24-48 hours and 7 days for other plant material. The Customs will ensure that plant/plant material (primary agricultural products) are granted clearance for home consumption only after necessary permission is granted by the concerned Plant and Quarantine Officer.

7.3 In terms of Plant Quarantine (Regulation of Import into India) Order, 2003, no article, packed with raw or solid wood packaging material shall be released by the Customs

unless the wood packaging material has been appropriately treated and marked as per International Standards for Phytosanitary Measures (ISPM) No. 15 or accompanied by a phytosanitary certificate with the treatment endorsed. The proper officer of Customs shall grant release of such articles packed with untreated wood packaging material only after ensuring that the wood packaging material has been appropriately treated at the point of entry under the supervision of Plant Quarantine Officer. The Customs Officers are required to report the non-compliant cases to the concerned Plant Quarantine Station / authorities for necessary action.

8. Standards of Weights and Measures (Packaged Commodities) Rules, 1977:

8.1 As per Chapter 1A of General Notes regarding Import Policy (ITC (HS) Classification of Export and Import Items, Schedule I, all such packaged products, which are subject to provisions of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 when produced/ packed/ sold in domestic market, shall be subject to compliance of all the provisions of the said rules, when imported into India. The compliance shall be ensured before the import consignment of such commodities is cleared by Customs for home consumption. All prepackaged commodities, imported into India, shall in particular carry the following declarations:

- (a) Name and address of the importer;
- (b) Generic or common name of the commodity packed;
- (c) Net quantity in terms of standard unit of weights and measures. If the net quantity in the imported package is given in any other unit, its equivalent in terms of standard units shall be declared by the importer;
- (d) Month and year of packing in which the commodity is manufactured or packed or imported; and
- (e) Maximum retail sale price at which the commodity in packaged form may be sold to the ultimate consumer. This price shall include all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertising, delivery, packing, forwarding and the like, as the case may be.

9. Drugs and Cosmetics Act, 1940 and Drugs and Cosmetics Rules, 1945:

9.1 In terms of Rule 133 of the Drugs and Cosmetics Rules, 1945, no cosmetics shall be imported into India except through the points of entry specified in Rule 43A of the said Rules. Further, under Schedule "D" to the said Rules read with Rule 43, an exemption is provided to certain categories of substances from the restrictions under Chapter III of the Drugs and Cosmetics Act, 1940 relating to import of drugs and cosmetics. Further, the Drugs Controller General of India (DCGI) has clarified that under Schedule "D" to the said Rules, an exemption has been provided for substances not intended for medical use from the provisions of Chapter III of the Drugs and Cosmetics Act and Rules made thereunder. The Act provides for separate definition for 'cosmetic' and

'drug' under Sub-Section 3(aaa) and 3(b), respectively. Hence, the phrase 'substances not intended for medical use' would only relate to substances which would otherwise fall under the definition of the term 'drug' under Section 3(b) of the Act, but are being imported not for medicinal use or for some other purposes or are of commercial quality and are being labeled indicating that they are not for medicinal use. Accordingly, DCGI had clarified that this exemption does not extend to other categories of products defined under the Act including cosmetics. For the purpose of import of cosmetics, provision of Rule 133 therefore remains applicable.

9.2 Import of cosmetics at points of entry/places other than those specified under Rule 43A may not be permitted as per the provisions of the Drugs and Cosmetics Rules, 1945. The points of entry specifically mentioned in Rule 43A are Chennai, Kolkata, Mumbai, Nhava Sheva, Cochin, Kandla, Delhi, Ahmedabad, Hyderabad and Ferozpur Cantonment, Amritsar, Ranaghat, Bongaon and Mohiassan Railways Stations. If the imports are noticed through Customs stations, then necessary action may be taken for non-compliance of the Drugs and Cosmetics Rules.

9.3 As per rule 43A of the Drugs and Cosmetics Rules, 1945, drugs can be only imported into India through specified places. Accordingly, import of drugs at any other place may not be permitted. Further, whenever in doubt, field formations may seek necessary clarification about the generic name versus chemical name of medicines before clearance. The specified places are:

- (i) Ferozpur Cantonment and Amritsar Railway Stations (for drugs imported by rail across the frontier with Pakistan)
- (ii) Bongaon, Mohiassan and Ranaghat Railways Stations (for drugs imported by rail across the frontier with Bangladesh)
- (iii) Raxaul (for drugs imported by road and railway lines connecting Raxaul in India and Birganj in Nepal)
- (iv) Chennai, Cochin, Kandla, Kolkata, Mumbai and Nhava Sheva (for drugs imported by sea)
- (v) Ahmedabad, Chennai, Delhi, Hyderabad, Kolkata and Mumbai (for drugs imported by airports)

10. Import of Hazardous Substances:

10.1 As per Chapter 1A of General Notes regarding Import Policy (ITC (HS) Classification of Export and Import Items, Schedule I, imports of Hazardous Waste into India shall be subject to the provisions of Hazardous Wastes (Management and Handling) Amendment Rules, 1989. Further, notwithstanding anything contained in ITC (HS) Classifications of Export and Import Items, import of hazardous waste or substances containing or contaminated with such hazardous wastes as specified in Schedule 8 of Hazardous Wastes (Management and Handling) Amendment Rules, 1989 shall be prohibited.

- 10.2 Clearance of waste oil/sludge derived from the normal course of a ship's operation and covered by the MARPOL Protocol will be allowed without a license only to persons registered with the Ministry of Environment and Forests or the Central Pollution Control Board, as the case may be, for re-processing waste. Such waste oil/sludge will conform to the definition in Schedule 3 of the Hazardous Waste (Management and Handling) Amendment Rules, 1989.
- 10.3 Import of Hazardous Chemicals permitted is permitted in accordance with the provisions of the Manufacture, Storage and Import of Hazardous Chemicals Rules 1989 (made under the Environment (Protection) Act, 1986). Besides other conditions mentioned in the Rules, the importer shall, before 30 days but not later than the date of import, furnish the details specified in Rule 18 to the Authority specified in Schedule 5 of the said Rules.
- 10.4 Import of products, equipments containing Ozone Depleting Substances (ODS) will be subject to Rule 10 of the Ozone Depleting Substances Rules, 2000. In terms of these Rules no person shall import or cause to import any product specified in Column (2) of Schedule VII, which was made with or contains Ozone Depleting Substances specified in Column (3), unless a license is obtained from the Directorate General of Foreign Trade.
- 10.5 Import of Genetically Modified Food, Feed, Genetically Modified Organism (GMOs) and Living Modified Organisms (LMOs) will be subject to the following conditions :
- (i) The import of GMOs / LMOs for the purpose of (i) R & D; (ii) food; (iii) feed; (iv) processing in bulk; and (v) for environment release will be governed by the provisions of the Environment Protection Act, 1986 and Rules 1989.
 - (ii) The import of any food, feed, raw or processed or any ingredient of food, food additives or any food product that contains GM material and is being used either for industrial production, environmental release, or field application will be allowed only with the approval of the Genetic Engineering Approval Committee (GEAC).
 - (iii) Institutes / Companies who wish to import Genetically Modified material for R&D purposes will submit their proposal to the Review Committee for Genetic Modification (RCGM) under the Department of Bio-Technology. In case the Companies / Institutes use this Genetically Modified material for commercial purposes approval of GEAC is also required.
 - (iv) At the time of import all consignments containing products which have been subjected to Genetic Modification will carry a declaration stating that the product is Genetically Modified. In case a consignment does not carry such a declaration and is later found to contain Genetically Modified material, the importer is liable to penal action under the Foreign Trade (Development and Regulation) Act, 1992.

10.6 As per Chapter 1A of General Notes regarding Import Policy (ITC (HS) Classification of Export and Import Items, Schedule I, import of textile and textile articles is permitted subject to the condition that they shall not contain any of the hazardous dyes whose handling, production, carriage or use is prohibited by the Government of India under the provisions of Section 6(d)(2) of the Environment (Protection) Act, 1986 read with the relevant rule(s) framed thereunder. For this purpose, the import consignments shall be accompanied by a pre-shipment certificate from a textile testing laboratory accredited to the National Accreditation Agency of the Country of Origin. In cases where such certificates are not available, the consignment will be cleared after getting a sample of the imported consignment tested and certified from any of the agencies indicated in Public Notice No. 12 (RE-2001)/1997-2002, dated 3-5-2001. The sampling will be based on the following parameters:

- (i) At least 25% of samples are drawn for testing.
- (ii) While drawing the samples, Customs will ensure that majority samples are drawn from consignments originating from countries where there is no legal prohibition on the use of harmful hazardous dyes.
- (iii) The test report will be valid for a period of 6 months in cases where the textile/ textile articles of the same specification/quality are imported and the importer, supplier and the country of origin are the same.

11. Clearance of imported metal scrap:

11.1 In terms of the relevant provisions of the Foreign Trade Policy, the following procedure is prescribed for clearance of imported metal scrap.

- (i) Import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste / scrap containing radioactive material, any type of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise.
- (ii) Import of metallic waste and scrap of certain categories, listed in para 2.32.2 of Handbook of Procedures (Vol. I), in shredded form shall be permitted through all ports of India subject to the conditions that importer shall furnish the following documents to the Customs at the time of clearance of goods:
 - (a) Pre-shipment inspection certificate as per the format in Annexure I to Appendix 5 from any of the Inspection & Certification agencies given in Appendix-5 to the effect that the consignment does not contain radioactive contaminated material in any form; and II) Copy of the contract between the importer and the exporter stipulating that the consignment does not contain any radioactive contaminated material in any form.
 - (b) Copy of the contract between the importer and the exporter stipulating that

the consignment does not contain any radioactive contaminated material in any form.

- (iii) Import of metallic waste, scrap, listed in para 2.32.2 of Handbook of Procedures (Vol. I), in unshredded compressed and loose form shall be subject to the conditions that the importer shall furnish the following documents to the Customs at the time of clearance of goods:
- (I) Pre-shipment inspection certificate as per the format in Annexure-I to Appendix 5 from any Inspection & Certification agencies given in Appendix-5 to the effect that:
- (a) The consignment does not contain any type of arms, ammunition, mines, shells, cartridges, radioactive contaminated or any other explosive material in any form either used or otherwise.
- (b) The imported item(s) is actually a metallic waste/ scrap/ seconds/ defective as per the internationally accepted parameters for such a classification.
- (II) Copy of the contract between the importer and the exporter stipulating that the consignment does not contain any type of arms, ammunition, mines, shells, cartridges, radioactive contaminated, or any other explosive material in any form either used or otherwise.
- (III) Import of scrap would take place only through following designated ports and no exceptions would be allowed even in case of EOUs, SEZs:

S.No.	Ports	S.No.	Port/ICDs
1.	Chennai	14.	Vishakaptnam
2.	Cochin	15.	Ahmedabad ICD
3.	Ennore	16.	Dadri (Greater Noida) ICD
4.	JNPT	17.	Jaipur ICD
5.	Kandla	18.	Jodhpur ICD
6.	Kolkata	19.	Kanpur ICD
7.	Mormogua	20.	Loni. Ghaziabad
8.	New Mangalore	21.	Ludhiana ICD
9.	Mumbai	22.	Malanpur ICD
10.	Mundra	23.	Mulund ICD
11.	Paradip	24.	Nagpur ICD
12.	Pipava	25.	Pitampur ICD
13.	Tuticoron	26.	Udaipur ICD

- (iv) Import of other kinds of metallic waste and scrap will be allowed in terms of conditions of ITC (HS). Further, import from Hodaideh, Yemen and Bandar Abbas, Iran will be in shredded form only.
- (viii) In respect of metal scrap in unshredded, compressed or loose form accompanied by a pre-shipment inspection certificate, examination will be 25% of the containers in respect of manufacturer-importers and 50% in respect of traders, for each import consignment, subject to examination of a minimum of one container. The container selected will be examined 100%. Where EDI is operational with Risk Management Module (RMM), the percentage of examination will be determined by the RMM.
- (vi) Imported metal scrap in unshredded, compressed or loose form not accompanied by the prescribed pre-shipment inspection certificate will be subject to 100% examination apart from stringent penal action for violation of provisions of the FTP. The examination may be done in the presence of police authorities, if considered necessary by the Commissioner, at the risk and cost of the importer.
- (ix) For scrap imported in shredded form examination may be limited to 10% of the consignment subject to examination of minimum one container. The container so identified should be examined 100%.
- (x) In respect of metal scrap consignments meant for EOUs and SEZ units the existing procedure is relevant subject to 100% examination at the premises of the EOU or the SEZ unit, in the presence of police authorities, if considered necessary by the proper officer.
- (ix) It will also be the responsibility of the shipping line to ensure that every consignment of metal scrap in unshredded, compressed or loose form is accompanied by such a pre-shipment inspection certificate before it is loaded on the ship. Failure to observe this precaution would invite penal action for abetment regarding irregular import of metal scrap.

[Refer Circulars No. 43/2001-Cus., dated 6-8-2001; No.58/2001-Cus., dated 25-10-2001; No.21/2003-Cus., dated 28-3-2003; No.23/2004-Cus., 15-3-2004; No.39/2004-Cus., dated 3-6-2004; No.60/2004-Cus., dated 26-10-2004; No.2/2005-Cus., dated 12-1-2005; No.10/2005-Cus., dated 22-2-2005; No.24/2005-Cus., dated 24-5-2005; No.32/2005-Cus., dated 28-7-2005; No.40/2005-Cus., dated 3-10-2005; No.48/2005-Cus., dated 28-11-2005; No.28/2006-Cus., dated 6-11-2006; No.13/2007-Cus., dated 2-3-2007; No.2/2010-Cus., dated 9-2-2010; and No.8/2010-Cus., dated 26-3-2010; and Instructions F.No.450/80/2000-Cus.IV, dated 24-7-2000; F.No.450/132/2004-Cus.IV, dated 4-1-2005; F.No.450/122/2005-Cus-IV, dated 13-10-2005; F.No.450/08/2007-Cus.IV, dated 22-1-2007; and F.No.450/19/2005-Cus.IV, dated 2-4-2009]

12. International Standards for Phytosanitary Measures (ISPM-15):

- 12.1 International Standards for Phytosanitary Measures (ISPM) are prescribed as per IPPC convention of FAO to reduce the risk of introduction / or spread of quarantine pest associated with wood packaging material (including dunnage) made of coniferous and non coniferous raw wood, in use in international trade.
- 12.2 DGFT, vide Notification No 54/2009-2014 dated 3-8-2010 has made it mandatory that export of goods including plant and plant products using wood packaging materials such as pallet, dunnage, crating, packing blocks, drums, cases load boards, pellet collars shall be allowed subject to compliance of ISPM-15.
- 12.3 On export side, a large number of consignments are intercepted abroad for non-compliance of ISPM-15 Standards relating to wood packaging materials used for export of materials, as informed by Department of Agriculture and Cooperation. Thus, the Board has decided that export / imported consignment with wood packaging material are to be inspected by Customs and if any export / imported consignment is found without ISPM-15 mark or with doubtful marking, it should be reported to Plant Quarantine Officer / authorities for taking necessary action. It is also clarified that exporters should specifically indicate in the Shipping Bill, the description of packaging material so as to ensure whether any consignment with wooden packaging material warrants mandatory compliance with ISPM-15 standards or not.
- 12.4 Department of Agriculture and Cooperation has informed that all the agencies authorized to provide ISPM Certification on wood packaging material have been duly accredited by Directorate of Plant Protection, Quarantine & Storage. These agencies issue ISPM-15 certification after providing treatment with Methyl Bromide or Forced Hot Air as per prescribed norms. The list of these accredited agencies is available at www.plantquarantineindia.org.

[Refer Circular No.13/2011-Cus., dated 28-2-2011]