

## FOREWARD

It is with great pleasure and a profound sense of responsibility that I present the revised Indirect Tax Manual 2025. This comprehensive document represents a significant milestone in the evolution of our Customs administration, reflecting our commitment to modernizing and streamlining the indirect tax system in Bhutan.

Since the inception of the Indirect Tax Manual in 2006, Bhutan has witnessed considerable economic growth and structural changes, necessitating a revision of our customs policies and administrative procedures. The Indirect Tax Manual 2025 is the culmination of extensive research, stakeholder consultations, and the dedicated efforts of the Customs and Excise Division. It embodies our collective aspiration to create a more efficient, transparent, and taxpayer-friendly indirect tax system.

Key highlights of the Indirect Tax Manual 2025 include:

- 1. Legislative Updates:** Incorporating the latest amendments to relevant acts and regulations, ensuring that all information is current and accurate. This alignment with contemporary legislative frameworks fosters compliance and transparency.
- 2. Procedural Clarity:** Providing detailed guidelines and step-by-step procedures designed to streamline customs administration and enhance taxpayer compliance. These instructions aim to reduce ambiguity and facilitate a smoother customs process.
- 3. Capacity Building:** Emphasizing continuous learning and capacity building through training programs and insights into international best practices. This focus ensures that our workforce remains skilled and responsive to the evolving demands of the tax landscape.

In this rapidly changing global economic environment, the importance of an adaptable and resilient customs administration cannot be overstated. The Indirect Tax Manual 2025 positions us to better respond to future challenges and opportunities, fostering a conducive environment for business and investment, and ultimately contributing to the socio-economic development of Bhutan.

Let this revised manual serve as a beacon of our unwavering dedication to excellence in public service and our relentless pursuit of a prosperous Bhutan.



**(Sonam Jamtsho)**  
**Director General**

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## **CHAPTER 1**

### **Objectives, Purpose, Criteria, Scope and Applicability of the Manual including Vision, Mission, Values, Goals, and Strategies of the Customs and Excise Division**

#### **1. Objective of the Manual**

The primary objective of this manual is to provide a comprehensive guide that outlines the customs procedures and regulations, processes, and best practices. It aims to facilitate efficient and compliant trade practices while upholding the sovereignty, security, and economic interests of Bhutan.

Additionally, the objective is to provide a ready reference to the Customs and Excise officials, so that they can discharge their functions in accordance with the latest legal provisions and prescribed procedures. Further, this manual will also provide detailed information on customs clearance processes, tariff classification, valuation of goods, customs documentation requirements, and customs control measures. Furthermore, this manual also serves as a vital resource for traders, stakeholders, and anyone involved in import, export, and transit activities.

Additionally, this manual outlines the roles and responsibilities of Customs and Excise Division, Units, Customs and Excise Section and also the Customs officials and other relevant parties involved in cross-border transactions. This manual is a living document that will evolve with changes in trade practices, technological advancements, and regulatory updates.

The Customs and Excise Manual 2025 will be extremely useful in bringing about a correct application of Customs and Excise laws and procedures. It will serve as a useful guide for updating knowledge of current procedures and practices and thereby make compliance more effective.

#### **2. Purpose of the manual**

##### **2.1 Standardization of Procedures**

**2.1.1** The Customs and Excise Manual ensures that Customs and Excise procedures are standardized and uniformly applied across different ports of entry and exit. This consistency helps in promoting transparency, predictability, and efficiency in customs operations.

##### **2.2 Capacity Building and Training**

**2.2.1** The development of a comprehensive Customs and Excise Manual supports capacity building initiatives within the Customs and Excise Division. It serves as a foundational document for training Customs and Excise officials, ensuring that they possess the necessary knowledge and skills to discharge their duties and responsibilities more effectively and efficiently.

## **2.3 Adaptation to Regulatory Changes**

**2.3.1** The Customs and Excise Manual can be updated periodically to reflect changes in Customs and Excise regulations, international trade agreements, technological advancements, and best practices. This adaptability ensures that Customs and Excise procedures remain relevant and aligned with evolving trade dynamics.

## **2.4 Promotion of Trade Facilitation**

**2.4.1** Ultimately, the purpose of the Customs and Excise Manual is to promote trade facilitation by providing clarity, consistency, and efficiency in Customs and Excise processes. A well-developed manual contributes to reducing trade barriers, improving the business environment, and fostering economic growth through increased international trade activities.

## **2.5 Guidance and Clarity**

**2.5.1** It provides comprehensive guidance to Customs and Excise officials, traders, and stakeholders involved in import, export and transit activities within the Kingdom of Bhutan. By explaining Customs and Excise regulations, processes, and best practices, it ensures clarity and consistency in Customs operations.

## **2.6 Background Materials.**

**2.6.1** To serve as background study materials for new officials/trainees.

## **3. Criteria for Formulation of Manual**

### **3.1 Legal Framework**

**3.1.1** This manual is being developed in accordance with the Customs Act of Bhutan 2017, Customs Rules and Regulations of Bhutan: Revised Edition 2023 and Sales Tax, Customs and Excise Act of the Kingdom of Bhutan 2000.

### **3.2 Clear Guidelines**

**3.2.1** To provide clear guidelines to the field officials involved in administration and collection of taxes and duties at the port of entry i.e. Customs Stations, Customs Area, Airports, and Post Offices.

### **3.3 Clarification on the Act and Rules**

**3.3.1** To provide clarifications on the Act and Rules wherever necessary in order to resolve many of the problems and confusion faced by the Customs and Excise officials in implementing the Act and Rules.

### **3.4 Transparency and Accountability**

**3.4.1** To enforce accountability and also to provide transparency on the activities of the Customs and Excise officials.

## **4. Scope and Applicability of the Manual**

### **Scope**

#### **4.1 Legal Reference**

**4.1.1** The manual outlines the legal framework for Customs and Excise operations, including relevant laws, regulations, and international agreements. It serves as a reference point for Customs and Excise officials and stakeholders to understand their rights, duties and responsibilities.

#### **4.2. Procedural Guidance**

**4.2.1** The manual details the procedures and processes involved in Customs and Excise operations, including import, export, transit, and Excise clearance. It covers the steps to be followed by Customs and Excise officials and traders during various stages of Customs and Excise clearance.

#### **4.3 Trade Facilitation**

**4.3.1** It emphasizes measures and initiatives to facilitate legitimate trade, simplify customs procedures, reduce trade barriers, and enhance the efficiency of customs operations.

#### **4.4 Enforcement and Penalties**

**4.4.1** The manual outlines enforcement actions against Customs and Excise violations, including penalties, fines, seizures, and prosecution procedures.



## **5. Applicability**

### **5.1 Customs and Excise Officials**

**5.1.1** The manual is primarily intended for use by Customs and Excise officials responsible for implementing Customs and Excise procedures at port of entry and exit throughout Bhutan.

### **5.2 Traders and Importers/Exporters**

**5.2.1** The manual is also relevant to traders, importers, exporters, and other stakeholders engaged in international trade activities. It serves as a reference guide for understanding Customs requirements and procedures to ensure compliance and to facilitate the trade efficiently and effectively across the borders.

### **5.3 Other Government Agencies**

**5.3.1** The manual may be applicable to other government agencies involved in customs-related activities, such as ministries responsible for trade, finance, agriculture, health, and environment. It helps coordinate inter-agency collaboration on customs matters.

### **5.4 Training and Capacity Building:**

**5.4.1** The manual serves as a valuable resource for training and capacity building initiatives aimed at enhancing the knowledge and skills of Customs and Excise officials and stakeholders involved in Customs operations.

## **6. Amendment and review procedures of the manual**

**6.1.1** The contents of the Manual reflect the existing provisions of the Act and Rules. Amendment and review of the Manual will be required under the following circumstances:

- Where feedback received from the users of the Manual, which require further clarification, instructions, modifications in the Manual for general information and guidance to users of the Manual.
- Amendment of the Act and Rules.
- Issue of any relevant circulars or notifications.

**6.1.2** Every year a review shall be made to update changes in the policies, guidelines and in the provisions of the Act and Rules and any other law.

## CHAPTER 2

### 2.1 Authority, Structure, Functions, and Complaints

#### Introduction

The Customs and Excise division is one of the five divisions under the Department of Revenue and Customs and it is responsible for overall administration of indirect taxes which includes collection of taxes on traded goods and facilitation of international trade. The Customs and Excise division is headed by the Collector which comprises of five units namely Tariff and Technical Unit, Compliance and Enforcement Unit, Procedures, Facilitation and Legal Affairs Unit, Capacity Building and International Affairs, and Excise Unit. The following are our vision, mission, values, goals, and strategies.

#### 2.2 Our Vision

*A respected and responsible Customs and Excise services contributing towards Nation Building*

**Respected** in the vision means **Professionalism** (i.e. Customs and Excise services is known for their expertise, efficiency, and high standards of conduct), **Integrity** (i.e. building a reputation for honesty, transparency, and ethical behavior in all operations), **Public Trust** (i.e. gaining the trust and confidence of the public, businesses, and international partners through consistent and fair practices).

**Responsible** in the vision means **Accountability** (i.e. ensuring that all actions and decisions are accountable to the laws and regulations of the country and meet the highest standards of duty), **Service Orientation** (i.e. providing excellent service to stakeholders, including importers, exporters, travelers, and other government agencies), and **Compliance and Enforcement** (effectively enforcing customs laws while facilitating legitimate trade and travel, ensuring a balance between control and facilitation).

#### 2.3 Our Mission

*Efficient collection and protection of Customs and Excise Duty, Sales Tax and other related taxes, and facilitation of legitimate trade and commerce.*

#### 2.4 Our Values

- *A well performing and ethical Customs officers acting with civility and impartiality to all its clients.*
- *Assess our action and take responsibility for those actions*
- *Believe in our vision, proud of our profession services and exert extra effort*

## **2.5 Our Goals**

*To promote honest and transparent environment, ensure efficient assessment and collection of duties and taxes and facilitate legitimate trade and commerce.*

## **2.6 Our Strategies**

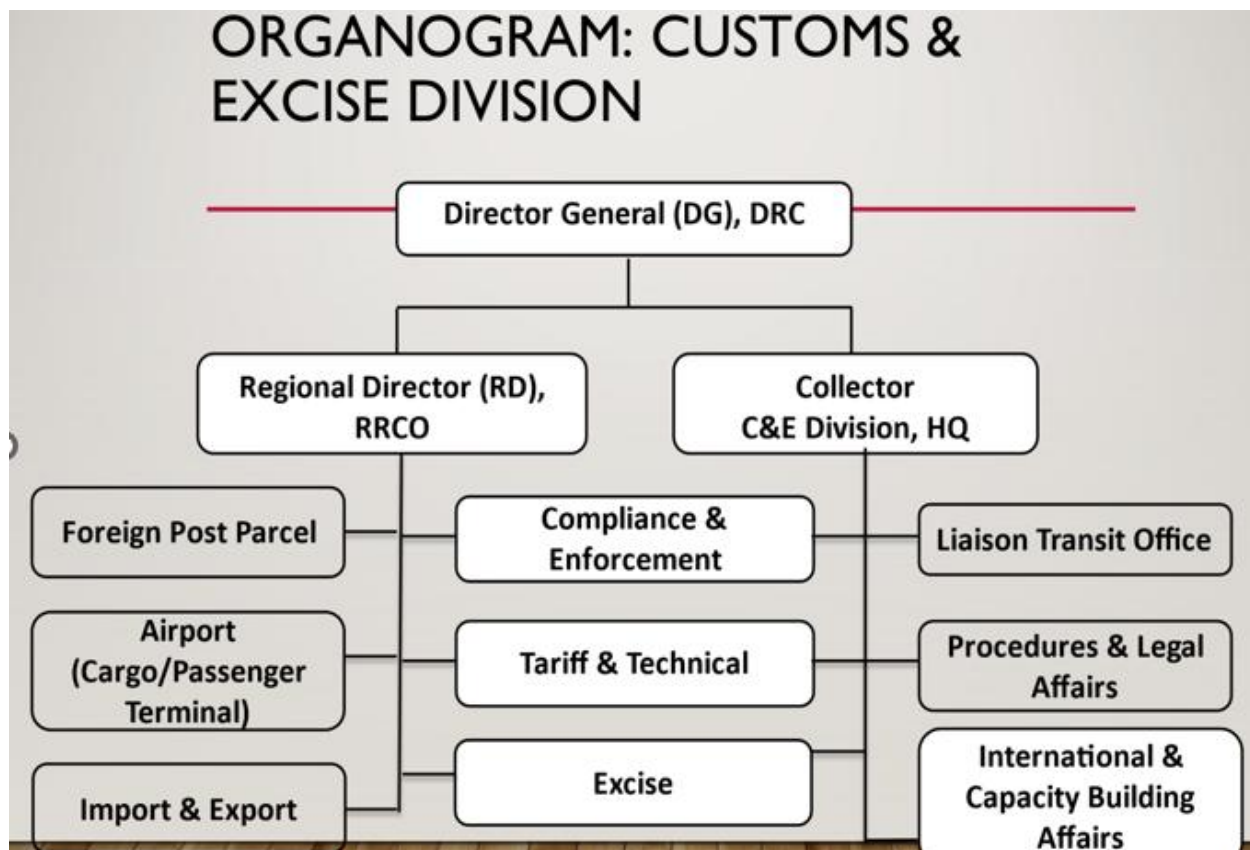
- *To simplify and streamline the Customs procedures.*
- *To provide efficient services to the importers, exporters and taxpayers.*
- *To facilitate speedy and smooth customs clearance by applying risk management.*
- *To create public awareness and encourage tax compliance.*
- *To levy correct amount of tax and duties.*
- *To implement law, rules and regulations in a uniform manner.*
- *To prevent import and export of restricted and prohibited goods.*
- *To become the nation's supplier of international trade information and provide reliable, timely and comprehensive import/export statistics and other information related to trade and travel.*

## **2.7 Administrative Structure of Customs and Excise Division**

**2.7.1** The Customs and Excise division is headed by the Collector which comprises of five units namely Tariff and Technical Unit, Compliance and Enforcement Unit, Procedures, Facilitation and Legal Affairs Unit, Capacity Building and International Affairs, and Excise Unit. Additionally, there are eight Regional Revenue and Customs Office and one Transit and Liaison Office, Kolkata, India and under each RRCO's there are various Customs Stations/Check Post and Units. The Customs and Excise Section at the Regional Revenue and Customs Office is headed by Regional Director and all the units and Customs stations are under direct supervision of Head of Customs and Excise Section

## 2.8 Organization Chart

An organization chart of the Customs and Excise Division.



## 2.9 Functions and Responsibilities Customs and Excise Division (Head Office).

### 1. Policy Formulation and Implementation:

**1.1 Developing Policies:** Formulating policies related to Customs and Excise matters.

**1.2 Implementing Policies:** Ensuring effective implementation of Customs and Excise policies across all the regional offices.

### 2. Strategic Planning and Coordination:

**2.1 Strategic Planning:** Developing strategic plans to guide the operations and development of the Customs and Excise functions. Further, develop strategic plan in line with the department's goals and objectives

**2.2 Coordination:** Coordinating with regional offices, other government agencies, and international bodies to ensure cohesive operations.

### **3. Regulatory Framework Management:**

**3.1 Legislation and Regulations:** Drafting and updating Customs and Excise legislation, regulations, and guidelines.

**3.2 Compliance Monitoring:** Ensuring compliance with national laws and international agreements.

### **4. Revenue Collection Oversight:**

**4.1 Monitoring Revenue Collection:** Overseeing the collection of customs duties, excise duties, and other related taxes.

**4.2 Revenue Assurance:** Implementing measures to prevent revenue leakage and fraud.

### **5. Customs Valuation and Classification:**

**5.1 Valuation Standards:** Setting and maintaining standards for the valuation of goods for Customs purposes. Timely update of valuation profiles in coordination with the regional office

**5.2 Tariff Classification:** Ensuring accurate classification of goods under the Bhutan Trade Classification (BTC) system.

### **6. Trade Facilitation and Simplification:**

**6.1 Procedure Simplification:** Simplifying Customs procedures to facilitate trade and reduce administrative burdens.

**6.2 Automation:** Promoting the use of automated systems for customs clearance and management.

### **7. Risk Management and Enforcement:**

**7.1 Risk Assessment:** Developing and implementing risk management strategies to identify and mitigate risks in Customs and Excise operations. Timely update of risk profiles in coordination with the regional office

**7.2 Enforcement Actions:** Planning and executing enforcement actions to combat smuggling, fraud, and other illegal activities.

### **8. Training and Capacity Building:**

**8.1 Staff Training:** Providing training programs for Customs and Excise officials to enhance their skills and knowledge.

**8.2 Capacity Building:** Developing capacity-building initiatives to improve the overall efficiency and effectiveness of the division.

## **9. International Cooperation and Compliance:**

**9.1 International Agreements:** Ensuring compliance with international trade agreements and conventions.

**9.2 Collaboration:** Collaborating with WCO, Regional Intelligence Liaison Office, Regional Office for Capacity Building Asia Pacific, counterpart Customs, and other international agencies to improve Customs operations and enforcement.

## **10. Public Relations and Communication:**

**10.1 Stakeholder Engagement:** Engaging with stakeholders, including businesses and the public, to provide information and gather feedback.

**10.2 Public Awareness:** Conducting public awareness campaigns on Customs and Excise regulations and compliance requirements.

## **11. IT and Systems Management:**

**11.1 System Development:** Overseeing the development and maintenance of IT systems for customs and excise operations.

**11.2 Technical Support:** Providing technical support to ensure the smooth functioning of customs and excise systems.

## **12. Advisory Role:**

**12.1 Government Advisory:** To advise the Ministry on all policy matters relating to Customs and Excise and prepare policy documents and legislation. Apart from the roles and responsibilities of Customs and Excise Division, there are specific roles and responsibilities under each unit in the Head Office. The following are the roles and responsibilities of each unit.

## **2.10 Functions of Tariff and Technical Unit**

### **2.10.1 Tariff Classification and Management:**

- Updating the customs tariff schedule.
- Ensuring accurate classification of goods according to the Harmonized System (HS) code.
- Providing guidance and clarification on tariff-related matters to customs officials and traders.
- Compile, Verify and Publish Bhutan Trade Statistics quarterly

### **2.10.2 Valuation:**

- Ensuring correct valuation of imported goods for customs duty and tax purposes.
- Implementing and monitoring valuation methods in accordance with Customs law and international standards.

### **2.10.3 Policy Formulation and Implementation:**

- Participating in the formulation and implementation of policies related to customs tariffs and technical matters.
- Analyzing the impact of tariff changes on the economy and trade.
- Analysis of trade data and engagement in policy recommendation.

### **2.10.4 Data Analysis:**

- Collecting and analyzing data on tariff rates, trade volumes, and revenue collection.
- Using data to improve tariff policies and decision-making processes.

### **2.10.5 Coordination and Collaboration:**

- Collaborating with other government agencies, international organizations, and the private sector on tariff and technical matters.
- Participate in trade negotiations. Sharing of trade data with the relevant agencies.

## **2.11 Functions of Compliance and Enforcement Unit**

### **2.11.1 Compliance Monitoring:**

- Monitoring and ensuring compliance with customs laws, regulations, and procedures.
- Coordinate Post Clearance Audit with Regional Offices.
- Identifying and addressing non-compliance issues among traders and customs officials.

### **2.11.2 Enforcement Actions:**

- Taking enforcement actions against violations of customs laws, such as smuggling, fraud, and misdeclaration of goods.
- Investigating and prosecuting customs-related offenses.
- Implementing penalties and sanctions for non-compliance.

### **2.11.3 Risk Management:**

- Developing and implementing risk management strategies to identify and mitigate potential risks in customs operations.
- Utilizing risk assessment tools and techniques to target high-risk shipments for inspection and examination and share the information to the field officials.

### **2.11.4 Intelligence Gathering and Analysis:**

- Collecting and analyzing intelligence related to customs fraud, smuggling, and other illegal activities.
- Sharing intelligence with other law enforcement agencies and international organizations to combat transnational crimes.

### **2.11.5 Collaboration and Coordination:**

- Collaborating with other government agencies, law enforcement bodies, and international organizations on compliance and enforcement matters.
- Participating in joint operations and initiatives to enhance border security and combat customs-related crimes.
- Coordinate information and Intelligence sharing with Regional Offices and other relevant agencies
- Serves as National Contact Point for RILO A/P and WCO with regard to enforcement functions



## **2.12 Functions of Procedures, Facilitation and Legal Affairs Unit**

### **2.12.1 Development and Implementation of Procedures:**

- Formulate, review, and update customs procedures and policies in line with international standards and national requirements. Amendments of Customs Laws, Rules and Regulations, SOPs and guidelines
- Ensure correct interpretation as well as uniform implementation of Customs Laws
- Ensure the effective implementation of customs procedures across all customs stations.
- Develop and implement strategies to streamline customs processes and procedures to expedite the clearance of goods.

### **2.12.2 Standardization and Simplification:**

- Standardize customs procedures to ensure consistency and efficiency.
- Simplify processes to facilitate trade and reduce compliance costs for businesses.

### **2.12.3 Monitoring and Evaluation:**

- Monitor the implementation of customs procedures to ensure compliance and identify areas for improvement.
- Evaluate the effectiveness of existing procedures and recommend changes where necessary.

### **2.12.4 Coordination and Liaison:**

- Correspond with external agencies with regard to Customs Legislations and procedures
- Liaise with external stakeholders, including traders, government agencies, and international organizations, to gather feedback and improve customs procedures.

### **2.12.5 Policy Advisory:**

- Participate in policy formulation and strategic planning to align customs procedures with national and international trade policies.

### **2.12.6 Facilitation of Trade and Compliance:**

- Implement measures to facilitate legitimate trade while ensuring compliance with customs laws and regulations.
- Work towards reducing procedural bottlenecks and enhancing the ease of doing business.
- Promote the use of modern technology and automation in customs operations to reduce processing times and enhance efficiency.

#### **2.12.7 Use of Technology and Innovation:**

- Promote the adoption of information and communication technology (ICT) in customs processes, such as electronic filing and processing of customs declarations.
- Explore and implement innovative solutions to enhance the efficiency and transparency of customs operations.

#### **2.12.8 Legal Advice and Support:**

- Provide legal advice to the Customs and Excise Division on various matters, including interpretation and application of customs laws, regulations, and policies.
- Assist in the drafting and review of legal documents, agreements, and contracts related to customs operations.

#### **2.12.9 Legislative Development:**

- Draft, review, and amend customs legislation and regulations to ensure they are up-to-date and aligned with international standards.
- Collaborate with other government agencies and stakeholders in the legislative process to ensure comprehensive and effective customs laws.

#### **2.12.10 Policy Formulation and Advisory:**

- Advise on the legal implications of policy decisions and strategic initiatives within the Customs and Excise Division.
- Participate in policy formulation processes to ensure that legal considerations are integrated into customs policies and procedures.

#### **2.12.11 Dispute Resolution:**

- Manage legal disputes, represent the division in legal proceedings, and handle enforcement of customs laws.
- Review and Process Appeal cases and also follow up on delinquent cases

## **2.13 Functions of Capacity Building and International Affairs**

### **2.13.1 Training and Development:**

- Design, develop, and implement training programs, workshops, and seminars to enhance the skills and knowledge of customs officials.
- Coordinate capacity building activities in collaboration with WCO and other member Customs Administration
- Assess training needs for customs officers and Inspectors.

### **2.13.2 Policy and Strategy Development:**

- Develop and implement policies and strategies related to capacity building within the division.
- Ensure training programs and capacity-building activities align with the overall strategic goals of the Customs and Excise Division

### **2.13.3 International Cooperation:**

- Establish and maintain relationships with international customs organizations, agencies, and counterparts.
- Liaise with WCO, Vice Chair Office, WCO and ROCB A/P and RILO A/P.
- Manage Bilateral and Multilateral Agreements.

### **2.13.4 Resource Mobilization:**

- Identify and secure funding and resources for capacity-building activities.
- Collaborate with donor agencies and international organizations for technical and **financial support.**

### **2.13.5 Awareness and Outreach:**

- Promote awareness of capacity-building opportunities within the division.
- Engage with stakeholders to understand their training needs and address them effectively.
- Organize outreach programs to highlight the importance of continuous professional development in customs operations.

## **2.14 Functions of Excise Unit**

### **2.14.1 Policy Formulation and Implementation:**

- Develop and implement policies, regulations, and procedures related to excise duties.
- Ensure compliance with national excise laws and international best practices.

### **2.14.2 Monitor Excise Duty Collection:**

- Monitor and ensure accurate reporting and payment of excise duties by businesses and individuals.

### **2.14.3 Brand Registration:**

- Approve brand registration of the alcohol products and also manage the registration process for businesses involved in the production, import, and distribution of excisable goods.
- Maintain a database of all licensed entities and ensure their compliance with excise regulations.

### **2.14.4 Inspection and Audits:**

- Coordinate with the Regional offices to carry out quarterly audit and regular inspections if required on manufacturers, importers, and distributors of excisable goods to ensure compliance with excise laws.
- Investigate and address any discrepancies, fraud, or evasion of excise duties.

### **2.14.5 Data Management and Analysis:**

- Collect, manage, and analyze data related to excise duties and excisable goods.
- Prepare reports and provide insights to support decision-making and policy formulation.

### **2.14.6 Reporting and Documentation:**

- Coordinate with Regional offices to maintain accurate records of excise duty assessments, collections, inspections, and audits.
- Coordinate with the Regional offices to prepare and submit reports to senior management and relevant authorities.

*Additionally, under Regional and Revenue and Customs Office, the Head of Customs and Excise Section is the Section head and under the Section, there are other units. The following are the roles and responsibilities of the Head of Customs and Excise Section and other units.*

## **2.15 Functions and Responsibilities of Customs and Excise Section**

### **2.15.1 Roles and responsibilities of Head of Customs & Excise**

- Advise the Head Office on all policy matters related to Customs and Excise.
- Effect clearance of passengers, baggage and goods for import, export, transit, transshipment and warehousing.
- Monitor the national revenue (i.e. collection of Customs duty, Sales tax, fees and charges) within their jurisdiction.
- Conduct post clearance audit, verification and other vigilance work connected with Customs and Excise matters in coordination with the head office.
- Ensure proper implementation of the Customs and Excise Act and Rules, guidelines, SOP etc.
- Interpretation and implementation of the Customs Rules and Act and other notifications.
- Liaise with the counterparts to facilitate the trade at the border.
- Conduct outreach programs to the traders within their jurisdiction as when required on the changes of the rules and procedures.
- Develop annual work plan and Annual Performance Agreement (APA) for the particular financial year for the Section.
- Conduct period review of the Section APA.
- Monitoring of the Revenue and Customs Check Post and Units under the Section.
- Conduct coordination meetings with respective Check Post, Units, and with stakeholders as and when required
- Attend Regional Tax Appeal Meeting and Dispute Settlement Committee meeting.
- Participate in monthly coordination meeting to submit the Section progress and discuss the issues and way forward for the activities.
- Coordinate and report Customs matters to Regional Director and Customs and Excise Division, DRC, HQ.
- Fortnightly reviewing the revenue collection for the Section.
- Plan Human resource and personnel management of Customs and Excise Section.
- Monitoring the revenue performance of respective Check Post.
- Plan annual budget for the section.
- Coordinate with the head office for timely update of the risk and valuation profile
- Monitor the activities of authorized customs clearing agents;
  
- Verify CFA application and recommend for approval to the Customs and Excise Division, DRC;

- Verify CFA registration renewal and recommend for renewal to the Customs and Excise Division DRC;
- Allocate customs officials under different Units and assign roles to the Officer In-charge under e-CMS to assign roles to each official on the duty
- Vacation period configuration (for officials taking leave) in the system (e-CMS)
- Verify application of Authorized Compliant Trader and recommend for approval to the Regional Director (to be reviewed in system).
- Review and verify appeal application in the system;
- Approve declarants (Traders/CFAs) in the system.
- To carry out any other responsibilities that may be delegated by the Regional Director and Head Office.

## **2.16 Functions of Capacity Building and Development Unit**

### **2.16.1 Roles and responsibilities of Unit Head**

- Coordinate internally and with other stakeholders with regard to program on training, seminars, meetings and mutual assistance.
- Planning and progression of Customs and Excise Section.
- Coordinate any trainings and awareness workshops to be carried out in the regional office in consultation with Customs and Excise Division, DRC, HQ.
- Propose specific refresher courses for the section.
- Design training materials for the section.
- Conduct assessments of Customs and Excise to identify skill gaps and training needs and propose trainings to Customs and Excise Division, DRC, HQ.
- Monitoring and evaluating the effectiveness of training programs and capacity building initiatives.
- Developing new strategies and solutions to address operational challenges and improve customs services at the regional office.
- To carry out any other responsibilities that may be delegated by the Regional Director, Head of Customs and Head Office.

## **2.17 Functions of Compliance and Enforcement Unit**

### **2.17.1 Roles and responsibilities of Unit Head**

- Program enforcement against illegitimate trade activities.
- Submission of monthly seizure and confiscation report.
- Profile high risk traders and commodities.
- Assist and coordinate with other law enforcement agencies.
- Carry out physical examination of the goods.
- Carry out surprise inspections at Customs check post.
- Studying the modus-operandi of evasion of duties and taxes and to alert the Customs and Excise Section.
- Verification of intelligence provided by open-source informers and carry out the preventive works.
- Collecting, analyzing, and disseminating intelligence related to customs enforcement
- Ensure proper check and balance mechanism to combat corruption and other undesirable practices by traders as well as officials.
- Ensure all import, export and transit are recorded in the system.
- Ensure all the traders complete required Customs formalities.
- Monitoring the trade activities and identifying the risk areas (i.e., potential loss of revenue).
- To control and prevent trade in restricted and prohibited goods.
- Carry out public auction of the goods seized and confiscated in consultation with the Regional Director and DRC, HQ.
- Ensure and inform the traders about requirements of permits for import and export of restricted items from the relevant agency.
- Monitoring and ensuring that individuals and businesses comply with customs laws, regulations, and policies.
- Conducting audits and inspections of importers, exporters, and customs brokers to verify compliance.
- Implementing risk management strategies to mitigate potential threats and vulnerabilities.
- Gathering and analyzing evidence to support enforcement actions.
- Maintaining detailed records of enforcement activities, investigations, and compliance audits.
- Initiate the offences in the system with regard to Customs and Administrative offense.
- Gather information from informants and disseminate the same for implementation to the field officials for results.
- To maintain confidentiality of the informant.
- To auction off or to surrender any confiscated goods to the relevant authorities. Drawing the monthly work plan for the unit.
  
- To carry out any other responsibilities that may be delegated by the Regional Director, Head of Customs and Head Office.

## **2.18 Functions of Tariff and Technical Unit**

### **2.18.1 Roles and responsibilities of Unit Head**

- Daily verification of the trade data.
- Accurately classifying goods under the Harmonized System (HS) to determine the appropriate tariff rates.
- Assessing the value of imported and exported goods for duty calculation purposes, ensuring compliance with international valuation standards.
- Offering technical assistance and support on complex tariff classification and valuation issues.
- Advising customs officials, importers, and exporters on technical aspects of customs procedures and regulations.
- Reviewing and processing customs documentation to ensure accuracy and compliance with tariff regulations.
- Analyzing data related to tariffs, trade volumes, and revenue collection to identify trends and areas for improvement.
- Preparing reports and statistics on tariff application and revenue performance and submit the reports to the Regional Director, Head of Customs and DRC, HQ
- Assisting in the resolution of disputes related to tariff classification and valuation in coordination with the Classification and Valuation Committee & DRC, HQ
- Identifying and implementing improvements in the tariff classification and valuation processes.
- Review, compile and submit any information or reports required by the DRC, Regional Director and Head of Customs.
- The head of the unit shall be the member secretary of classification and Valuation committee at RRCO.
- Verify and process Refund Claimed.
- Coordinate with Head Office for timely update of valuation and risk profile
- Verification and recommendation of the refund and refund exemption.
- Verification and recommendation of the Customs Duty exemption.
- Verification and Issuance of Import Duty Exemption Certificate
- To carry out any other responsibilities that may be delegated by the Regional Director, Head of Customs and Head Office.



## **2.19 Job Description and Responsibilities of Officer In-Charge**

**2.19.1** The Officer In-Charge plays a critical role in ensuring that the Revenue and Customs Check Post, & International Airport operates efficiently, complies with legal requirements, and contributes to the overall objectives of Customs and Excise Division and the Department.

### **1. Supervision and Management:**

- Overseeing all activities and operations at the Check Post/Airport/Cargo/Terminal or General Administration.
- Managing and supervising customs officials, ensuring adherence to policies and procedures.
- Allocating duties and responsibilities to officials effectively.

### **2. Customs Control and Enforcement:**

- Implementing and enforcing customs laws, regulations, Manuals, Circulars, directives of Regional Director, Customs and Excise Section, DRC, HQ, Customs and Excise Division, other Government agencies, and procedures.
- Conducting inspections, examinations, and verifications of goods and travelers to prevent smuggling and illegal trade.
- Ensuring proper documentation and declarations of imports, exports, and transit goods if required.
- Adjudication; passing order on classification, valuation, duties and taxes, fines and penalties, detention, seizure, confiscation.

### **3. Revenue Collection:**

- Ensuring accurate assessment and collection of customs duties, taxes, and other fees.
- Monitoring and auditing transactions to prevent revenue leakage and fraud and checking daily transaction documents for ensuring proper appraisal and assessment
- Maintaining accurate financial records and reports if any.

#### **4. Trade Facilitation:**

- Facilitating legitimate trade by streamlining customs processes and reducing clearance times.
- Providing guidance and support to traders and travelers on customs procedures and requirements.
- Coordinating with other government agencies and stakeholders to ensure smooth cross-border trade.
- Keeping the officials updated with changes in customs regulations, policies, and procedures

#### **5. Compliance and Risk Management:**

- Implementing risk management strategies to identify and mitigate potential threats and non-compliance.
- Conducting investigations and taking enforcement actions against violations of customs laws.
- Ensuring compliance with international trade agreements and standards.

#### **6. Reporting and Communication:**

- Preparing and submitting regular reports on the check post activities, performance, and challenges to the Regional Director and Head of Customs.
- Maintaining effective communication with higher authorities, other customs check post, and external stakeholders.
- Addressing public inquiries and complaints related to customs matters.

#### **7. Infrastructure and Resource Management:**

- Ensuring the proper maintenance of infrastructure and facilities.
- Managing resources efficiently, including equipment, vehicles, and other assets if any.

## **2.20 Functions of Import, Export, and Transit Unit (Customs Check Post, Bhutan Post & International Airport)**

- Regulate the flow of goods in and out of the country
- Processing and approving customs declarations for import export, and transit goods.
- Ensuring that all required documentation, such as invoices, bills of lading, and certificates of origin, are complete and accurate.
- Ensuring the correct tariff classification and valuation of goods to determine the appropriate duty and tax rates.
- Ensuring that all duties, taxes, and fees are correctly assessed and collected if any.
- Assisting importers, exporters, and Clearing and Forwarding Agents with inquiries related to import, export, and transit procedures.
- Providing guidance and support to facilitate smooth and efficient customs operations.
- Identifying and assessing potential risks associated with the import and export of goods.
- Carry out examination of the goods where necessary
- Verify the declaration made by traders and authorized agent are in line with the customs procedures
- Regular follow-up with the traders where there is requirement of additional documents for carrying out the assessment.
- Ensure the valuation are implemented in line with the valuation assessment carried out valuation unit.
- Ensuring faster clearances to the compliant traders and other low risk traders

*Apart from the general functions aforementioned above, the following specific roles and responsibilities should be carried out by officials who are assigned with the roles of a declaration, valuation, risk, inspection and release official in the e-CMS.*

## **2.21 Roles and Responsibilities of Officials Approving Declarations Submitted by Authorized Clearing and Forwarding Agent**

*The following roles and responsibilities ensure that officials approving customs declarations perform their duties effectively, facilitating trade while maintaining compliance with customs regulations and mitigating risks associated with fraud and non-compliance.*

### **2.21.1. Review and Verification**

- **Examine Submissions:** Thoroughly review the electronic customs declarations submitted by authorized clearing and forwarding Agents for completeness, accuracy, and compliance with customs regulations
- **Cross-Check Documents:** Verify the accompanying documents (e.g., invoices, packing lists, certificates of origin, permits if any etc.) against the declaration data to ensure consistency and true declaration.

### 2.21.2. Compliance Checks.

- **Ensure Compliance:** Ensure that all the submitted declarations comply with customs laws, international agreements, and regulatory requirements.

### 2.21.3 Decision Making

- **Approval or Rejection:** Make informed decisions to approve, reject or reject for amendment the customs declarations based on the review and verification process.

### 2.21.4 Communication and Coordination

- **Inform Traders:** Communicate the status of declarations to traders, including any approvals, rejections, or requests for additional information or clarification if required.
- **Coordinate with Other Officials:** Collaborate with other customs officials such as valuation, classification, and enforcement officials to resolve any issues that arise during the declaration approval process or mention clear remarks in the remarks column to convey the message to the next approving officials what are the actions to be initiated at their level.

### 2.21.5 Ethical Conduct

- **Maintain Integrity:** Conduct duties with the highest standards of integrity, avoiding any conflicts of interest or unethical behavior while reviewing and verification of the declarations
- **Confidentiality:** Ensure the confidentiality of sensitive information encountered during the declaration review and approval process and inform the supervisors/OIC

### 2.21.6 Customer Service

- **Trader Assistance:** Offer guidance and assistance to traders on the declaration submission process and requirements.
- **Issue Resolution:** Address and resolve any queries or issues raised by traders regarding their declarations.

*The following roles and responsibilities ensure that officials responsible for risk management play a crucial role in safeguarding the customs process by identifying, assessing, and mitigating potential risks associated with approved declarations. This helps to maintain the integrity of the customs system while facilitating legitimate trade.*

## **2.22 Roles and Responsibilities of Officials Assessing Risk Management for Approved Declarations**

### **2.22.1 Risk Analysis and Assessment**

- **Conduct Risk Analysis:** Perform detailed risk analysis on approved customs declarations to identify potential risks and threats and decide the risk lane.
- **Utilize Risk Management Tools:** Use the risk management tools and modules updated in the system to assess the risk levels of declarations.

### **2.22.2 Risk Profiling**

- **Assist to update Risk Profiles:** Coordinate with Customs and Excise Division to create and update risk profiles for traders and goods based on historical data, intelligence reports, and other relevant information.
- **Update Risk Criteria:** Continuously update and refine risk criteria and thresholds based on emerging trends and patterns in trade and keep inform to the Customs and Excise Division to update the risk in the system.

### **2.22.3 Risk Mitigation**

- **Recommend Mitigation Measures:** Suggest appropriate risk mitigation measures, such as additional document verification, physical inspections, or increased scrutiny for high-risk declarations to the supervisors to implement the measures.
- **Implement Controls:** Ensure that recommended risk mitigation measures are implemented effectively and monitor their impact and also mention very clear in the remarks Column the actions that inspections officials have to carry out for the particular declaration.

### **2.22.4 Feedback and Improvement**

- **Provide Feedback:** Offer constructive feedback on the risk management processes and tools to identify areas for improvement to the supervisors as well as Customs and Excise Division.

*The following roles and responsibilities ensure that the valuation process is transparent, fair, and in line with the customs regulations and international standards.*

## **2.23 Roles and Responsibilities of Valuation Officials:**

### **2.23.1 Verification of Declared Value:**

- Confirm that the value declared by the importer matches the transaction value.
- Cross-check the declared value with supporting documents such as invoices, contracts, and payment proofs etc.

### **2.23.2 Application of Valuation Methods:**

- Apply the appropriate customs valuation methods as per the valuation methods prescribed in the customs regulations, starting from the transaction value method and moving to other methods if necessary. Ensure that the valuation methods are applied sequentially and correctly.

### **2.23.3 Adjustment of Declared Value:**

- Make necessary adjustments if any to the declared value for any discrepancies found during the verification process and mention in the remarks column provided in the system the actions required to perform by Inspection/Examination officials.
- Calculate the correct customs value by including relevant costs such as transportation, insurance, and other charges up to the point of importation.

*The Inspection or examination officials play a crucial role in maintaining the integrity and efficiency of the customs process, ensuring that all imported goods comply with customs law.*

## **2.24 Roles and Responsibilities of Inspection or Examination Officials:**

### **2.24.1 Physical Examination of Goods:**

- Conduct physical inspections of goods to verify the accuracy of the declared information.
- Check for discrepancies between the physical goods and the documentation provided (e.g., quantity, description, classification etc.)

#### **2.24.2 Risk-Based Inspection:**

- Prioritize inspections based on the risk assessment provided by the risk official.
- Focus on high-risk consignments while ensuring that low-risk consignments are processed efficiently.

#### **2.24.3 Verification of Valuation and Classification:**

- Ensure that the goods match the declared value and classification.
- Record any inconsistencies or suspicions of undervaluation or misclassification etc. to initiate the offense

#### **2.24.4 Coordination with Other Units:**

- Coordinate with other units such as risk management, and valuation to ensure a smooth inspection process.
- Provide input and feedback on the modus operandi deployed by traders to declaration, risk and valuation officials to improve the overall efficiency of the customs process.

#### **2.24.5 Enforcement Actions:**

- Take appropriate enforcement actions in case of violations, such as detention, seizure and confiscation of goods, imposition of penalties, or referral for further investigation.
- Ensure that all enforcement actions are in accordance with legal procedures and guidelines.
- Initiate the offense management in the system and complete required formalities for the offense.

#### **2.24.6 Customer Service and Communication:**

- Communicate effectively with importers, clearing and forwarding agents, and other stakeholders to provide clear instructions and resolve any issues related to the inspection process.
- Provide guidance and support to ensure that stakeholders understand the inspection requirements and procedures.

#### **2.24.7 Safeguarding Revenue and Security:**

- Ensure that all inspected goods meet the required standards to protect revenue and prevent the entry of illegal or dangerous items.
- Maintain vigilance to detect and prevent smuggling, fraud, and other illicit activities.

*The release officials play a crucial role in ensuring the smooth and efficient movement of goods through customs, safeguarding revenue, and maintaining compliance with customs regulations and procedures.*

#### **2.25 Roles and Responsibilities of Release Officials:**

##### **2.25.1 Verification of Completion:**

- Confirm that all required procedures have been completed, including risk assessment, valuation, inspection, and any necessary approvals.
- Ensure that all documentation is accurate and complete before proceeding with the release.

##### **2.25.2 Compliance Check:**

- Verify that the importation, Exportation and Transit complies with all relevant customs regulations and laws.
- Ensure that any duties, taxes, and fees have been correctly calculated and paid.

##### **2.25.3 Authorization for Release:**

- Approve and authorize the release of goods once all conditions and requirements have been met.

##### **2.25.4 Customer Service:**

- Offer assistance and support to importers and other stakeholders to ensure they understand the release process.
- Handle inquiries and resolve any issues promptly and efficiently.

##### **2.25.5 Final Clearance:**

- Provide the final clearance for goods to be moved out of customs control and into the domestic market or to their final destination.
- Ensure that any conditions for release, such as permits or licenses, are met and documented.



## **2.26 Functions and Responsibilities of Customs Officials Working in the International Airport**

**2.26.1** The major functions and responsibilities of the Customs officials at International Airport are as follows:

- Clearance of passenger and their baggage in and out of the country.
- Processing customs declarations for passengers and cargo arriving at and departing from the airport.
- Ensuring that all goods and personal effects are properly declared and cleared through customs.
- Conducting inspections and examinations of baggage, cargo, and personal effects to verify declarations and detect contraband, prohibited items, or undeclared goods.
- Assessing and collecting duties, taxes, and fees on imported goods if any.
- Ensuring accurate valuation and classification of goods for duty and tax purposes.
- Facilitating the smooth processing of passengers through customs, ensuring compliance with regulations while minimizing inconvenience.
- Providing information and assistance to passengers regarding customs requirements, allowances, and restrictions.
- Identifying and assessing risks associated with incoming and outgoing passengers and cargo.
- Implementing risk management strategies to target high-risk consignments and individuals for further scrutiny.
- Collaborating with other cross border regulatory agencies,
- Coordinating with airlines, Clearing and Forwarding Agents, and other stakeholders to improve the efficiency of customs processes.
- Monitor Duty Free Goods.
- Monthly stock verification and sales audit of Duty-Free Goods.
- Implement and facilitate passenger clearance based on the passenger risk profiling
- Timely update the passenger risk profile
- Closely monitor the movement of Airport staff/ground staff within Customs area.
- Interpret and analyze the X-ray image.
- Submission of monthly currency declaration report if any to the Revenue Intelligence Division, DRC.

### **2.27 Functions and Responsibilities of Liaison and Transit Office (LTO), Kolkata**

- Facilitate the clearance of third country goods from Kolkata port (also known as Syama Prasad Mookerjee Port) and Haldia Port as well as handling air shipments arranging subsequent transport by road or air to Bhutan
- Issue Letter of Guarantee and Dispatch challan
- Handling the Procurement of Royal consignment and arranging their dispatch via Air and Road
- Resolving clearance related issues by liaising with the Indian Customs, Port Authority, Clearing and Forwarding Agent and Shipping Line

### **2.28 General Functions and Responsibilities of the Customs and Excise Officials**

- Shall not take any assignment or task in which official's relatives are involved or a case in which he/she may have a conflict of interest.
- Shall, not disclose any information obtained in the course of their employment to any unauthorized person. Such information shall be treated with confidentiality and considered privileged information.
- It shall be the duty of any employee under the Customs and Excise Division to communicate intelligence or information relating to the interest of the Department, Ministry or to the national security. It shall be the duty of the Head of the Department to treat all such information or intelligence as privileged and confidential and to be communicated to the government after verifying the veracity of the information and intelligence. The informant shall always be treated under confidence and his/her identity shall not be disclosed. The informant shall not disclose any source of information or intelligence to any person who is not authorized under the Customs law or any other law.

### **2.29 Complaint Against Officials**

**2.29.1** A person (whether they are traders, members of the public, colleagues) is eligible or have the right and responsibility to report or make complaint against any officials of the department to the head of the Department, if the Customs official engages in unethical behavior, misconduct, or actions that violate the code of conduct expected of them, such as accepting bribes, abusing their power, discriminating against individuals, failing to perform their duties properly, or engaging in any corrupt or inappropriate activities and such report or complaint shall be made in writing to the head of the department.

**2.29.2** Further, the head of the department has the authority to evaluate the validity and relevance of the complaint and if the complaint is found to be either invalid or outside the authority of the department (pertains to matters that are outside the jurisdiction), the head of the department has the authority to dismiss or reject the complaint.

**2.29.3** If the compliant are found to be valid, then the head of the department will instruct to carry out further investigations and thus, based upon the results of investigations and evidence brought on record, the head of the department shall take administrative action as per the BCSR 2023. If the case is beyond the department's authority, such cases shall be handed over to the relevant prosecution agency by the department.

### **2.30 Protection of the Employees**

**2.30.1** The officials of the department are protected from prosecution or legal liability for actions they take in the course of their duties, as long as those actions are carried out in good faith and in accordance with the Customs Act of Bhutan 2017, Sales Tax, Customs & Excise Act of the Kingdom of Bhutan 2000, the Customs Rules and Regulations of Bhutan: Revised Edition 2023 and the amendments thereof. It provides legal protection to customs officials and encourages officials to perform their duties diligently without fear of personal repercussions, as long as their actions are lawful and well-intentioned.

### **2.31 Uniform**

Uniform is provided to all the field officials under Customs and Excise Section and also to the Revenue Audit and Accounts officials who are deputed to the Revenue and Customs Check Post. The uniform is designed to distinguish customs officials from other personnel and to uphold the authority and professionalism of the customs service. Uniform is what sets apart a unit, an organization, a department or an agency. It also means discipline and authority vested in that unit by the government to perform certain duties with dignity.

Uniform also helps the wearer to exercise self-discipline, control and restrain from public misdemeanor thereby improving general character. Customs and Excise officials in uniform must appear polite, helpful, patient and understanding with a friendly smile but firm with your eventual action.

#### **Do's**

- **Wear the Uniform Properly:** Ensure the uniform is clean, neat, and worn according to the prescribed standards. This includes proper placement of badges, insignias, and other accessories. When in uniform, your shoes are to be polished and wear department supplied uniform shoes.
- **Maintain Professionalism:** Display professional behavior at all times. Act with integrity, honesty, and respect towards colleagues and the public. Respect your senior officers.
- **Display Identification:** Ensure that your identification badge is visible at all times, making it easy for others to recognize you as a customs official.
- **Follow Protocol:** Adhere to all protocols and procedures specific to your role and responsibilities.

- **Uphold Confidentiality:** Protect sensitive information and maintain the confidentiality of any data or information encountered during duty.
- **Exercise Authority Fairly:** Enforce laws and regulations impartially, without bias or discrimination, and within the limits of your authority.
- **Be Vigilant:** Remain alert and attentive to your surroundings and responsibilities to ensure the effective enforcement of customs regulations.
- **Show Respect and Courtesy:** Treat all individuals, including colleagues, traders, and the public, with respect and courtesy.
- **Adhere to Safety Standards:** Follow all safety regulations and guidelines to protect yourself and others while performing your duties.
- **Report Misconduct:** Report any instances of corruption, misconduct, or unethical behavior to the appropriate authorities.

### Don'ts

- **Avoid Personal Use:** Do not use your uniform or position for personal gain or to seek favors.
- **No Improper Conduct:** Refrain from any behavior that could be perceived as unprofessional or bring disrepute to the Customs and Excise Division or to the department, such as engaging in corrupt practices or abusing power.
- **Avoid Public Controversies:** Do not engage in public disputes or controversies that could tarnish the reputation of the customs official.
- **Do Not Disclose Confidential Information:** Avoid sharing any confidential or sensitive information without proper authorization.
- **Avoid Discrimination:** Do not discriminate against individuals based on race, gender, religion, or other personal characteristics.
- **No Unauthorized Modifications:** Do not make unauthorized modifications to the uniform or its components.
- **Avoid Social Media Misuse:** Do not post inappropriate content or information related to your duties on social media platforms.
- **Do Not Accept Bribes:** Never accept bribes or any form of illegal payment in exchange for services or favors.
- **Avoid Neglecting Duties:** Do not neglect your responsibilities or engage in activities that could hinder your performance as a customs official.
- **No Insubordination:** Respect the chain of command and avoid insubordination. Follow instructions from superiors unless they are illegal or unethical. All officers and inspectors must always be in full uniform when on duty.
- Do not play any games while in uniform, chew doma, smoke or drink alcohols.
- Do not wear any extra clothing such as overcoats, jackets etc. other than the raincoats (issued as part of the uniform) over the uniform.

## CHAPTER 3

### CUSTOMS STATION AND AREA

#### 3.1 Difference between Customs Station and Customs Area

Customs Station	Customs Area
Includes airports, dry ports; check post, land customs, or any other place designated as a customs station to carry out customs-related activities.	Any specified areas approved by the Department wherein imported or export goods are kept before clearance including temporary storage and also such as warehouses, bonded zones, free trade zones, or other designated areas where customs supervision is extended.
It serves as a port of entry or exit for goods and travelers crossing international borders.	Serve as trade facilitation zones where specific customs procedures are implemented to promote trade and investment and also storage of imported goods under customs control without the payment of duties until they are released for domestic consumption or re-export etc.
Customs stations are where customs clearance procedures, inspections, and other regulatory activities are conducted to control the movement of goods, enforce customs laws, and collect duties and taxes.	Goods in Customs area may be subject to various customs procedures, such as temporary admission, customs warehousing, duty suspension, or other customs regimes depending on the specific regulations governing that area.

#### 3.2 Office Hours

**3.2.1** The department has the authority to modify or standardize the working hours of customs offices, however, this process must involve consultation with the regional offices and relevant government agencies, private sectors and stakeholders to ensure that the changes are well-coordinated and consider the needs and inputs of all relevant entities. Further, such change or standardization may also involve adjusting opening and closing times to better suit operational needs or to align with other relevant law enforcement agencies.

**3.2.2** Furthermore, the department shall consider the needs of the private sector and adjust the standard operating hours of Customs stations in Bhutan to synchronize them with the working hours of Customs stations in a neighboring country.

**3.2.3** The Goods declaration shall be lodged during the hours designated by the Customs stations if the person is lodging the declaration manually, however, when the Goods declaration is lodged electronically, the designated hours of business is not an important factor, since the electronic information can be transmitted 24 hours a day and 7 days a week.

**3.2.4** When department permits the Goods declarations to be lodged electronically outside the normal working hours, this does not guarantee that Customs would deal with the Goods declaration immediately. Processing the declarations is normally done during the office hours of the Customs stations.

### **3.3 Loading, Unloading and Temporary Storage**

#### **Introduction**

**3.3.1** In practical commercial experience, the final destination of many consignments is not known at the time of entering the Customs stations, or all the relevant information is not yet available. The department, therefore allows the storage of goods, for logistical reasons, in temporary storage.

**3.3.2** Temporary storage should be allowed for all goods irrespective of quantity, country of origin or country from which they arrived. However, goods which constitute a hazard, which are likely to affect other goods or which require special installations should be admitted only into temporary stores specially equipped and designated by the competent authorities to receive them.

#### **3.4 Scope**

**3.4.1** The department will allow the establishment and operation of facilities for loading, unloading, and temporarily storing goods outside the officially designated Customs Stations or Areas.

### **3.5 Operation under Temporary Storage Facility**

#### **Definition of Temporary storage**

**3.5.1** The Temporary storage facility is a designated location where goods can be stored temporarily before lodging the customs declaration. These facilities play a crucial role in the Customs process by providing a secure area for holding goods while necessary documentation and regulatory procedures are being completed.

**3.5.2** If a person wishes to delay the Customs clearance process for goods presented to the department, they may request that the goods be transferred to a temporary storage facility. Such facility allows for flexibility in the Customs clearance process, enabling the persons to defer the completion of customs formalities for goods by temporarily storing them in a designated facility until they are ready to declare and complete the clearance process.

**3.5.3** A person shall store goods in temporary storage only in places approved by the department and in accordance the conditions stipulated below:

(a) keep appropriate records in a form approved by the Department and such records must contain information and particulars which enable Department to supervise the operation of a temporary storage facility, in particular with regard to the identification of goods stored, their clearance status and movements;

(b) provide office accommodation, with all requisite furniture, heating and lighting to the satisfaction of the Department, together with goods examination facilities free of expense to the Department;

(c) not remove goods from temporary storage without prior approval of the Department;

(d) provide adequate staff and equipment, as necessary, for safe and expeditious unloading and loading.

**3.5.4** The temporary storage operators, who manage facilities where goods are stored temporarily before Customs clearance, are obligated to keep records of the goods stored in their facilities. These records should be based on the documentation submitted to the department, including Cargo/Road/Railway manifests, Air Waybills, Bills of Lading, and Consignment notes.

**3.5.5** Entry or removal of goods, any packing or re-packing of goods (repacking if the packings are damaged, if there is a need to change containers, inspections of goods (checking of the goods whether packings or other damaged), or any other related actions can only be performed under the supervision and with the approval of the department.

**3.5.6** Goods in temporary storage must be handled in a manner that ensures they remain in the same condition as when they were stored, without any alterations or changes. Handling procedures should not modify the appearance or technical specifications of the goods. The handling activities conducted should safeguard the original condition and characteristics of the goods until they are cleared by department and released for further transportation or use.

**3.5.7** The department has the right to access all areas of the temporary storage facility, not just limited to sections or areas and the department is authorized to inspect and examine any goods stored within the facility whenever it deems necessary. This includes conducting inspections for various purposes such as verifying declarations, ensuring compliance with regulations, detecting contraband or prohibited items, or for any other lawful reason related to customs enforcement.

**3.5.8** Goods must be stored in facilities that are secure, meaning they provide adequate protection against theft, damage, or unauthorized access. This typically refers to enclosed spaces such as warehouses or storage buildings with proper security measures in place.

**3.5.9** In cases where the goods are bulky or heavy and are considered to pose a low risk in terms of revenue loss or Customs violations, they may be allowed to be stored in unenclosed spaces. However, this allowance comes with the condition that such storage is conducted under the supervision of the department.

**3.5.10** Upon the entry of goods into a temporary storage facility, a person responsible for those goods must begin the declaration process within 7 working days. The person must complete all Customs procedures required for the clearance of the goods.

**3.5.11** If the temporary storage facility is managed and operated by the department, a person storing goods in such a facility are responsible for paying fees and charges if the goods are not cleared within 7 working days after entry into the facility. The liability for fees and charges extends up to a maximum of 65 working days as prescribed in the Customs regulations.

**3.5.12** Where goods are not cleared within 65 working days from temporary storage facilities, the department reserves the right to confiscate these goods. However, prior to confiscation, the department will notify the person with the specific dateline to clear the goods, and even after notification, if the goods remain uncleared, the department will dispose of the goods through appropriate means.



## CHAPTER 4

### 4.1 Classification of Goods

#### Introduction

**4.1.1** Import and export of goods are required to be assessed to duty and taxes which may include an assessment of nil duty and taxes. For this purpose, it is necessary to determine the classification of the goods, which basically means the categorization of the goods in a specific heading and sub-heading in accordance with the Bhutan Trade Classification (BTC) and Tariff Schedule and revision thereof.

**4.1.2** Classification of imported/export goods is governed by the Customs Act of Bhutan 2017. For purposes of correct classification, the department will follow the rules and guidelines established under the following documents;

- 1) Harmonized Commodity Description and Coding Systems (HS) Explanatory Notes published by the World Customs Organization;
- 2) notification issued by the Department

**4.1.3** Additionally, for the uniform interpretation of the HS, the World Customs Organization (WCO) has published detailed Explanatory Notes to various headings/subheadings which department will refer such explanatory notes too. This will also form the basis for interpreting the HS.

#### 4.2 Methodology of Classification

**4.2.1** In the Tariff Schedule, commodities/products are arranged in a fixed pattern with the duty and tax rates specified against each of them. The pattern of arrangement of goods in the Tariff is in increasing degree of manufacture of commodities/products in the sequence of natural products, raw materials; semi-finished goods and fully finished goods/article / machinery, etc. The Bhutan Trade Classification and Tariff Schedule has 21 Sections and 99 Chapters. Section is a group consisting of a number of Chapters which codify a particular class of goods. The Section notes explain the scope of chapters/headings, etc. The Chapters consist of chapter notes, brief description of commodities arranged at four-digit, six digit and eight-digit levels. Every four-digit code is called a 'heading' and every six-digit code is called a 'subheading' and eight-digit code is called a 'Tariff Item'

**4.2.2** The Harmonized System (HS) provides commodity/product codes and description up to 4-digit (Heading) and 6-digit (Sub-heading) levels only and member countries of WCO are allowed to extend the codes up to any level subject to the condition that nothing changes at the 4-digit or 6-digit levels. Bhutan has developed 8-digit level classification and also three and four dash level to indicate specific statistical codes for indigenous products or national codes and also to monitor the trade volumes.

**4.2.3** The process of arriving at a particular heading/subheading code, either at four-digit, six digit or eight-digit level for a commodity in the Tariff Schedule is called ‘classification’ . The titles of Sections, Chapters and Sub-chapters are provided for ease of reference only. For legal purposes the texts of the Section Notes, Chapter Notes, Subheading Notes, Supplementary Notes, Headings, Subheadings, and the General Rules for Interpretation of Tariff (GIR) should be relied upon to determine the classification of an item. Classification helps in determining the rate of duty and tax leviable.

**4.2.4** The General Interpretation Rules (GIR) is a set of six rules for classification of goods in the Tariff Schedule. These rules have to be applied sequentially. Rule 1 gives precedence to the Section notes/Chapter notes while classifying a product. Rule 2(a) applies to goods imported in incomplete / finished condition and assembled / unassembled condition. Rule 2(b) is applicable to ‘mixtures’ and ‘composite goods. Goods which cannot be classified by application of Rule 2(b), will be classified by application of Rule 3 i.e. by application of ‘most specific description’ as per Rule 3(a) or by ascertaining the ‘essential character’ of the article as per Rule 3(b) or by taking into consideration the heading that occurs last in the numerical order as per Rule 3(c). Rule 4 states that goods which cannot be classified by application of the preceding rules may be classified under the heading appropriate to the goods to which they are most akin. Rule 5 applies to packing materials / articles in which the goods are carried. Rule 6 is applied to arrive at the appropriate subheading within a heading and for that purpose the provisions of Rules 1 to 5 apply mutatis mutandis on the understanding that subheadings at the same levels are comparable. For the purpose of Rule 6 the relative Section and Chapter Notes also apply unless the context otherwise requires.

### **4.3 National Code**

**4.3.1** Upon the approval of the Ministry, the Department shall create, merge, split or delete national BTC code without affecting the four- and six-digit level codes.

**4.3.2** Any Ministry or government agency responsible for trade policy will consult or submit to the Department the proposals to create, merge, split or delete national codes beyond the six digits of the HS.

## Additional notes on Tariff Classification

### 4.4 General Explanatory Notes to Tariff

**4.4.1** Where an Article / group of articles heading is preceded by “\_” (one dash) such article shall deem to be sub-classification of the article /Group of articles covered by said heading.

**4.4.2** Where an Article / group of articles heading is preceded by “\_ \_” (two dash), such article shall be taken to be sub-classification of immediately preceding description of the article /Group of articles which has “-” (one dash).

*Examples on how to read the dashes “-” is shown below for more understanding*

<b>20.09</b>	<b>Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.</b>	
	- Orange juice :	
2009.11	-- Frozen	} Comparable
2009.12	-- Not frozen, of a Brix value not exceeding 20	
2009.19	-- Other	} Not comparable
	- Grapefruit (including pomelo) juice :	
2009.21	-- Of a Brix value not exceeding 20	
2009.29	-- Other	
	- Juice of any other single citrus fruit :	
2009.31	-- Of a Brix value not exceeding 20	} Comparable
2009.39	-- Other	
	- Pineapple juice :	
2009.41	-- Of a Brix value not exceeding 20	
2009.49	-- Other	
2009.50	- Tomato juice	

### 4.5 Terminology in Tariff Item Descriptions

- **Punctuation:** Punctuation is important in interpreting the wording of the Tariff.
- **A semi-colon** in a Tariff Item indicates a full stop and that the portions of the Tariff Item divided by means of a semi-colon are separate and distinct from each other.
- **Commas:** Commas (,) are used to separate a list or series of goods within the product groups delineated by the semi-colons. At the end of a product group, a comma is used to separate the descriptor phrase from the list of goods to which it applies.
- **Colons:** (:) are used to indicate that additional information follows which pertains to the goods specified. Most commonly, it means that the product being described at one level is

further divided at the next level down by some characteristic such as the material it is made of or whether it includes a certain part or performs a certain function.

- **And/Or:** The word 'And' is used in the same way as a comma, to connect items in a series which are all to be included together. 'And' may also be used when there is more than one condition which pertains to an item as in footwear with outer soles of leather and uppers of canvas. This means that the footwear must satisfy both conditions in order to be classified here.
- The word 'Or' is generally used to show that alternatives exist.
- **Other:** The word 'Other' is very important in the Tariff and can be a little tricky. It can occur on any level. At each level of the Tariff, the product in question is divided into groups. Typically, the first few groups on a given level are described specifically, however, if the particular products that have same characteristics, functions etc. but is not specifically mentioned in the heading are put into “other” category.

#### 4.6 Terminology in the Legal Notes

##### 4.6.1 Special terminology is also sometimes used in the Legal Notes portions of the Tariff.

- **Throughout the Nomenclature:** One commonly used phrase is 'Throughout the Nomenclature'. This is used in case in which words or expressions are defined in the notes for a specific Chapter or Heading, but the definition will apply throughout the whole Tariff. On the other hand, if these words are not used in a definition given in the notes for a particular Section or Chapter, the definition should be taken as applying only to that Section or Chapter.
- **Inter Alia:** This means "among other things". Typically, it is used with a list of similar objects to indicate that the list is not exhaustive, and the classification is not restricted to just what is listed.
- **Mutatis Mutandis:** The literal definition is "making due alteration for detail". When this wording is found in the Tariff, it allows an individual to make alterations for small specific details in order to complete classifying the item being imported.
- **Context:** The phrases 'Except where the context otherwise requires' and 'Unless the context otherwise requires' mean that in those cases in which the Chapter or Section Notes are incompatible with the Heading/Subheading Notes or the text of Headings and Subheadings, the lower-level notes and text will prevail.

## CHAPTER 5

### 5.1 Valuation

#### Introduction

**5.1.1** The Customs Value of imported goods is determined mainly for the purpose of applying ad valorem rates of Customs duties and taxes. It constitutes the taxable basis for Customs duties and taxes. It is also an essential element for compiling trade statistics, monitoring quantitative restrictions, applying tariff preferences, and collection national taxes.

**5.1.2** The rates of Customs duties leviable on imported goods and export goods are either specific or on ad valorem basis or at times on specific cum ad valorem basis. When Customs duties are levied at ad valorem rates, i.e., based on the value of the goods, it becomes essential to lay down in the law itself the broad guidelines for such valuation to avoid arbitrariness and to ensure that there is uniformity in approach at different Customs stations.

### 5.2 Where is the legislation covering Customs Valuation?

**5.2.1** The legislation relating to determination of Customs value is set out in the Section 23 to 26 of the Customs Act of Bhutan, 2017 and Section 69 to 100 of the Customs Rules and Regulations of Bhutan: Revised Edition 2023 lays down the basis for valuation of import and export goods.

### 5.3 How is the Customs Value calculated?

**5.3.1** There are 5 (five) methods for calculating the Customs value of goods. However, the normal method of valuation is **method 1** – the transaction value method. The transaction value is defined as the price actually paid or payable for the goods when sold for export to Bhutan for delivery at the time and place of importation, or as the case may be, for export from Bhutan for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf” . It is also provided that in the case of imported goods such transaction value shall include “in addition...any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf.”

Method 1 must be employed before going on to Method 2 and so on. Details of how and when to use the other methods are set out in Chapter 5 of the Customs regulations.

## **5.4 Is documentary evidence of valuation required?**

**5.4.1** Customs may request documentation and information regarding any importation and exportation and the valuation methods employed. The following documents or information may be sought;

### **Examples of documents which may be required by the Customs authorities for Customs valuation purposes.**

**5.4.2** The following examples which are not exhaustive, indicate some of the documents which the Customs authorities may require, depending on the circumstances of the transaction and/or in case of doubt in respect of some or all of the particulars declared. Customs has the authority to keep the documentation presented.

**a) A commercial invoice for the goods, if any, not a pro-forma invoice.** A pro-forma invoice is not a legally binding document and is not acceptable as supporting documents for a declared transaction value. However, for goods that have been subject to a “sale”, such documents are regarded as provisional and should be replaced subsequently by a definitive final invoice. However, there are also cases where the goods have been sold without any invoice. In these cases, the declarant has to supply the documents that could be regarded as equivalent to the invoice such as contract of sale which can be used or required in support of various aspects of the invoice, such as:

- i)** Any possible restriction, condition or consideration,
- ii)** Any possible arrangement between the seller and the buyer affecting the customs value of the goods,
- iii)** Activities undertaken after importation,
- iv)** Any proceeds and resale,
- v)** The currency in which a price is settled,
- vi)** A fixed rate of exchange,
- vii)** Indirect payments and
- viii)** Contracts and other documents concerning the imported goods.

**b) A royalty contract** for establishing whether or not a royalty payment should be included in the Customs value

**c) An agency contract** for establishing an addition for commissions or brokerage or for the exclusion of a buying commission.

**d) Transport and insurance documents** for the purpose of determining, inter alia:

- i) The terms of delivery,
- ii) The costs of delivery of the goods at the port, and
- iii) The costs of transport after arrival of the goods.

**e) accounting records**, notably those of the importer or buyer, for reasons such as ascertaining the actual transfer of funds to the exporter or seller, or for obtaining information on commissions, profit or general expenses in applying the deductive value methods.

**f) other documents, e.g.:**

i) concerning the ownership of the companies involved in the transaction, for establishing a possible relationship between the seller and the buyer,

ii) the invoices and contract of sale,

iii) financial documents, e.g. for establishing the amount of interest charges,

iv) contracts, licensing agreements or other documents concerning copyrights,

v) relevant documents relating to assists, Documentation on transfer pricing systems (transfer pricing report or study);

vi) experts' opinions, if during Customs proceedings specialist knowledge is needed, it is open to the Customs authorities to call an expert.

vii) if the goods are supplied free of charge, the transaction value method (the price actually paid or payable for the goods) isn't applicable since there is no transaction price. Customs authorities then turn to alternative valuation methods such as 1) Transaction Value of Identical or Similar Goods, 2) Deductive Value Method, and 3) Fallback Method and the above methods are followed in sequential order.

## **Valuation Methods**

### **5.5 Methods of Valuation**

**5.5.1** There are five methods of valuation applicable to all goods, namely:

1. The Transaction Value Method;
2. The Transaction Value of Identical Goods;
3. The Transaction Value of Similar Goods;
4. The Deductive Value Method; and
5. The Fall-Back Method.

The methods listed above must be applied in sequence.

## **5.6 How to use the Valuation Methods**

**5.6.1** The most common method of valuation is the transaction value, which uses the invoice price. Wherever possible this is the method to be used.

**5.6.2** Only when the transaction value method cannot be used should the other methods be considered. In such cases the Customs value is determined by proceeding sequentially through the other methods. It is only when the value cannot be determined under the provisions of an earlier method in the sequence that the provisions of the next method are invoked.

## **5.7 Method 1 – Transaction Value Method**

### **What is the Transaction Value?**

**5.7.1** The transaction value is defined as the price actually paid or payable for the goods when sold for export to Bhutan for delivery at the time and place of importation, or as the case may be, for export from Bhutan for delivery at the time and place of exportation subject to the necessary adjustments.

$$\textit{Customs Value} = \textit{Transaction Value} = \textit{Price paid or payable} + \textit{Adjustments}.$$

**5.7.2** Further, the department will accept the value of imported goods when the following conditions are fulfilled.

- (i) *There must be evidence of a sale for export of Bhutan such as commercial invoices, contracts, purchase order, letter of credit etc.*

### **Has sale occurred.**

Under the transaction value method, the goods must be imported to Bhutan as a result of a sale. A sale requires a transfer of ownership of goods for a monetary amount (a price). While not an exhaustive list, examples of situations that would not be considered a sale for export to Bhutan are:

- leased goods
- barter transactions
- trade-ins (A trade-in refers to the process where an individual or business provides an item, usually a used product, as partial payment for a new item)
- goods invoiced or received at no charge.

**ii) There are no restrictions as to the disposal or use of the goods by the buyer other than restrictions which:**

- Are imposed or required by law or by the public authorities e.g. an import license;
- Limit the geographical area in which the goods may be resold; or
- Do not substantially affect the value of the goods; meaning that that the buyer has full control over how to use or sell the imported goods, with a few exceptions as stated above.



**iii) The sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued.**

Generally, the transaction value method cannot be used if the sale or price is subject to a condition or consideration for which a value cannot be determined. For example, if an importer buys machinery from a foreign supplier at a reduced price on the condition that the importer also purchases additional services or goods from the supplier in the future, and the value of these future purchases cannot be quantified at the time of importation, the transaction value method cannot be applied. This is because the actual price paid or payable for the machinery is influenced by an indeterminable future consideration.

**iv) No part of the proceeds of any subsequent resale, disposal or use of the goods will accrue directly or indirectly to the seller, unless an adjustment** can be made under Section 72(5) of the Customs Rules and Regulations of Bhutan: Revised Edition 2023. This statement means that for Customs valuation purposes, the seller must not receive any additional financial benefit from the resale or use of the goods after they have been sold to the buyer. If the seller does receive such benefits, the Customs value must be adjusted to include these proceeds. This ensures that the Customs value reflects the true economic value of the transaction.

**v) If the buyer and seller are related,** the transaction value can still be used so long as the price is not influenced by the relationship between the parties. It is only where the relationship has influenced the price that the transaction value method of valuation may not be used. It is open to the declarant to demonstrate that the transaction value was not influenced by the relationship. Where officials have grounds for considering that the relationship influenced the price, the officials should communicate their grounds to the declarant, in writing if so requested, and s/he should be given a reasonable opportunity to respond

### 5.8 Transaction Value Method: Value for Duty Calculation Template

<b>Transaction Value Method: Value for duty calculation example</b>		<b>Amount</b>
<b>A</b>	Price paid or payable for the goods (including all direct and indirect payments, prior to, at or post importation)	Nu. XXX
<b>B</b>	Additions, if any apply, and if not included in (A) above	Nu. XXX
	(i) commissions and brokerage (except buying commission or buying agent fees)	
	(ii) packing and container costs and charges	
	(iii) assists	
	(iv) royalties and license fees	
	(v) subsequent proceeds	
	(vi) transportation and associated costs, and insurance costs to	
	the place of direct shipment. Add lines (i) to (vi)	
<b>C</b>	Deductions, if any apply, and if included in (A) above	Nu. XXX
	(i) the cost of transport after the port of entry in Bhutan (ii) charges for construction, erection, assembly, maintenance	
	or technical assistance after importation	
	(iii) import duties and taxes	
	(iv) fees not related to imported goods	
	(v) loading and handling charges in the transit country including	
	demurrage (vi) interest charged under the financing arrangement entered into by the buyer, relating to the purchase of imported goods	
	(vii) cash and the quantity discount offered by the seller provided that the seller is the manufacturer or authorized dealer of the goods.	
	Total Deductions- add lines from (i) to (vii)	
<b>D</b>	<b>Value for Duty (A+B-C) =D</b>	<b>Nu. XXX</b>

## **5.9 Definition of “Related”?**

**5.9.1** For the purposes of transaction value, the valuation system regards buyer and seller as related only if:

- they are officers or directors of one another’s businesses;
- they are legally recognized partners in business;
- they are employer and employee;
- any person who directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both businesses;
- one of them directly or indirectly controls the other;
- both of them are directly, or indirectly controlled by a third person;
- together they directly or indirectly control a third person; or
- they are members of the same family and a person is deemed to be a member of same family if:
  - (i) connected by consanguinity within the third degree or by marriage within the second degree; and
  - ii) one has been adopted as the child of other

**5.9.2** For the purposes of the valuation system, persons, whether natural or legal, may be associated in

business with one another, for example one is the sole agent of the other. They will be deemed to be related only if they fall within one of the relationships outlined above.

**5.9.3** In case of goods imported by post, all the postal charges levied till the point of entry into Bhutan must be included. This means that in addition to the value of the goods themselves, any charges related to the shipping and handling of the goods up to the entry into Bhutan must be factored into the total value assessed for customs purposes. These charges typically include postage fees, handling charges, and any other costs directly associated with transporting the goods to Bhutan through postal services

**5.9.4** The customs value of imported goods does not include following charges if they can be distinguished from the price actually paid or payable for the goods:

(1) Charges for construction, erection, assembly, maintenance, or technical assistance undertaken after importation: These are costs related to services provided post-importation that enhance the functionality or value of the goods.

(2) The cost of transport after the point of entry in Bhutan: This refers to any transportation costs incurred within Bhutan after the goods have cleared customs and entered the country.

(3) Duty and taxes of the country of importation: This includes any taxes or duties levied by the importing country (other than Bhutan).

(4) Fees that are not related to imported goods: Charges that are not directly associated with the imported goods, such as administrative fees unrelated to the importation process.

(5) Loading and handling charges in the transit country including demurrage: These are fees incurred in the transit country (countries through which the goods pass en route to Bhutan), including costs like demurrage charges.

(6) Interest charged under the financing arrangement entered into by the buyer, relating to the purchase of imported goods, provided that the financial arrangement is made in writing: This includes any interest costs directly related to financing arrangements made by the buyer for the purchase of the imported goods.

(7) Cash and the quantity discount offered by the seller, provided that the seller is the manufacturer or authorized dealer of the goods. For customs purpose, allowable deduction shall be up to 50% of the discount offered: This refers to discounts offered by the seller (manufacturer or authorized dealer) to the buyer, where up to 50% of the discount can be deducted for customs valuation purposes.

For customs purpose, allowable deduction shall be up to 50% of the discount offered only.

#### **Cash Discounts:**

Cash discounts offered by the seller, provided that the seller is the manufacturer or an authorized dealer of the goods, can be considered for customs valuation.

For customs purposes, a deduction is allowable based on the cash discount offered. The rule specifies that up to 50% of the discount offered can be deducted from the value of the goods for customs valuation.

#### **Quantity Discount:**

Similarly, quantity discounts offered by the seller (again, if the seller is the manufacturer or authorized dealer) can also be taken into account. The allowable deduction for customs valuation purposes is up to 50% of the quantity discount offered.

## **Examples:**

### **Example 1: Cash Discount**

Scenario: A Trader is bringing in electronic goods from an authorized dealer from India. The total invoice amount for the goods is Nu. 10,000.

**Cash Discount Offered:** The seller offers a cash discount of 10% on the invoice amount.

#### **Customs Valuation Calculation:**

Invoice amount: Nu. 10,000

Cash discount: 10% of Nu. 10,000 = Nu. 1,000

Allowable deduction for customs valuation: Up to 50% of the cash discount offered.

Deduction considered for customs valuation: Nu. 500 (which is 50% of Nu. 1,000)

Therefore, the customs value of the goods for importation purposes would be Nu. 10,000 – Nu. 500 = Nu. 9,500.

### **Example: Quantity Discount**

Scenario: A Trader is importing clothing items from a manufacturer abroad.

**Invoice Details:** The total invoice amount for the clothing items is Nu. 8,000.

**Quantity Discount Offered:** The manufacturer offers a quantity discount of 15% on purchases exceeding a certain quantity threshold.

#### **Customs Valuation Calculation:**

Invoice amount: Nu. 8,000

Quantity discount: 15% of Nu.8,000 = Nu.1,200

Allowable deduction for customs valuation: Up to 50% of the quantity discount offered.

Deduction considered for customs valuation: Nu.600 (which is 50% of Nu.1,200)

Therefore, the customs value of the clothing items for importation purposes would be Nu.8,000 – Nu.600 = Nu.7,400.

The key takeaway is that up to 50% of the discount offered by the seller (manufacturer or authorized dealer) can be deducted from the invoice value when determining the customs value of goods for import purposes.

## **Other Methods of Valuation**

### **5.10 Consideration of the Other Valuation Methods**

**5.10.1** Most importations will fall to be valued under the transaction value method. However, where for example goods are imported or exported on other terms and there is no price actually paid or payable, then the transaction value cannot be used. The other methods then must be next sequential method of valuation, the “identical goods” method.

### **5.11 Transaction Value of Identical Goods**

**5.11.1** Under the transaction value of identical goods method, the value for duty of the goods being imported is calculated based on the value for duty of other identical goods that were imported to Bhutan at the same or substantially the same time, and accounted for under the transaction value method. "Identical goods means same in all respects, including physical characteristics, quality, and reputation.

**5.11.2** Adjustments can be made for differences in commercial levels, quantity, and transportation costs. The method assumes that if two goods are identical, their value should be similar.

#### **Example:**

Suppose Company A imports a laptop component XY from Company B.

Company B previously exported laptop component XY (identical batch of laptop component XY) to another buyer (Company C) around the same time.

The value of the exported Component XY to Company C can be used as the basis for valuing the imported laptop component XY for Company A.

If the transaction value of the laptop component XY for Company C was Nu. 1,000, then Company A can use this value for Ccustoms valuation.

#### **Considerations:**

**5.11.3** The Identical Goods Method assumes that any minor differences in appearance (e.g., packaging, labeling) do not significantly affect the value.

**5.11.4** Further, in establishing the Ccustoms value under the identical goods method, precedence should be given to a transaction value for goods produced by the same person. If no such comparison is possible, then a transaction value for goods produced by a different person may be used. If more than one transaction value of identical goods is found, the lowest value should be taken to determine the customs value of the imported goods.

## **5.12 Transaction Value of Similar Goods**

**5.12.1** The Transaction Value of Similar Goods Method is used in customs valuation when the transaction value of the imported goods cannot be determined and the Identical Goods Method is not applicable.

**5.12.2** The transaction value of similar goods method is applied in the same way as the transaction value of identical goods method outlined above. However, the value for duty of the imported goods is based on the value for duty of **other similar goods**. "Similar goods" are not identical but share similar characteristics, quality, and commercial value. Similar goods will differ in some respects from the goods being valued. They should carry out the same tasks, be produced in the same country and be commercially interchangeable with the goods being valued.

### **Examples:**

Suppose Company M/s Sons imports a digital camera (B) from Country A.

There is no identical digital camera available for comparison.

However, Company M/s Moms previously imported a similar digital camera (C) from Country A around the same time.

The transaction value of digital camera (C) can be used as a basis for valuing digital camera (B).

If the transaction value of digital (C) was Nu. 1000 then Company M/s Sons can use this value for customs valuation.

### **Considerations:**

**5.12.3** Customs authorities ensure that the similar goods are as close as possible in terms of characteristics, quality, and commercial level.

**5.12.4** Adjustments may be necessary to account for any differences between the similar goods and the imported goods. Remember that the transaction value of similar goods provides an alternative when identical goods are not available, ensuring a fair and consistent valuation.

### **5.13 Deductive Value Method of Identical and Similar Goods**

**5.13.1** If the value for duty cannot be established using the transaction value method or the transaction value method of identical or similar goods, the deductive value method is the next method to consider.

**5.13.2** Under the deductive value method, the value for duty is based on the selling price of the goods in Bhutan. The unit price can be used for the imported goods or identical or similar imported goods. They must be sold in the condition as imported and in the greatest aggregate quantity. The buyer and seller cannot be related.

**5.13.3** The unit price is defined as the price at which the greatest number of units is sold at the first commercial level after importation at which such sales take place i.e. (The greatest aggregate quantity is the largest number of items sold at one price).

**5.13.4** Sales at or about the time of importation of the goods being valued should normally be used under this method. Where, however, such sales do not occur, it is permitted to use sales up to 90 days from the date of importation.

#### **Example calculation:**

Suppose M/s Sons imported 2,000 units of Laptops.

The price list shows different prices based on quantities ordered.

By analyzing sales data, you find that the greatest aggregate quantity that (80 units) was sold at a unit price of Nu. 90.

The Customs value for your 2,000 units would be  $2,000 \times \text{Nu. } 90 = \text{Nu. } 180,000$ .

Another example, two sales occur. In the first sale, 500 units are sold at a price of 95-ngultrum units each. In the second sale, 400 units are sold at a price of 90-ngultrum 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.



## **5.14 Fallback Value Method**

**5.14.1** In exceptional circumstances it may not be possible to determine the customs value of imported goods under the transaction value method or the subsequent methods. In such an event, the value may be determined by applying, in a flexible manner, whichever of those methods most readily enables calculation of the customs value. In applying this fallback value method, if more than one of the usual methods can be applied flexibly, the normal sequence for such methods should be taken into account. The customs value arrived at should be fair, reasonable, uniform and neutral and should reflect commercial reality to the extent possible.

## **5.15 Rejection of Declared Value**

**5.15.1** The transaction price declared can be rejected when the department has reason to doubt the truth or accuracy of the value declared and if even after the importer furnishes further information/documents or other evidence, the department is not satisfied and has reasonable doubts about the value declared.

**5.15.2** When Value is being rejected by the Department, the department shall communicate its decision with reasoning to the importer, who, in turn, shall be given reasonable time to respond. The Department shall, in writing, communicate to the importer the final decision on the rejection of the declared value along with its reasoning.

## CHAPTER 6

### Import and Export Restrictions and Prohibitions

#### 6.1 Import Restriction

##### Introduction

**6.1.1** Deliberate evasion of duty or violation of prohibition/restriction imposed upon import or export of specified goods invites penal action or any of the allied legislations that are enforced by the Customs in terms of the said Act. Thus, importers, exporters and others connected with international trade require to be well conversant with the provisions of the Customs Act of Bhutan, 2017 and amendment thereof, the Trade Policy, as well as other relevant allied Acts.

**6.1.2** Before any imports are affected or export planned, the persons should be aware of any provisions of prohibition/restrictions and requirements subject to which alone goods can be imported/exported.

**6.1.3** Any import and export of restricted goods into and out of Bhutan should be accompanied by a permit/license issued by the concerned agency.

#### 6.2 Legal provisions Governing Restrictions/Prohibitions:

**6.2.1** To safeguard the national interest, the government may impose restriction or prohibition on the import or export of goods by way of **Order or Notification**- (the government can issue orders or notifications to quickly implement restrictions or prohibitions. This allows for a rapid response to emerging threats or urgent situations affecting national interest), **In Accordance with Other Laws in Force**- (any actions taken must comply with existing laws which ensures that restrictions or prohibitions are not arbitrary but are grounded in the legal framework established by the nation's legislature) and, **In Accordance with International Conventions, Covenants, Treaties, Protocols, and Agreements Duly Ratified by the Parliament**- (means our country's trade policies are consistent with international law and agreements it has ratified, reflecting a commitment to global cooperation and legal consistency).

**6.2.2** The terms prohibited goods means any goods, for which the import or export is not allowed by the Customs Act or any other laws in force.

**6.2.3** The term restricted goods mean any goods on which limitations shall apply to the quantity or quality of the imported or export of goods under Customs Act and or any other laws in force.

*The table below shows prohibited and restricted goods and the responsible agencies to issue permits if restricted and if prohibited, the goods shall be handed over to the responsible agencies after confiscation.*

Sl. No.	Restricted Goods	Responsible Agencies	Legislation & International Conventions
1	Arms and ammunition	Royal Bhutan Police	<ul style="list-style-type: none"> <li>▪ Firearms and Ammunition Act of Bhutan 1990</li> </ul>
2	Unmanned Aircraft System (UAS)/Drones	Bhutan Civil Aviation Authority	<ul style="list-style-type: none"> <li>▪ UAS Regulation 2017</li> <li>▪ MoHCA Notification Letter No. MoHCA/BLO(3)-1/3014 dated April 13, 2017</li> </ul>
3	Explosives and explosive devices	Ministry of Home Affairs	<ul style="list-style-type: none"> <li>▪ Explosive rules of 1989</li> </ul>
4	Live animals and their products or byproducts	Ministry of Agriculture and livestock (Bhutan Food and Drug Authority)	<ul style="list-style-type: none"> <li>▪ Livestock Act, 2001</li> <li>▪ CITES</li> </ul>
5	Plant and plant materials	Ministry of Agriculture and Livestock (Bhutan Food and Drug Authority)	<ul style="list-style-type: none"> <li>▪ Plant Quarantine Act of 1993</li> <li>▪ Forest and Nature Conservation Act of 1995</li> <li>▪ Bio-diversity Act 2003</li> <li>▪ Bio-Safety Act 2015</li> <li>▪ International Plant Protection Convention</li> <li>▪ International Treaty on Plant Genetic Resources for Food and Agriculture</li> <li>▪ CITES</li> </ul> <p>Food Act 2005</p>
6	Forestry products (flora and fauna) in accordance with	Ministry of Agriculture and Livestock (Department of Forest and Park Services)	<ul style="list-style-type: none"> <li>▪ Forest and nature conservation Act of 1995</li> <li>▪ Bio-diversity Act 2003</li> <li>▪ International Plant protection Convention</li> </ul>
7	Industrial and toxic wastes and residues	National Environment Commission	<ul style="list-style-type: none"> <li>▪ National Environment Protection Act 2007</li> <li>▪ Basel Convention</li> </ul>
8	Wireless and remote sensing telecommunication and broadcasting equipment	Ministry of Industry, commerce and Employment (Bhutan Information and Communication Media Authority)	<ul style="list-style-type: none"> <li>▪ Bhutan Information Communications and Media Act, 2006”</li> </ul>

9	Scraps as notified by the National Environment Commission Secretariat	National Environment Commission	<ul style="list-style-type: none"> <li>▪ Regulation on Import of Third Countries Goods</li> <li>▪ Basel Convention on the Control of Trans- boundary Movements of Hazardous Wastes and their Disposal</li> </ul>
10	Used or second hand goods, vehicles, machinery and equipment	Ministry of Industry, commerce and Employment	<ul style="list-style-type: none"> <li>▪ Regulation on Import of Third Countries Goods</li> <li>▪ Basel Convention on the Control of Trans- boundary Movements of Hazardous Wastes and their Disposal</li> <li>▪ National Environment Protection Act 2007</li> </ul>
11	Medicinal products including narcotics and psychotropic substances for medical use	Bhutan Food and Drug Authority	<ul style="list-style-type: none"> <li>▪ Medicine Act 2003</li> <li>▪ Narcotic Drugs, Psychotropic Substances &amp; Substance Abuse Act of Bhutan, 2015</li> </ul>
12	Other Narcotics and psychotropic substances and precursors	Bhutan Food and Drug Authority	<ul style="list-style-type: none"> <li>▪ Narcotic Drugs, Psychotropic Substances &amp; Substance Abuse Act of Bhutan, 2015</li> </ul>
13	Chemicals and Fertilizers	Ministry of Agriculture and Livestock	<ul style="list-style-type: none"> <li>▪ Pesticide Act 2000</li> </ul>
14	Plastic packing materials	Ministry of Industry, commerce and Employment	<ul style="list-style-type: none"> <li>▪ Department of Trade's Letter Reference No. DTAT-17/2005/1325 dated 17/10/2005</li> </ul>
15	Gold and silver in excess of the duty-free baggage allowance	Royal Monetary Authority	<ul style="list-style-type: none"> <li>▪ Foreign Exchange Regulation 2022</li> </ul>
16	Currency in excess of the prescribed limit	Royal Monetary Authority	<ul style="list-style-type: none"> <li>▪ Foreign Exchange Regulation 2022</li> </ul>
17	Valuable Cultural Properties	Ministry of Home Affairs	<ul style="list-style-type: none"> <li>▪ Movable Cultural Property Act,</li> <li>▪ Convention on the Safeguarding of the Intangible Cultural Heritage</li> </ul>
18	Ozone Depleting Substances (ODS)	Department of Environment and Climate Change	<ul style="list-style-type: none"> <li>▪ Regulation on ODS</li> <li>▪ Vienna Convention on the Protection of the Ozone Layer</li> <li>▪ Montreal Protocol on Substances that Deplete the Ozone</li> </ul>
19	Intellectual Property Right	Department of Intellectual Property	<ul style="list-style-type: none"> <li>▪ Copyright Act of Bhutan, 2001</li> </ul>

### 6.3 Import Prohibitions

6.3.1 The import of following goods into Bhutan shall be prohibited;

SI No	Prohibited Goods	Responsible Agencies
1	Narcotics and psychotropic drugs and substances;	Bhutan Food and Drug Authority
2	Pornographic materials;	Ministry of Industry, commerce and Employment
3	Animals and plants classified as endangered species and their parts and products;	Ministry of Agriculture and Livestock
4	Tobacco and tobacco products as prescribed in section 26 of the Tobacco Control Rules and Regulations	Bhutan Food and Drug Authority

### 6.4 Export Prohibitions

6.4.1 The Export of following shall be prohibited;

- Animals and plants classified as endangered species and their parts and products;
- Antiques such as Dzee, religious artifacts, handicraft goods and any other items as notified by the Royal Government;
- Narcotics and psychotropic drugs and substances; and
- Any other goods which are prohibited by any other laws in force.

## CHAPTER 7

### 7.1 Levy

#### Introduction

**7.1.1** "Levy" typically refers to the imposition or collection of duties or taxes on goods being imported into or exported out of Bhutan. This levy is usually based on the value, quantity, or type of goods and is collected at the port of entry and exit. The tariff rates for Customs duties and taxes in Bhutan ranges from 0% to 100%, depending on the specific type of goods.

**7.1.2** As per the Customs Act of Bhutan 2017, any goods that are imported into or exported from the Kingdom of Bhutan will be subject to duties and taxes including fees and charges. The duties and taxes applied to these goods will be determined according to the Bhutan Trade Classification system.

**7.1.3** Additionally, there might be specific exceptions outlined in the Customs Act of Bhutan 2017. These exceptions could include:

- Certain goods that are exempt from duties and taxes. Special provisions or conditions under which duties and taxes may be waived. Particular situations or agreements that alter the standard application of duties and taxes.

**7.1.4** If there are any changes in the duty rates or amendment or modifications in duty structure, the such changes must go through the legislative process and receive parliamentary approval.

**7.1.5** The applicable duties and taxes including fees, and charges must be paid at the time of clearance of goods. However, there may be exceptions or alternative Customs procedures where the payment of applicable taxes and duties including fees, and charges could be handled differently. For example, there might be provisions for deferred payment, installment plans, or special arrangements for certain types of goods or importers/exporters especially in case of authorized traders.

### 7.2 Liability

**7.2.1** An Importer and exporter or any business entity responsible for bringing goods into Bhutan from other countries are liable to pay applicable duties and taxes including fees and charges if any at the Customs Station. Further, an authorized Clearing and Forwarding Agent, Warehouse Operator or Custodian of goods, or carrier or an authorized representative dealing in Customs clearance process or as the case may be are liable to pay applicable duties and taxes including fees and charges.

## CHAPTER 8

### 8.1 Exemption

#### Introduction

**8.1.1** The exemptions refer to specific conditions under which certain goods can be imported or exported without the payment of customs duties and taxes. The exemptions are designed to facilitate the activities of certain groups (such as diplomatic missions, agencies, non-governmental organizations, and individuals returning from abroad) and to support national priorities such as government functions, humanitarian aid, and development projects. Therefore, exemptions are granted to the Foreign Diplomatic Missions, International Organizations and agencies or individuals on the condition that such exemptions are in accordance with the relevant laws and obligations under international conventions, covenant, existing multilateral or bilateral agreement signed with the Royal Government of Bhutan and the rules thereto, prescribed by the Ministry.

**8.1.2** Foreign diplomatic missions, international agencies and their employees shall be exempted from paying customs duty if the exemption is in accordance with:

**i. The obligations under relevant international laws, conventions and covenants ratified by the Parliament:** This refers to the mutual benefits or commitments made between two or more countries by signing the international treaties, conventions, and covenants.

**ii. The bilateral and multilateral agreements signed by the Royal Government of Bhutan:** The rate of customs duty and other taxes will depend upon the agreement signed between two or more countries. For example, the customs duty is not levied on the goods imported from India due to a bilateral trade agreement between the two nations. The rate of customs duty is at a preferential rate if a person produces South Asian Free Trade Area - SAFTA certificate for the import made from neighboring SAARC countries, as per multilateral agreements aimed to promote free trade and economic growth within the South Asia region.

**iii. The social, environmental and economic policies of the Government:** This section discusses the eligibility for exemptions of taxes and duties on the importation of goods that support social, environmental and economic policies of the Government.

#### ***Examples:***

A social policy of free healthcare and education.

An environmental conservation policy to preserve biodiversity and combat climate change.

An economic policy aimed at a sustainable economy.

Promoting exports to maintain Bhutan's balance of payment.

**8.1.3 The list of exempted persons/entities are given below:**

<b>Sl No</b>	<b>Exempted Organizations/Individuals</b>
1.	Foreign Diplomatic Missions, International Agencies and their Employees.
2.	Members of International Voluntary Organizations
3.	Government and Autonomous Agencies
4.	Exempt person - as per Social, Environmental and Economic Policies
5.	Individuals on government duty transferred from abroad to Bhutan. (Exempted duty on personal and household effects)
6.	Supplier having third party Exemption (Refund)

**8.2 International Agencies, Diplomatic Missions and their Employees**

**8.2.1** Upon posting to a mission in Bhutan, diplomatic officials can import/bring duty free baggage or cargo subject to import license; durable and consumable household and personal effects. On arrival or within 12 months of their arrival, they can also import one motor vehicle free from customs duties and other taxes.

**8.2.2** Only one set under each category of durable personal effects as per list mentioned below will be permitted to be imported free of duty as baggage or cargo during his or her tenure as a diplomatic official.

**a) Personal and household effects include the following items:**

- i)** Clothing
- ii)** Furniture
- iii)** Household and kitchen appliances
- iv)** Television sets; camera; video camera;
- v)** Computer, other similar items or professional equipment and gadgets in quantities not exceeding one of each.



b) In addition to being exempt from the payment of customs duties on the importation of their goods, they are also entitled to purchase products from local duty-free stores. (Eg: they are eligible to buy wine from the Bhutan Duty Free Shop for personal consumption).

c) They can also import **1 new motor vehicle or a motorcycle** free of customs duty during their stay in Bhutan. However, the used motor vehicles should be declared under temporary admission free of customs duty as per the permit issued by the relevant authority. The used motor vehicles must be re-exported to their respective countries after the completion of tenure as international employees.

d) Any Import of personal and household effects made subsequently **after 12 months of arrival** shall be subject to levy of Customs Duty.

### **8.3 Members of International Voluntary Organizations assigned to Bhutan**

**8.3.1** These individuals are the volunteers, staff members, or representatives of voluntary organizations who engage in various activities aimed at supporting development, humanitarian aid, or other forms of assistance within Bhutan.

**8.3.2** The provisions of exemption given to International Agencies, Diplomatic Missions and their Employees shall apply to Members of International Voluntary Organizations Assigned to Bhutan, but subject to necessary changes based on different situations.

### **8.4 Procedures for applying exemption of Customs Duty**

**8.4.1** The procedure for applying exemption application for international agencies, diplomatic missions, international voluntary organizations assigned to Bhutan and their international employees and members are stated below:

i. The Ministry of Foreign Affairs and External Trade shall recommend the exemption to the Department in accordance with the list of personal and household effects and consumable items permitted

ii. The concerned employing agency/authorized agent must apply for exemption electronically with the recommendation letter issued by the Ministry of Foreign Affairs and External Trade.

iii. Upon verification of the documents and satisfaction thereof, the exemption shall be granted by the Department.

## **8.5 Disposal of goods imported free of customs duty by privileged individuals**

**8.5.1** The concerned Department/Regional Office shall monitor the import and disposal of durable goods at the time of repatriation of privileged officials.

**8.5.2** When the foreign employees of diplomatic missions, international voluntary organizations who return to their countries from Bhutan, they can either re-export household and personal effects or such goods can be sold or disposed of in Bhutan.

**8.5.3** They can also transfer their durable goods free of Customs duty to any privileged persons or organizations who have not imported such goods free of customs duty.

## **8.6 Personal and household effects and consumable items**

**8.6.1** The used items where the customs values are **up to Ngultrums 15,000** at the time of importation can be disposed of in the open market without paying Customs duty.

**8.6.2** An item which **exceeds the value of Ngultrum 15,000** at the time of importation, if disposed of to a non-exempt person within five years after importation shall levy Customs duty on the depreciated value of items at the rate of 20% per annum on Straight line method.

**8.6.3** The **Straight-Line Method (SLM) of Depreciation** reduces the value of an asset consistently until it reaches its scrap value. A fixed amount of depreciation derived from the initial value, gets deducted from the value of the asset on an annual basis. After 5 years from the date of purchase to the current date, it is treated as scrap/zero value in customs valuation.

**8.6.4** The straight-line method is used solely for determining Customs Duty and Bhutan Sales Tax, while Green Tax is calculated based on the initial customs value of the goods. No depreciation will be allowed for calculation of Green Tax

Example of **20% Straight Line Method** Calculation:

<b>Calculation of Depreciation for a refrigerator</b>				
<b>Year</b>	<b>Value (Nu.)</b>	<b>No. of Days</b>	<b>Depreciation Rate</b>	<b>Depreciation (Nu.)</b>
2024 (Feb 20)	150,000.00	315	20%	25,890.41
2025	150,000.00	365	20%	30,000.00
2026	150,000.00	365	20%	30,000.00
2027	150,000.00	365	20%	30,000.00
2028	150,000.00	366	20%	30,000.00
2029 (Feb 20)	150,000.00	50	20%	4,109.59
<b>Total Depreciation Value in 5 years</b>				<b>150,000.00</b>

In order to find out the exact depreciation, the total days in a year should be converted into year and then multiplied with 20% depreciation of original customs value in a year. For example, the number of days for the above item is 315 days. So, it can be calculated as shown below:

$$\text{Number of years: } 315 \div 365 = 0.8630136$$

$$\text{Depreciation for 315 days: Nu.30,000} \times (315 \div 365) = \text{Nu. 25,890.41}$$

$$\text{FOB value: Nu. (150,000-25,890.41) = Nu.124,109.59}$$

$$\text{Customs value: Nu.124,109.59+ Nu. (124,109.59} \times 21.125\%) = \text{Nu.150,327.74}$$

$$\text{CD 10\%: Nu.15,032.78}$$

$$\text{BST 5\%: Nu.6205.48}$$

$$\therefore \text{ Total payable (after 315 days): Nu. (15,032.78 + 6,205.48 = Nu.21,692.48}$$

## **8.7 Explanation on the calculation of duty and taxes of a Bonafide person.**

**8.7.1** The Bhutanese individuals on government duty abroad are entitled for import of one newly purchased vehicle during his/her tenure in the country of placement on their genuine transfer to Bhutan. However, s/he must have resided in the country of placement for more than 12 months.

**8.7.2** The customs duty on vehicles imported under transfer of residence is assessed on depreciated value at the rate of 20% per annum or straight-line method. The depreciation is calculated from the date of registration in the country of residence to till the date of declaration in Bhutan or 60 working days, whichever is earlier. It means that the vehicle should be arrived at and declared to customs within 60 working days from the date of arrival or entry into the country. If a person declares to customs after 60 working days from the date of arrival or entry into the country, the depreciation is calculated only up to 60 working days from the date of relieving or recalling orders from Bhutan. Furthermore, the rate of exchange and rate of customs duty must be rate in force on the date of declaration accepted by the Department. The rate of exchange is the selling rate quoted by the Central Bank of Bhutan.

### **8.7.3 Formula to Calculate Depreciation:**

Depreciation = no of days/365 \* invoice value (or discounted invoice value) \* 20%. Or it can be calculated in tabular form as calculated in the above example.

### **8.7.4 Derivation of Assessable Value or Customs Value for Levying Customs Duty:**

The customs value for the purpose of levying the CD, the accumulated depreciation should be deducted from the FOB value. Then CD is levied on the CIF value after deducting accumulated depreciation. However, if there is a cash discount, it should be deducted from the invoice value and the depreciation should be calculated against the value after discount. But discount is allowed only up to 50% of the discount offered. Furthermore, if a person has an exemption (quota), the exempted value should be deducted from the CIF value after depreciation and CD shall be levied on the value after deducting exempt amount.

For the purpose of calculating CIF value, the transportation and insurance amount should be based on the documents furnished by the person. But, if a person doesn't have transportation and insurance documents, the transportation charges should be calculated against FOB value or value of discount and insurance must be calculated against value after depreciation.

CIF value after Dep = (Value after depreciation + 20% Freight charges of FOB value or value after discount + 1.125% insurance of value after depreciation)

### **8.7.5 Green Tax Calculation**

The GT for import of vehicles under transfer of residence is levied against the FOB value (i.e. initial cost of the vehicle) and not on the discounted value.

### **8.7.6 Service Charges and Agency Commission**

The trader is liable for service charges of 0.25% of the CIF value or CIF value after discount, if a person files a declaration through a private custom clearing agent. If a person uses customs clearing, liable for 1% agency commission of CIF value or CIF after discount.

CIF value = FOB value (or value after discount) + 20% Freight on FOB value (or value after discount) + 1.125% insurance on FOB value (or value after discount)

### **8.7.7 Documents Required for Vehicle Imported Under Transfer of Residence:**

- 1) Invoice;
- 2) Freight and insurance documents, if any;
- 3) Registration certificate;
- 4) Relieving or recalling order;
- 5) Import license;
- 6) Copy of vehicle quota sanction order; and
- 7) Certificate of origin.

Example: Suppose, Mr. X was returned to Bhutan on 20/03/2024 after his foreign placement along with his Toyota Hilux (2750 CC) which was acquired by him during his tenure in foreign posting. Following information were available:

- 1) invoice with value \$30,000
- 2) cash discount \$1,000.
- 3) exemption certificate (Quota) of Nu. 800,000.
- 4) The vehicle was registered with the Government of the country of placement on 12/11/2021.
- 5) Mr. X was relieved on 28/02/2024
- 6) Vehicle was declared to the Department on 21/03/2024
- 7) CD rate 50% and GT rate 25%

Mr. X could not furnish transportation and insurance documents to the Department. The exchange rate on 21/03/2024 was 85.3. Calculate the assessable value of the vehicle and applicable CDA, GTA, and service charges & commission?

Transfer of Residence (Vehicle Import Assessable Value Computation)

Exchange Rate as on 21/03/2024 = 85.3

Sl. No	Particulars	Amount (Nu)	Amount (Nu.)	Remarks
A	Invoice Value	30000.00	2559000.00	
B	Less: Discount (only cash discount)	1000.00	85300.00	
<b>C</b>	<b>FOB after Discount</b>	<b>29000.00</b>	<b>2473700.00</b>	<b>For calculating GTA</b>
D	Freight (20% * C)	5800.00	494740.00	
E	Insurance (1.125% *C)	326.25	27829.13	
<b>F</b>	<b>CIF after Discount (C+D+E)</b>	<b>35126.25</b>	<b>2996269.13</b>	<b>For calculating SCC</b>
G	Less: Dep (C * no of days/total no of days in a year*20%)	13662.24	1165388.79	
H	FOB after Dep (C -G)	15337.76	1308311.21	
I	Insurance after Dep (1.125%*H)	172.55	14718.50	
J	CIF after Dep (D+H+I)	21310.31	1817769.71	
K	Less: Exemption		800000.00	
<b>L</b>	<b>CIF after Exemption</b>		<b>1017769.71</b>	<b>For calculating CDA</b>
M	CDA (L * 50%)		<b>508884.86</b>	
N	GTA (C * 25%)		<b>618425.00</b>	

O	SCC (F * .25%), if customs clearance 1%		<b>7490.67</b>	
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**Depreciation Computation (Straight line Method)**

<b>Sl. No</b>	<b>Year</b>	<b>No of Days</b>	<b>Dep Amount (\$)</b>	<b>Dep Amount (Nu)</b>
1	2021	49	778.63	66417.15
2	2022	365	5800	494740.00
3	2023	365	5800	494740.00
4	2024	81	1283.61	109491.64
		<b>Total Dep</b>	<b>13662.24</b>	<b>1165388.79</b>

*Thus, the assessable value is Nu. 1,017,769.71, applicable CDA is Nu. 508,884.86, GTA is Nu. 618,425.00 & service charges or agency commission is Nu. 7490.67.*

**8.8 Exemption application in eCMS- System procedures**

**8.8.1** The exemptions refer to specific conditions under which certain goods can be imported or exported without the payment of customs duties and taxes. The trader or the CFA may submit exemption applications as per Fiscal Incentives Act or Customs Law. The exemption is classified as regular and annual. Annual exemption covers only raw materials for the manufacturing units and regular exemption covers other than manufacturing units. However, the procedures for both the exemption types remain the same.

**Pre-Requisites for the applicant**

1. TPN of the Trader should be active and available in eCMS PIN Master.
2. Exemption will be based on the approved exemption matrix (DRC HQ or RRCOs).

3. Exemption is applicable to the exempted party or exemption approval from the MoF.
4. Exemption should be processed before submission of import declaration

**Process flow:**

1. The CFA (Clearing and Forwarding Agent) or Trader logs into the system
2. Click on the exemption module to begin the process.
3. The CFA or Trader submits an exemption application, ensuring that all mandatory information and supporting documents are provided.
4. The level 1 (verifier) verifies the correctness of matrix and its eligibility and recommend for approval to the level 2 (Approval) or reject or reject for amendment.
5. The Level 2 Approver conducts a further review of the application for verification and eligibility. The Approver can approve the application, reject the application, or send the application back to Level 1 for amendments.
6. After approval, the CFA or Trader can submit a cancellation request for the exemption, providing a valid reason for the cancellation.



## CHAPTER 9

### **9.1 Clearing and Forwarding Agent and Courier Service Agent Introduction**

**9.1.1** Clearing and forwarding agent (CFA) is a private business firm who provides clearance service to any person engaging in importation, exportation and transit of goods. CFAs generally act as an intermediary between traders and Customs in Customs clearance processes. Courier service agent is a business firm who provides service related to delivery of goods. Not all the businesses can offer the service of Clearing and Forwarding agent and courier service agent. Any business offering the service of clearing and forwarding agent and courier service agent has to be registered with the Department of Revenue and Customs upon fulfillment of all the prerequisite criteria and conditions. Any person can avail the service of Clearing and forwarding agents and courier service agents by authorizing that particular agent to act on his/her behalf.

### **9.2 Application**

**9.2.1** A person aspiring to become an authorized clearing and forwarding agent and courier service has to apply for recommendation for issuance of trade license. An applicant is eligible to be a clearing and forwarding agent or courier service agent, if the person fulfills the following conditions:

- a). is a Bhutanese national;
- b). has no outstanding dues with the Department. The person applying should not have any dues like outstanding tax and fines with the Department.
- c). has attained 18 years of age, if the person is an individual or sole proprietor;
- d). employs persons with sufficient level of knowledge on Customs matters including the Act and Regulations and amendments thereof and has successfully undergone examination conducted by the Department and holding valid certificate;
- e). has a good compliance record.
- f). does not have any adverse record or has committed any Customs or criminal offense;
- g). furnishes proof of financial solvency.

### **9.3 Examination of Application**

**9.3.1** The concerned regional offices, on receipt of an application, examine the information and documents submitted by making necessary enquiries. Upon satisfactory examination of an application and fulfillment of required conditions, the regional office shall give a recommendation letter for issuance of trade license by the relevant agency. Subsequently, the person has to apply for the trade license.

## **9.4 System perspective of the Registration of Clearing and Forwarding Agent, Temporary Storage Operator, Warehouse Operator and the Renewal of the registration.**

**9.4.1** Before registering as a Clearing and Forwarding Agent (CFA), Warehouse Operator (WHO), Temporary Storage Operator (TSO), or Trader in the eCMS (Electronic Customs Management System), the following steps must be fulfilled to ensure a secure and verified registration process:**9.4.2. Valid Taxpayer Number (TPN):** The individual must have an active and valid Taxpayer Number (TPN) issued and registered with RAMIS (Revenue Administration Management Information System).

**9.4.3. Accessing the eCMS Portal:** Navigate to the official eCMS webpage where the system interface is available for registration and other activities. On the webpage interface, locate and click the **registration tab**. This tab initiates the process to create a user account under the desired category (CFA/WHO/TSO/Trader).

**9.4.4** Enter the information's which are mandatory such as Taxpayer Number (TPN), Email Address or Mobile Number to obtain the one-time password (OTP). Further, for receiving the OTP, either mobile number or an email address can be entered. The system will sent one-time password (OTP) to the registered mobile number or email address.

**9.4.5** Once the OTP is successfully validated, the system will grant access to the next step, where the user can select CFA/WHO/TSO/Trader registration. The dropdown option that the user can opt in the system typically include categories such as Clearing and Forwarding Agent (CFA), Warehouse Operator (WHO), Temporary Storage Operator (TSO), or Trader, depending on the user's role and intended operations within the eCMS.

## **9.5 Submission**

**9.5 1.** After selecting the desired type of registration, the system prompts the user to enter party and applicant details. The user must upload required documents, such as a CFA, WHO, TSO, or trade license, etc... and then submit the registration application.

## **9.6 Approval**

**9.6.1** The submitted registration application will be directed to CMS (Customs) users, where the approver can choose to approve, reject, or send the application for amendment. The action taken will be communicated directly to the applicant via their registered email address, and the application status will be updated accordingly.

## 9.7 Add from Customs after completing exam.

**9.7.1** The CFA aspirant candidates and the existing CFA staffs are provided the refresher course and a training annually by the Department covering areas in Customs procedures and regulations and its' allied Acts. After the training, the candidates have to undergo examination and must obtain pass bench mark set by the Department.

**9.7.2** The individual/candidate who have successfully passed the examination will be updated their user credentials in the Front-End User menu. The passed candidates will get unique DRC number for eCMS. The mandatory information's required are; Name, CID number, DRC number, email id and phone number. The CFA proprietor can add the declarant from the list updated in eCMS by Customs. The following steps should be followed for adding the agent in eCMS from CMS user after completion of exam.

## 9.8 Registration

**9.8.1** To begin the process of adding a new declarant after the completion of the exam, the CMS user should log in to the system and navigate to the **Registration Module**. In the Registration module, click on the **Front-End Tab**. This tab allows the CMS user to start the process of adding a new declarant by capturing the following mandatory details:

**a). Personal Details:** The mandatory details such as the identification type and identification number should be manually captured and once the identification type and number are entered, the system will automatically fetch the remaining details from the database. After capturing the details, the data should be saved and can move on to next tab.

**b). User Details:** The mandatory fields, such as Party details, mobile number, and mode of communication (email or SMS), must be entered. The system will then auto-fetch the remaining data. Once the required information is entered, the data should be saved to proceed to the next tab.

**c). Role Details:** The CMS user must select the Clearing and Forwarding Agent (CFA) option as the role for the Front-End (FE) user during the registration process.

**d). Reset Password:** The desired login ID and password should be entered, and then the user must click on Reset Password to complete the registration process. This action will finalize the account setup.

## **9.9. Add new declarants for CFA**

**9.9.1** Declarants are individuals who are certified by Customs to declare consignments in the system. To be eligible to be registered as declarant, the individual being added as a declarant must have received a certificate from the Department of Revenue & Customs, confirming that they are qualified to make declarations in the system.

**9.9.2** A registered Clearing and Forwarding Agent (CFA) can apply to have a certified declarant (someone who has passed the Customs examination) registered after a review and approval by Customs. The following steps should be followed for adding declarant:

### **a). User registration**

**9.9.3** The user (registered Clearing and Forwarding Agent) should navigate to the user registration module and click on the **Declarant** tab to begin the process of adding a new declarant.

### **b). Declarant Details:**

**9.9.4** The system will prompt the user to provide all the mandatory details required to register the declarant. These details are necessary for the system to process the registration and link the declarant correctly.

**9.9.5** The information that is required to be punched includes CID (Once the CID is captured in the system the other details required for adding declarant will be auto fetched from the database) preferred language and mode of communication (email or SMS).

### **c). Submission**

**9.9.6** Once all the details are filled out and verified, the user can proceed to submit the registration.

#### **d). Approval**

**9.9.7** The submitted registration application will be directed to CMS (Customs) users, where the approver can choose to approve or reject the application. The action taken will be communicated directly to the applicant via their registered email address, and the application status will be updated accordingly.

#### **9.10 Renewal process**

**9.10.1** Visit the official eCMS website and select the "Renewal" tab. This option allows FE users to begin the process of renewing their CFA.

##### **a). Renewal Application**

**9.10.2** After clicking on the "Renewal" tab, the system will guide the Front-End (FE) user to the next step. Here, the FE user should select the application type (mandatory) and enter either the application number, TPN number, or CID number and click on search button.

**9.10.3** Once search command is given, a dialogue box will automatically pop up and the FE user have to click on the renewal tab under status bar.

##### **b). Registration Of Clearing and Forwarding Agent**

**9.10.4** Next, the "Renewal" tab under the status bar is clicked, allowing the Front-End (FE) user to proceed to the registration section for clearing and forwarding agents. At this stage, all mandatory details must be accurately entered into the system.

**9.10.5 Party Details:** Under this tab, all the details are automatically fetched, except for the RRCO location, which the Front-End (FE) user must manually select for the renewal application and proceed to the subsequent tabs such as **Applicant Details, Document Details, Summary Details.**

**9.10.6** Once all the required details are filled in and the necessary documents are attached, the Front-End (FE) user can proceed to submit the renewal application.

### **c). Approval**

**9.10.7** After the renewal application is submitted from the FE user's account, it appears on the verifier's dashboard. The verifier can either recommend the application for approval to Level 2 (approval) or reject it. If the application is recommended for Level 2 approval, the approver then reviews it and has the option to approve or reject the application. Further, Level 2 have the option to send back to the verifier for further review and send for amendment by the verifier to the CFA to make necessary changes. The action taken will be communicated directly to the applicant via their registered email address, and the application status will be updated accordingly.

### **d). Amendment for renewal**

**9.10.8** Visit the official eCMS website and select the "Track Application" tab. This option allows FE users to enter the application reference number received while submitting the renewal of the registration.

### **Steps**

1. Navigate to the TPN Search/Track Application menu.
2. Enter your application number in the Track Application field.
3. Click the Search button.
4. Once you click Search, the system will display the Amendment menu.
5. The CFA should then review the application, make the necessary corrections, and resubmit it.

### **9.11 Cancellation of CFA**

**9.11.1** The cancellation of a Clearing and Forwarding Agent (CFA) refers to the termination or revocation of an agent's authorization or license to handle clearing and forwarding operations for goods being imported or exported. The following steps should be followed for cancellation of CFA.

#### **a). User registration**

**9.11.2** The CFA can request the cancellation of their user credentials by navigating to the **User Registration** module and selecting the "**Cancel Registration Application**" tab.

## **b). Registration Details**

**9.11.3** After clicking the "Cancel Registration Application" tab, the system will direct the user to the **registration details** page. The CFA should then select the registration details displayed on the dashboard to proceed with the cancellation of their registration.

**9.11.4** The CFA must provide a reason for the cancellation of their registration and submit the "Apply Cancellation".

## **c). Approval**

**9.11.5** After the Cancellation application is submitted from the FE user's account, it appears on the verifier's dashboard. The verifier can either recommend cancellation or reject cancellation. If the application is recommended for cancellation, the approver then reviews it and has the option to approve cancellation or reject cancellation. The action taken will be communicated directly to the applicant via their registered email address, and the application status will be updated accordingly.

## CHAPTER 10

### 10.1 Entry and Exit of Conveyance

#### Introduction

**10.1.1** The entry and exit of conveyance in customs regulations refers to the procedures and regulations governing the arrival and departure of various modes of transportation (such as aircraft, Rails and vehicles etc.) carrying goods, passengers, or cargo. Therefore, any conveyances (such as vehicles, rails, animals, vessel and aircraft) that are transporting goods or carrying passengers and cargo either into or out of Bhutan shall enter or leave through designated customs station notified by the department from time to time

**10.1.2** An authorized Customs port of entry and exit are listed below and as when notified by the department.

District or Dzongkhag	Office Name/ Sub District /Dzongkhag	Name of Customs Office	Seasonal office or Check post	Trade with countries other than India	Import from India	Export
Chukha	Regional Revenue and Customs Office (RRCO) Phuntsholing	MDP Phuntsholing	No	Yes	Yes	Yes
		Alay	No	Yes	Yes	Yes
		Lhamoizingkha	No	Yes	Yes	Yes
Samtse	RRCO Samtse	Samtse Main Gate	No	Yes	Yes	Yes
		Gomtu	No	Yes	Yes	Yes
		Pugli	No	Yes	Yes	Yes
		Bhintar	No	Yes	Yes	Yes
		Jiti	No	Yes	Yes	Yes
		Trashijong	No	Yes	Yes	Yes
Paro	RRCO, Paro	Paro International Airport	No	Yes	Yes	Yes
Sarpang	RRCO, Gelephu	Gelephu	No	Yes	Yes	Yes
		Pangbang	Yes	No	Yes	Yes
Samdrupjongkhar	RRCO, Samdrup Jongkhar	Samdrup Jongkhar Main Gate	No	Yes	Yes	Yes
		Pelzomthang (Nanglam)	No	Yes	Yes	Yes



		<b>Jomotshangkha (Daifam)</b>	No	Yes	Yes	Yes
		<b>Phuntshorabtenling(Motanga Industrial Area)</b>	No	Yes	Yes	Yes
<b>Thimphu</b>	<b>Thimphu</b>	<b>Foreign Post Parcel</b>	No	Yes	Yes	No
		<b>DHL Transit Office</b>	No	Yes	Yes	No
<b>Mongar</b>	<b>Mongar</b>	<b>Customs Office</b>				
<b>Bumthang</b>	<b>Bumthang</b>	<b>Customs Office</b>				

## 10.2 Responsibility of Airline Services

**10.2.1** The airline's services shall provide the following information to the Department:

**(1)** Submit Passenger Manifest electronically of all the incoming and outgoing international flights in advance with the following Details:

- a) Bound Type
- b) Port of initial Arrival & Last port of call (Departure)
- c) Subsequent port of call
- d) Estimated Date of Arrival & Departure
- e) Flight number
- f) Number of Passenger(s)/Crews
- g) Passenger list as mentioned in below table:

Sl.no.	Types	Passport/Document no.	LAST Name	First Name	Middle Name	Gender	Nationality
1	Crew	G600056	Wangdi	Pema		Male	Bhutan

**10.2.2** Submit Air cargo Manifest of all incoming and departing international flights electronically;

a) one hour prior to arrival of aircraft in Bhutan if the duration for an aircraft to reach Bhutan from its last port of call (Departure) is less than two hours.

b) two hours prior to arrival of aircraft in Bhutan if the duration for an aircraft to reach Bhutan from its last port of call is more than two hours.

- c) prior to departure for departing international flights.
- d) accurate and true information regarding the goods imported to or exported from Bhutan
- e) notify the Department of any additional or omission and need amendment or cancellation in the cargo manifest once it' s been submitted.
- f) submit airway bill along with goods to Temporary Storage (TSO) once the air cargo manifest is approved by the Department.

**10.3 Cargo Manifest Details:**

- a) Bound Type
- b) Port of loading
- c) Estimated Date of arrival & Departure
- d) Flight Number
- e) Numbers of AWBs
- f) Airway Details (AWB) as follows;

Sl.no.	AWB Number	Number of Packages	Gross Weight	Consignee Name	Consignor Name	Status
1.	78670012946	10	100	Druk Optics	Kolkata Optical	Approved

## CHAPTER 11

### 11.1 Temporary Admission

#### Introduction

*“Temporary admission ” means the customs procedure under which certain goods can be imported into the country conditionally relieved totally or partially from payment of customs duties and taxes; such goods must be imported for a specific purpose and must be intended for re exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.*

**11.1.1 Goods will be only allowed to declare under Temporary Admission if** a person or guarantor in Bhutan must accept responsibility for both the import and the subsequent re-export of the goods or pays a security deposit equivalent to the value of the applicable customs duty and taxes. The amount of security deposit should be equivalent to the value of customs duty and taxes of goods at the time of importation. A person or guarantor should declare goods under temporary admission in accordance with the customs rules and regulations.

The payment of the security deposit that is equivalent to the customs duty is payable if the goods were being permanently imported. Further, security deposit is typically refundable once the goods are re-exported within the agreed period, provided all conditions have been met and the goods are in compliance with customs regulations during their stay in Bhutan.

### 11.2 Types of goods eligible for Temporary Admission

**11.2.1** Goods for the following purposes are permitted under the temporary admission procedure free of customs duty and taxes:

- i. goods for display or use at exhibitions, fairs, meetings or similar events;
- ii. professional equipment;
- iii. goods imported for educational, scientific or cultural purposes;
- iv. goods imported for humanitarian purposes;
- v. means of transport;
- vi. any other goods for specific purpose subject to re-export as approved by the relevant authority.

**11.2.2** Despite the eligible goods mentioned above, the Department has the authority to specify certain categories of goods such as **consumables, tools, spare parts** and any other goods that cannot be imported under the temporary admission procedure.

**Consumables:** Items that are intended to be consumed or used up, rather than kept. These include products that are depleted or significantly altered through use.

**Tools:** Instruments or equipment used to perform tasks or work. These are typically used to maintain or repair other items but are not intended for resale.

**Spare Parts:** Components intended to replace or repair parts of machinery, vehicles, or other equipment. These are usually kept in inventory to replace damaged or worn-out parts.

### **11.2.3 Examples of goods not eligible for Temporary Admission:**

#### **Consumables:**

**Food and Beverages:** Items like snacks, drinks, or any perishable food items.

**Fuel and Lubricants:** Gasoline, diesel, oils, and other substances used to power vehicles or machinery.

**Medical Supplies:** Items like bandages, syringes, or other medical consumables that are used once and then disposed of.

#### **Tools:**

**Hand Tools:** Hammers, screwdrivers, pliers, and wrenches.

**Power Tools:** Drills, saws, and electric screwdrivers.

**Measurement Instruments:** Calipers, gauges, and other precision tools used in various industries.

#### **Spare Parts:**

**Vehicle Parts:** Brake pads, tires, spark plugs, and air filters for cars, trucks, and motorcycles.

**Machinery Components:** Bearings, gears, belts, and hydraulic parts for industrial machinery.

**Electronic Components:** Circuit boards, microchips, and other electronic repair parts.

**11.2.4** Further, the temporary admission for restricted goods can happen only upon submission of a permit issued by the relevant authority. Prohibited goods must be confiscated, detained, or surrendered to the relevant authority or agency in accordance with the rules and regulations.

### **11.3 Documents required, if the goods are meant for Temporary Admission**

- i.** invoice;
- ii.** packing list/inventory of the goods
- iii.** import permit from the relevant agency, where required;
- iv.** letter of undertaking from the guarantor or holder;
- v.** any other documents deemed necessary by the Department.

### **11.4 Declaration Process**

- Submit TIER (temporary import/export request) application by the applicant/authorized agent to the department/regional office electronically.
- Once the application is approved by the authority, the applicant/authorized agent can process the declaration.
- The goods temporarily admitted are subject to re-export within the time period approved by the department.
- The department/regional office may, on submission of TIER extension by the person/guarantor, approve extension requests of the temporarily admitted goods.
- For the purpose of extension of TIER of temporarily admitted goods, the Department may carry out onsite inspection to ensure compliance with the Regulation.
- Detailed declaration process will be explained under Clearance procedure.

### **11.5 Identification of Temporary admitted goods**

**11.5.1** The identification of the temporary admitted goods shall be identified through following means:

- i.** marks accepted or affixed by foreign Customs authority; (Example: Customs seals and identification marks affixed by foreign Customs)
- ii.** number or other indication permanently affixed to the goods; (Example, engine number, chassis number in case of vehicle)
- iii.** by description, photographs or sampling;
- iv.** examine the accounting records of the person concerned; or
- v.** appropriate surveillance of the premises where the temporarily admitted goods are stored including means of transport.

## **11.6 Period for re-exportation for temporarily admitted good**

**11.6.1** The period for Re-exportation of Temporarily Admitted goods is within 30 working days from the date of import declaration. However, if the importer needs to retain his goods beyond the approved time period, he/she can request for extension of the time period for temporarily admitted goods electronically. Accordingly, the Department may accord approval for extension of time period on a case-by-case basis.

## **11.7 Temporary admission of goods imported for projects**

- Goods imported for the purpose of projects which are approved by the government are eligible for temporary admission. A project means those projects with a duration not less than 12 months and as approved by the government.
- The goods temporarily admitted for the purpose of projects are subject to re-export within 12 months from the date of declaration. However, there might be exceptional circumstances where it might not be feasible to re-export within 12 months from the date of declaration and for such matter, the person or guarantor shall seek extension prior to the expiry of the temporary admission.
- The department may, on submission of TIER extension by the person/guarantor, approve extension requests of the temporarily admitted goods for projects on the annual basis.
- For the purpose of extension of TIER of temporarily admitted goods, the Department shall carry out onsite inspection to ensure compliance with the Regulation.

## **11.8 Transfer of Temporary Admission**

**11.8.1** The Transfer of Temporary Admission to other person is allowed by the Department and done electronically provided the following conditions were met;

1. The other person provides equivalent security deposit (If applicable). The other person will fulfill all other obligations related to the goods under temporary admission including transportation. (example: Obligation to terminate the temporarily admitted goods as per the regulations OR extension of time period, if necessary)
2. The other person should agree to abide by the person or guarantor's obligation to the Department.

**11.8.2** In summary the department will allow goods imported under temporary admission to be transferred to another party under specific conditions. It ensures that the new importer assumes the same level of responsibility and commitment as the original importer or guarantor, thereby maintaining compliance with customs regulations and ensuring the proper use and re-export of goods imported temporarily.

## **11.9 Termination/closing of Temporarily admitted goods**

**11.9.1** The goods which are temporarily admitted in the country must be re-exported within the time period approved by the department/regional offices at the time of entry or extension period accorded thereto. A person or guarantor may choose to re-export temporarily admitted goods including means of transport through Customs Station other than the one through which it was imported. (Example: a person can temporarily import goods from Gelephu Customs station and re-export it from Samtse customs station and goods temporarily imported by air can be re-exported by road, and vice versa)

## **11.10 Termination of Temporary Admission**

**11.10.1** The temporarily admitted goods can be terminated in the following manner:

- **Re-Export:**

The temporarily admitted goods can be terminated by re-exporting the goods. For the purpose of re-exportation of the goods under temporary admission, a person/guarantor needs to physically bring the goods to the customs station and electronically declare the goods at the port of exit with all the necessary documents.

- **Import:**

If the goods are sold in the domestic market, then it would be considered as home use. In such cases, the department will terminate the Temporary admission of goods as Import and following requirements are applicable:

- (1) assessment is carried out as per the regulation;
- (2) trader shall keep the record of all the goods, complete the required Customs procedure and pay applicable Customs duty and taxes;
- (3) applicable duties and taxes shall be levied on the value determined at the time of initial import.

- **Warehousing**

Temporarily admitted goods can also be terminated by Warehousing procedure; If the Department authorizes a person or guarantor to place the goods including means of transport in a Customs Warehouse.

## **11.11 Termination in case of unforeseen circumstances**

**11.11.1** If the goods, including means of transport (such as vehicles or machinery), suffer significant damage due to an unforeseen accident or force majeure event (such as natural disasters, fire, or other unavoidable circumstances), the temporary admission procedure can be terminated.

**11.11.2** However, If the damage or loss of the temporarily admitted goods occurs due to the willful act or negligence of the person or persons in charge (such as the importer or their representatives), customs duty will be liable on the full value of the goods.

**11.11.3** If goods that have been temporarily admitted into Bhutan are stolen during their period of temporary admission, the incident must be reported to the relevant authorities promptly and the Department may terminate the temporary admission status of the stolen goods. This termination relieves the importer or guarantor of further obligations related to the temporary admission of those specific goods.

**11.11.4** If goods that have been temporarily imported into Bhutan are destroyed or suffer total loss due to accident or force majeure (unforeseen events beyond control), the person responsible (either the importer or their guarantor) must provide satisfactory evidence of this to the Department. Upon being satisfied with the evidence provided, the Department has the authority to terminate the temporary admission status of the goods.

## **11.12 Repayment of security deposit**

**11.12.1** When goods imported under temporary admission are successfully re-exported or their temporary admission status is terminated due to specified reasons (such as destruction, total loss, or theft), the person or the guarantor who provided security deposit is entitled to receive the refund. However, if there is any tax liability to the department it will be adjusted from the security deposit.

## **11.13 Liability of the guarantor or person**

**11.13.1** The guarantor shall be liable for Customs duty, fees and other charges arising from the temporary admission procedure if the imported goods permitted under temporary admission are not re-exported within the expiry or extended deadline. The guarantor shall be also liable to compensate for the loss and damage caused by the reason of breach of procedure by the beneficiary.



## CHAPTER 12

### 12.1 Clearance Procedure

#### Introduction

The imported and export goods whether dutiable or exempted shall be declared to the Department at the customs station and customs area. When the goods are introduced into a Customs territory, a decision must be made as to their clearance in accordance with one of the Customs procedures laid down for that purpose.

### 12.2 General Declaration

**12.2.1** The following are the types of Customs Procedures:

- 1) Importation for home use;
- 2) Warehousing;
- 3) Temporary admission;
- 4) Re-importation;
- 5) Exportation;
- 6) Re-exportation; or
- 7) Transit and transshipment.
- 8) Other customs procedures notified by the Ministry.

**12.2.2** The customs declaration must clearly specify which clearance procedures are used. Eg. If Mr. "A" imports a consignment of rice to be sold in Bhutan, the declaration form should specify the customs procedure as **Importation for home use**.

**12.2.3** Prior to the Customs declaration, a person must file the road manifest, dispatch challan and air cargo/passenger manifest in advance specifying the customs procedures.

#### A. Road Manifest

**12.2.4** Any outbound or inbound vehicles carrying goods shall file the road manifest prior to the arrival in the customs station or customs area. Both the Declarant and Custom officials should be registered in the system and have access to the required application. Following process shall be followed to complete the submission of the road manifest otherwise specified by the Department.

**a. Create Road Manifest Header**

**12.2.5** The declarant creates a road manifest starting with the header data. After entering all the mandatory inputs, the user can save the header data. But before allowing the header to be saved, the system will validate the inputs and will display messages, if there are errors encountered. If there are no validation issues, the system will generate a unique Road Manifest Number and save the road manifest header with a Draft status.

**b. Create Invoices**

**12.2.6** The declarant can create invoice details only after the header data has been saved and can either opt to create a single invoice or multiple invoices if required. After entering all the mandatory inputs, the system will validate the information and will display messages if there are errors encountered. If there are no validation issues, the system will save the invoice.

**c. Create Invoices with Non-Containerized Items**

**12.2.7** For Invoices with non-containerized items, the declarant can choose the non-Containerized field and no other item types can be selected. After entering all the mandatory inputs, the system will validate the information and will display messages if there are errors encountered. If there are no validation issues, the system will save the invoice.

**d. Create Invoices with Vehicle Items**

**12.2.8** For Invoices with vehicle items, the user can choose the Vehicle field and no other item types can be selected. Afterwards, the declarant must enter the number of vehicles to add and create the corresponding number of vehicle records. After entering all the mandatory inputs, the system will validate the information and will display messages if there are errors encountered. If there are no validation issues, the system will save the invoice.

#### **e. Create Invoices with Container Items**

**12.2.9** For Invoices with container items, declarants can choose the Container field and no other item types can be selected. Afterwards, the declarant must enter the number of containers to add and create the corresponding number of container records. After entering all the mandatory inputs, the system will validate the information and will display messages if there are errors encountered. If there are no validation issues, the system will save the invoice.

#### **f. Submit Road Manifest**

**12.2.10** The declarant submits the road manifest after creating the necessary invoices and vehicle details. But before allowing the manifest to be submitted, the system will validate the manifest as a whole and will display messages if there are errors encountered. If there are no validation issues, the system will submit the manifest with a Pending Approval status and will route the manifest to customs officials for approval.

#### **g. Reject or Approve**

**12.2.11** The submitted road manifest is routed to a customs official's dashboard for approval. The customs officials select the manifest and initiates one of the following actions.

- Approve
- Reject for Amendments
- Reject

#### **h. Update Road Manifest**

**12.2.12** To update the road manifest, it can be done in following ways;

- Declarant can request for update on the approved road manifest,
- Customs officials will send for amendment if required
- Vehicle number can be updated without request unless the vehicle gate-in is done. For such an update, no approval is required from the customs authorities and vehicle number gets auto updated.

## **i. Road Manifest Cancellation**

**12.2.13** The declarant can create a road manifest cancellation by selecting a road manifest with an Approved status. A manifest can be selected for cancellation if:

- it is not used in an active declaration
- It is not yet included another cancellation request pending approval
- it is not canceled
- the vehicle has not yet entered the country (no gate-in reference number)

After the cancellation request has been approved, the particular manifest will have the Canceled status.

## **B. Dispatch Challan**

**12.2.13** Dispatch Challan are required by traders for declaration of International Transit Declaration across the International boundary for entry into Bhutan. It serves the twin purpose of authorization of transportation through the international boundary as well as for Gate in of the goods into Bhutan. Post approval of the International Transit declaration and associated LOG (Letter of Guarantee), the declarant shall liaise with local Customs of the transiting country and procure the Bill of Entry details. Subsequently, the declarant will submit a Dispatch challan for each International Transit declaration.

**12.2.14** Upon submission of the dispatch Challan, the Liaison & Transit Office (LTO) will review and approve the Challan. System will consolidate the approved Dispatch Challan based on matching vehicle number and date of departure and assign a unique Consolidated challan number. Once the LTO determines that all dispatch challans are consolidated, the agents or transporter can take a print of the consolidated Challan for transiting to Bhutan.

## **12.3 Pre-Requisites of Dispatch Challan**

- The Associated International Transit Declaration has been submitted and approved.
- Letter of Guarantee scan copy duly passed by Indian Customs.
- Declarant has to coordinate with the local Customs authorities of the transiting country and obtain the Bill of Entry details required as an input for the dispatch Challan.
- Declarant has the correct and accurate vehicle details which will be engaged for transporting the consignments.
- Indian Clearing agent details.
- Supporting documents
- Consignment Note
- Transit Insurance Documents
- Container details

#### **a. Create Dispatch Challan**

**12.3.1** The declarant creates a dispatch challan and provides the following key inputs;

- Approved International Transit Declaration.
- Vehicle number for transportation of goods.
- Drivers Details
- Transporters details

Additionally, the declarant will provide all the required mandatory information and submit the dispatch challan.

#### **b. Submit Dispatch Challan**

**12.3.2** After submission of the dispatch challan, the dispatch challan shall be routed to the work queue of the next available Verifier at the LTO, on a rotational basis.

#### **c. Verify Dispatch Challan**

**12.3.3** Verifier will verify the dispatch challan and ascertain that all details are provided correctly.

The verifier will take the following actions.

- Approve: In this case, the dispatch challan will be approved and routed for consolidation.
- Reject: In this case, the dispatch challan shall be rejected.  
Recommend for Amendment: In this case, the dispatch challan shall be routed back to declarant for amendment and re-submission. The amendment of Dispatch challan shall be done prior to Gate-in in Bhutan.

#### **d. Approval and Consolidation of Dispatch Challans**

**12.3.4** If the verifier concludes that the provided dispatch challan is correct, then the verifier can approve the dispatch challan. Upon approval of the dispatch challan, the system will consolidate the approved dispatch challan with previously approved dispatch challan sharing the same vehicle registration number and same transport date. A unique consolidation number shall be generated which will link all related dispatch challan which shares the same vehicle number. After completion of consolidation, the CFA shall be informed on the approval and consolidation number through email. System shall also offer the following;

- Consolidation number will be shown to the CFA dashboard alongside the dispatch challan.
- LTO can search and view Consolidation details of all dispatch challans through a consolidated challan search and view interface.

#### **e. Generate consolidated dispatch challan number**

**12.3.5** During the consolidation of dispatch challan, the system will generate a unique consolidation number for the consolidation at the vehicle registration number level. Further approved dispatch challan for the same vehicle number shall be consolidated under the consolidation number already generated for the vehicle. Once a consolidation number for a vehicle has been generated, it shall be used for all consolidation against the vehicle until the vehicle completes gate-out from LTO. Once the vehicle gates out from LTO the consolidation number shall be deemed as closed and the system will not allow any further consolidation of dispatch challan. Further dispatch challans against the same vehicle will have a new consolidation number.

#### **f. Release Cargo**

**12.3.6** After verifying the dispatch challan, customs officials of LTO will approve the dispatch challan and generate the release order by the system. Thereafter, the customs officials will release the goods.

**g. Gate Out (Customs Transit Office)**

**12.3.7** Once the goods are released from the Liaison and Transit Office, the customs officials will complete the gate-out process of the consolidated Dispatch challan.

**h. Gate-in in Bhutan using consolidated dispatch challan number**

**12.3.8** A Gate officer at Bhutan port can Gate in using the consolidated dispatch challan. Upon completion of Gate in, the consolidation shall be considered as closed.

**12.4 Air Manifest**

**12.4.1** Air manifest is created by the Airlines and CFAs and manifest is submitted electronically. The Airlines or CFAs can select airway bills as ‘consolidated’ and assign the corresponding consolidating party. The air manifest document is logically structured as shown in the below diagram:



**12.5 Air Manifest Structure**

**12.5.1** The master manifest follows the International Air Transport Association format. The master manifest comprises the Cargo Interchange message procedures (CIMP) Flight Manifest (FFM), the relationship to AWB (airway bill) is one-to-many. The FFM indicates if the waybill is a master waybill or is consolidated Airlines (House airway bills). The containers in the AWB/AHL are not captured in the manifest.

## **12.6 Process of Air Manifest**

### **a. Create Manifest Header**

**12.6.1** The airlines or CFAs create an air manifest starting with the header data. After entering all the mandatory inputs, the user can save the header data. Before allowing the header to be saved, the system will validate the inputs and will display messages if there are errors encountered. If there are no validation issues, the system will generate a unique Provisional Manifest Number and save the air manifest header with a Draft status.

### **b. Create airway bills**

**12.6.2** The airlines or CFAs can create airway bills/s only after the header data has been saved. The user can create as many AWBs in the system. Before allowing the AWB to be saved, the system will validate the inputs and will display messages if there are errors encountered. If there are no validation issues, the system will save the AWB.

### **c. Upload Manifest File**

**12.6.3** The airlines or CFAs can create an air manifest by uploading a file or entering the details manually in the system. The file format will be the one approved by the Department. The airlines or CFAs upload the file with mandatory inputs. Before allowing the file to be saved, the system will validate the inputs and file contents and will display messages if there are errors encountered. If there are no validation issues, the system will save the air manifest file.

### **d. Create Air Manifest**

**12.6.4** After the system uploads the manifest file, the system will create and save the corresponding manifest header; AWBs with a Draft status. A unique Rotation Number and a Provisional Manifest Number will also be generated and saved along with the air manifest.

### **e. Submit Air Manifest**

**12.6.5** The airlines or CFAs submit the air manifest after creating the AWBs. If there are no validation issues, the system will submit the manifest with a Pending Approval status and will route the manifest to a customs official for approval.



## **f. Reject or Approve**

**12.6.6** The manifest is routed to a customs official for approval. The customs official selects the manifest and initiates one of the following actions;

- Approve
- Reject for Amendments
- Reject

## **12.7 Additional Air Manifest**

**12.7.1** The system will enable the airlines or CFAs to add airway bills to an approved air master manifest through manual input/upload and subsequent approval can be done by the customs officials for the request of additional air manifest.

## **12.8 Air Manifest Cancellation**

**12.8.1** The system will enable the airlines or CFAs to cancel a manifest or one of its airway bills through manual input and subsequent cancellation requests can be approved by the customs official.

## **12.9 House Manifest Submission**

**12.9.1** The master airway bill which is a consolidated airway bill assigned to the particular party in Bhutan shall deconsolidate and create a house manifest. The CFAs select the consolidated airway bill and assign it to the individual party.

## **12.10 Passenger Manifest**

**12.10.1** The passenger manifest comprises header data and a list of passengers. The airlines and air service providers can create a passenger manifest by uploading a file or entering the details manually in the system. In case of private/chartered flights, the air service provider will submit the passenger manifest. For passenger lists, amendment is done by replacement of the original manifest after cancellation.

## **12.11 Process of Passenger Manifest**

### **a. Create Manifest Header**

**12.11.2** The airlines and air service providers can create a passenger manifest starting with the header data. After entering all the mandatory inputs, the user can save the header data. If there are no validation issues, the system will generate a unique Manifest Number and save the passenger manifest header with a Draft status.

### **b. Create Passenger List**

**12.11.3** The airlines and air service providers can create as many passengers as possible in the system. After entering all the mandatory inputs, the user can save the passenger data. If there are no validation issues, the system will save the passenger record.

### **c. Create Passenger Manifest**

**12.11.4** The airlines and air service providers can create a passenger manifest by uploading a file or entering the details manually in the system. After the system uploads the manifest file via system integration, the system will save the corresponding manifest header & passenger list with a Draft status. A unique Manifest Number will also be generated and will be displayed.

### **d. Submit Passenger Manifest**

**12.11.5** The Airlines and air service providers submits the passenger manifest after creating the passenger records. If there are no validation issues, the system will submit the manifest with a Pending Approval status and will route the manifest to customs officials for approval.

### **e. Reject or Approve**

**12.11.6** The manifest is routed to customs officials for approval. The customs officials may initiate one of the following actions;

- Approve
- Reject for Amendments
- Reject

## **12.12 Temporary Storage**

**12.12.1** Goods that arrive by Air transport (AWB), Road (Manifest Invoice) the airlines/CFAs must submit a request to admit into temporary storage after the Air/Road manifest or Dispatch Challan has been approved.

### **Submit Temporary Storage Request**

**12.12.2** Once the CFA submitted the request to admit the manifest into temporary storage which they were importing for home use, the manifest can be seen by the concerned temporary Storage Operator for admission of the goods into the temporary storage.

### **Admit Goods into Temporary Storage**

**12.12.3** The process of admitting the goods into the Temporary Storage starts once the manifest/dispatch challan is submitted and approved and moved the consignment into temporary storage by submitting a Temporary Storage Request. The system will save the request with a Pending Admittance status and the request will be routed to the temporary storage operator assigned to the storage. The temporary storage operator will process the request and facilitate the actual movement of the consignment to the temporary storage. Once this has been completed, the request will be updated with an Admitted status.

### **Release Goods from Temporary Storage**

**12.12.4** The process of releasing the goods from the Temporary Storage will start once the Clearance process is completed. Once the release officer releases the goods in the import declaration/temporary admission/warehouse, national transit, the completed declaration can be seen by the concerned Temporary Storage Operator for release of the goods from the Temporary Storage and release the goods by the Temporary Storage Operator.

### **Calculate Storage Fees**

**12.12.5** Declarants need to create and submit the declarations and calculate the charges based on goods that can only remain in temporary storage for up to seven (7) working days. After seven (7) working days, the goods have not been removed from temporary storage, then storage charges will be applied for each day up to a maximum of fifteen (15) working days. After 7 days the declarant must initiate any customs clearance.

### 12.12.6 Temporary Storage charges applicable if goods are not cleared within 7 working days

*[The rates prescribed below are in Ngultrum and are per day per package basis]*

Small consignments of less than 500 Kilograms (Kgs)		Heavy consignments of more than 500 Kilograms (Kgs)		Vehicle	
Hazardous / Perishable	Non-hazardous/ non-perishable	Hazardous/ Perishable	Non-hazardous/ Non-perishable	Heavy	Light
40	20	200	100	200	100

### 12.13 General Declaration

**12.13.1** A person shall electronically submit the declaration in advance to the Customs authorities. Where the system is down due to unforeseen circumstances, the Customs authorities shall allow the use of Single Administrative Documents (SAD form) for manual declaration upon obtaining permission from the Head of the Customs/Officer In-charge and the same shall be updated in the system immediately upon restoration or functional of the system.

### 12.14 Advance Declaration

**12.14.1** The Department shall accept the advance declaration by a person subject to the condition that the goods arrive within 30 working days from the date of filing the declaration. The expected time of arrival shall be validated with the submitted road manifest or dispatched challan and the rate of Customs duty, taxes, charges or fees shall be the rate in force on the day the goods enter the customs station in Bhutan. Where the rate of Customs duty, taxes, charges or fees has been revised during the time of arrival of goods, either refund or additional collection shall be done by the Department for the upfront payment made by a person.

## **12.15 Provisional Declaration**

**12.15.1** If a person does not have all the required information or documents to make a Customs declaration, a provisional Customs declaration may be permitted to be lodged provided that the declaration contains minimum documents and adequate information as considered necessary by the Department. A person shall inform the Customs authorities regarding provisional declaration prior to submission of declarations and consent of submitting the required documents or information before or at the time of inspection of the goods. The Inspection Officer shall upload the additional documents or information in the system provided by a person as supporting documents.

## **12.16 Declaration by Customs Authorities**

**12.16.1** The declaration done by the Customs authorities is called Simplified Declaration. The simplified declaration is used for Customs to submit a simple declaration to be used for quick declaration like during relief goods for national calamities, emergencies, etc., declaration for ad hoc offense and declaration of passenger baggage exceeding the baggage allowance. Since the Declaration is submitted by the Customs, it will not go through the approval process. valuation, risk, inspection, release and the process will be completed on the payment of duty, taxes, charges or fees if applicable. However, in case of passenger baggage, the declaration shall be subjected to approval.

## **12.17 Acceptance/approval of Customs Declaration**

**12.17.1** A verifier of the declaration shall, prior to acceptance, ensure and validate that all the information like importer/exporter details, invoice number, invoice value, quantity, classification, Customs Procedure Code (CPC), relevant permits where applicable, etc and supporting documents provided are correct. Upon verification of the above information, a verifier may accept the declaration or reject the declaration or send the declaration for amendment.

**12.17.2** A declaration accepted by the Department shall be subject to further verification and subsequent Customs clearance process shall be carried out.

**12.17.3** The date of acceptance of a Customs declaration is the date on which the person received the acknowledgement number generated by the Customs system.

**12.17.4** For the value of goods in a currency other than Ngultrum, the rate of exchange for Customs declaration shall be the rate in force on the day the Customs declaration is submitted.

**12.17.5** The standard acceptable foreign currency for the purpose of Customs declaration shall be the currencies accepted by the Royal Monetary Authority of Bhutan.

## **12.18 Amendment of Customs Declaration**

**12.18.1** The Department may, prior to the acceptance of the Customs Declaration submitted by a person, permit a person to amend the Customs declaration. The Customs authorities based on the verification or when a person informs the Customs authorities of the need for amendment can reject the declaration for amendment.

**12.18.2** Further, a person shall be allowed to request for amendment of the Customs declaration that has already been accepted by the Department before examination of the goods.

**12.18.3** The post entry amendment shall be allowed for the declarations which have completed the customs clearance process.

**12.18.4** An amendment in the customs declaration required as a result of inspection or post clearance audit, amendment shall consider the observations made by the inspection or audit team. However, if a person appeals to the Dispute Settlement Committee on the unsatisfactoriness of the assessment, amendment shall be made based on the decision passed by the committee.

## **Withdrawal, Cancellation and Rejection of Customs Declaration**

### **12.19 Withdrawal**

**12.19.1** A person may, prior to the acceptance of the Customs declaration inform the Customs authorities requesting for withdrawal or cancellation of the declaration. The Department shall verify the veracity of the request and reject or accept the submitted request.

### **12.20 Cancellation**

**12.20.1** The Department may, after acceptance of the Customs Declaration, allow the cancellation of declaration. For the purpose of cancellation, a person must apply the cancellation request through the system and the approval shall be made on genuine grounds and justification provided therein.

### **12.21 Rejection**

**12.21.1** The Department may also directly reject the declaration, if a person fails to fulfill the applicable provisions of the Customs rules and regulations. The rejected or canceled Customs declaration becomes void and shall not be allowed to resubmit.

## **12.22 Review of Customs Declarations**

**12.22.1** The customs assessor has to review and assess the accepted declaration. There are 3 assessors who will review and assess as follows:

- Valuation official
- Risk official
- Inspection official

## **12.23 Valuation**

**12.23.1** The valuation official shall assess valuation of an imported or export goods as per the value derived by applying relevant valuation methods. The valuation official shall verify following details during the valuation;

- Revisit the accepted declaration
- Verify the valuation by applying the valuation methods
- Verify the supporting documents
- Ask for additional documents if required about the valuation issues
- Provide clear remarks to the inspection team regarding the valuation issues
- Direct the declaration to yellow, green and red channels where necessary

## **12.24. Risk**

**12.24.1** The risk official shall carry out the risk assessment to evaluate the potential risk associated with the particular declaration such as;

- Nature of goods
- Country of origin
- Compliance history of the traders and CFAs
- Change in trade pattern
- Relief (exemptions) claimed, etc.

**12.24.2** The risk official will accordingly decide the lane type or possible outcomes i.e. “Green”, “Yellow” or “Red” after risk assessment. The “Green” lane will go for the release process, “Yellow” will go for document verification and “Red” will go for physical inspection.

## **12.25 Inspection**

**12.25.1** The customs declarations directed to the red lane by the valuation and risk official will come to the Inspection official to execute the further actions.

### **Yellow Lane**

**12.25.2** If the declaration is directed to the yellow lane, the declaration will be reflected in the document verifier's dashboard and the system will also provide a platform to verify and review the document and submit the examination report.

**12.25.3** The Inspection official will accordingly decide the subsequent customs procedures after carrying out the verification and examination of the document.

### **Red Lane**

**2.25.4** If the declaration is directed to the red lane, the declaration will be reflected in the inspection's dashboard. Upon physical inspection carried out by the inspection team, the system will also provide a platform to the inspection official to submit the inspection report incorporated in the system.

**12.25.5** Based on the inspection report, the inspection official will either.

- release the good, or
- send back to the declarant for amendment, or

Direct the declaration to the offense management

### **Green Lane**

**12.25.6** Those declarations directed to the green lane are of high compliance and low risk will be automatically routed to the release order.

### **The inspection team will perform the following roles and responsibilities during inspection**

- Physically examine the goods to verify their quantity, classification, value, country of origin, etc. as per the declaration submitted,
- Verify the submitted documents,
- Inspect restricted and prohibited goods,
- Inspect if there are any non-declared goods.



**12.25.7** Whether the declaration is routed to the red, yellow or green, the inspection/examination has the authority to carry out the examination of goods:

- if the Department has reasonable doubt on the accuracy of the declaration made for particular goods.
- where the Department has received prior information from the formal and informal informants.
- based on the compliance record of the person;
- based on application of risk assessment; or
- if considered necessary by the Department.

**12.25.8** During the physical inspection of goods by Customs officials, it may be discovered that the items listed under a single declaration and invoice originate from different countries. If this occurs, and the Clearing and Forwarding (C&F) agent realizes that the approved declaration includes goods from multiple origins, they can request an amendment to correct the declaration. Similarly, if Customs officials detect the issue after the declaration has been approved, the Customs officials can send the declaration for an amendment. In such cases, the CFA must **split** the original invoice into two separate invoices, each representing goods from a specific country of origin. The agent then needs to re-submit the declarations accordingly. Below are the steps involved in handling a split invoice:

#### **Request for amendment after approval of declaration by Customs**

**12.25.9** If the declarant realizes that the declaration initially submitted pertains to mixed-origin goods, they may request an amendment after the declaration has been approved. Customs will review the request and, if verified, approve the amendment. The system will provide an option to edit the approved declaration.

#### **Amendment Process:**

- The declarant will split the invoice by origin, creating two unique invoice numbers based on the goods' origin.
- The declarant will enter the new invoice details under the "Invoice Details" section, selecting the Incoterm as CIF (Cost, Insurance, and Freight).
- The declarant must also include items from the previous consolidated invoice in the "Commodity Details."
- The system will calculate only the Customs Duty since the Sales Tax has already been paid on the original invoice.
- The declarant will validate the data and submit the updated declaration.

## **Approval Process:**

- The updated declaration will appear on the Customs dashboard for review.
- The Customs will then either approve, reject, or request further amendments.
- If approved, the system will trigger the collection of any additional duties resulting from the change in the goods' origin.
- The trader will settle any additional duties, and the system will route the declaration for valuation.
- The Customs will complete the Valuation, Risk Assessment, and Inspection processes before releasing the consignment.

## **Send for amendment by Customs**

**12.25.10** In some cases, the declarant may initially submit a declaration stating that the goods are of Indian origin. However, during inspection, the officer may identify goods of third-country origin. The officer will then decide whether the declaration should be processed for an offence or amended.

**12.25.11** If Customs decides to amend the declaration, the updated declaration will be sent to the declarant's dashboard for amendment. The declarant will then follow the amendment process for splitting the invoice to reflect the mixed origins of the goods.

## **Initial Splitting the Invoice**

**12.25.12** The supplier may issue a single consolidated invoice for goods of mixed origins and send it to the importer. The importer will then initiate the declaration process by availing the service of the authorized Clearing and Forwarding Agent to declare the goods. The declarant will then split the consolidated invoice based on the origin of the goods. Following this, the declarant will proceed with a similar process of amendment. The Customs will carry out the Valuation, Risk Assessment, Inspection, and Release the goods.

**12.25.13** The physical inspection has to be carried out in the presence of the owner or the authorized representative.

## **12.26 Joint Examination of Goods**

**12.26.1** The Department may initiate joint examination of goods with other relevant authorities to expedite the clearance process. Joint examination can be considered final and may not conduct separate examination. The Department and the relevant authorities may conduct the joint examination in the same location.

## **12.27 Release of Goods**

**12.27.1** Upon completion of Customs formalities and on payment of applicable Customs duty, taxes, fees and charges, including fines and penalties if any, the release officials shall complete the release order in the system. The system will allow both the declarant and the customs official to print the release order if required.

## **12.28 Power to Take Sample**

**12.28.1** The Department has the power to take samples if the Department is unable to ascertain the classification or valuation from the declaration and examination. The sample drawn should be as small as possible in terms of quantity or value in presence of the owner or authorized representative. Further, the person (owner or authorized representative) shall bear all risks and costs related to the examination, taking of samples and analysis of the goods.

**12.28.2** After the purpose for which the sample is taken is carried out, the sample should be handed to the owner or the authorized representative. However, if examination of a sample results in destruction or irretrievable loss, the samples will not be handed over and no applicable taxes and customs duties will be collected in such cases.

**12.28.3** If the person fails to take delivery of the sample, the Department may dispose of the sample in accordance with the provisions laid down for abandoned goods.

## **12.29 Documents and supporting documents for import clearance**

**12.29.1** Following documents should be submitted with the declaration:

- invoice;
- packing list where applicable;
- freight documents where applicable;
- bill of lading or air-way bill where applicable;
- marine or air or transit insurance policy, where applicable;
- import permit or license, where applicable;
- letter of authorization, where applicable;
- permit issued by relevant agencies for restricted goods, where applicable;
- letter of guarantee for third country imports via India, where applicable;
- certificate of origin, where applicable;
- exemption certificate, where applicable;
- any other relevant documents, as considered necessary by the Department.

**12.29.2** The Department may, at the time of declaration, request the submission of documents in hard copy, for examination purposes.

## **12.30 Documents and supporting documents for export clearance**

**12.30.1** Following documents should be submitted with the declaration:

- invoice;
- packing list where applicable;
- shipping bill/ airway bill, where applicable;
- certificate of origin issued by the relevant authority, where applicable;
- insurance documents, where applicable;
- export permit, where applicable;
- any other relevant documents, as considered necessary by the Department.

### **12.31 Temporary import/export application**

**12.31.1** Temporary Import/Export Application is a request and approval process prior to the submission of temporary import and export declaration.

**12.31.2 General Information:** Declarant will have to provide in the following details

- The type of TIER [Temporary Admission or Temporary Export]
- The declarant will select the type of request. For Temporary Admission (Exhibition, Diplomats, Project, Means of Transport, Professional, Others) or Temporary Export (Processing, Repair, Replacement, Others)
- Fill in all mandatory field and any other required information

**12.31.3 Invoice & Consignor/Item Detail:** Declarant will provide the details of invoice and list of BTC codes for which TIER is sought.

**12.31.4 Attach Supporting Document:** Declarant will attach required supporting documents such as invoice, permit if required, etc.

**12.31.5 Submission:** Upon submission, a unique TIER request number will be generated and shared with the Declarant. The TIER request number can be used after approval to refer to Temporary Admission or Temporary Export declaration

**12.31.6 Approval:** A verifier at the CUSTOMS OFFICE where the TIER application was submitted will verify the TIER request and ascertain that all details are provided correctly. The verifier will have the following options.

- Approve, or
- Reject, or
- Reject for Amendment.

**12.31.7 Update Temporary Import/Export Application:** To update the Temporary Import/Export Application, it can be done in following ways;

- Declarant can request for update on the approved Temporary Import/Export Application,
- Customs officials will send for amendment if required

**12.31.8 Cancellation of Temporary Import/Export Application:** The declarant can create a cancellation of a Temporary Import/Export application by selecting an approved Temporary Import/Export Application. An application can be selected for cancellation if:

- it is not used in an active declaration
- it is not yet included another cancellation request pending approval
- it is not canceled

After the cancellation request has been approved, the particular application will have the Canceled status.

**12.31.9 Temporary Admission Declaration:** The system will allow the declarant to choose from the following temporary admission;

- Exhibition, Trade Fair, Meetings etc.,
- Diplomats
- Project
- Means of Transport
- Professional
- Others

**12.31.10** The allowable temporary admission period should be tied to the type of the temporary admission selected by the declarant. The declarant has an option to;

- Extension/Renewal of the temporary admission
- Transfer of Temporary Admission
- Cancellation

**12.31.11 Transfer of Temporary Admitted Goods:** For the Transfer of Temporary Admitted goods, an applicant will need to apply for a TIER request and then upon approval of TIER request, submit a Transfer Declaration specifying the parent Temporary Admission Declaration and submit. The application should provide the details of the transferee and the justification/reason for the transfer.

**12.31.12 Extension/Renewal of Temporary Admission:** For the extension/renewal of Temporary admission, an applicant will need to apply for a TIER request and then submit it by specifying the previously approved Temporary Admission Declaration. On approval of the renewal, the system will automatically populate the approved status and the expiry date.

**12.31.13 Temporary Export Declaration:** The system will allow the declarant to choose from the following temporary admission;

- Processing
- Repair
- Replacement
- Others

**12.31.14** The allowable temporary export period should be tied to the type of the temporary export selected by the declarant. The declarant will have following option to;

- Extension/Renewal of the Temporary Exportation
- Cancellation

**12.31.15 Transfer of Temporary Export:** For the Transfer of Temporary Export, an applicant will need to apply for a TIER request and then upon approval of the TIER request, submit a Transfer Declaration specifying the previous Temporary Export Declaration and submit. The application should provide the details of the transferee and the justification/reason for the transfer

**12.31.16 Extension/Renewal of Temporary Export:** For the renewal of Temporary Export, an applicant will need to apply for a TIER request and then submit it by specifying the previously approved Temporary Export Declaration. The department should be allowed to extend the validity of the Temporary Export approval depending on a case-by-case basis.

## **12.32 Clearance of Re-Import**

**12.32.1** Re-importation of goods means importation of goods into the country, which have been previously exported. The re-importation of goods shall be allowed, if:

- The goods are imported in replacement of previously imported goods.
- The goods temporarily exported for processing, reconditioning or repairs abroad; and
- Customs duty is paid on the value addition of goods.

**12.32.2** A person shall re-import the goods within 90 working days from the date of export. If there is any additional value incurred on the goods temporarily exported, the customs duty is applicable on the value addition. The person should furnish the documents and supporting documents on value addition or additional cost incurred.

### **Re-import Clearance from the Systems Perspective:**

**12.32.3** A declarant will need to create a declaration by selecting the proper regimes and submit the declaration by specifying the previously approved Temporary Export Declaration. All the necessary information, including required documents, will be fetched from the previous declarations upon submission.

**12.32.4** For partial re-imports, the system provides flexibility at the **item level**. Under "**invoice and consignor**," section, a **tick box** allows the declarant to specify which items are being re-imported. For the remaining or unreturned items, the declarant can indicate whether they will undergo: **Re-import** (at a later stage), or **Permanent export** (concluding their temporary export status).

**12.32.5** If a person needs more than 90 working days for re-import, a time extension should be applied to the Department before the expiry of 90 working days. The termination of temporary export is completed when the goods enter the country.

### **12.33 Clearance of Re-Export Goods**

**12.33.1** Re-exportation means the exportation of goods previously imported into the country. Goods are re-exported in the following cases:

- Goods which are imported to be kept in warehouses in Bhutan.
- goods imported and cleared for home use but found defective during warranty period and where the foreign supplier agrees to replace it, free of charge, may be re-exported for the purpose of importation of replacement, free of Customs duty subject to the provisions on replacement in the Customs Act and Regulation;
- goods cleared for home use and received by the importer but found not to the specification of the contract of sale and is to be returned to the foreign supplier may be re-exported for the purpose;



- goods on transfer due to change in residence of persons on completion of their assignment in Bhutan;
- goods found defective and not to the specification of the contract sale shall be re-exported within 30 working days from entry into the country or date of import declaration made to the Department.

**12.33.2** A person shall at the time of re-exportation produce the declaration made at the time of import and other relevant documents. The termination of temporary import is completed when the goods exit the country.

*Note: The same system workflow applies for **re-export**, except for the difference in regimes and declaration specifics details.*

## **12.34 Replacement of Goods**

**12.34.1** Imported goods may be replaced on fulfillment of following conditions:

- the importer proves to the Department that the goods to be replaced is the same and is provided free of charge by the foreign supplier;
- the defective or obsolete or fully damaged goods are re-exported to the same foreign supplier;
- the goods imported are not in conformity with the specifications agreed upon between the importer and supplier;
- all documents for previously imported goods are produced to the Department;
- replacement is made within 90 working days from the date of re-export declaration;
- the person proves to the satisfaction of the Department that the goods have not been further processed, reconditioned, altered, repaired or used in Bhutan, unless necessary to discover the defect or damage.

**12.34.2** A person has to apply for replacement within 30 working days from the date of import. The Department can consider the replacement if evidence and documents submitted is found acceptable. The Department may also accept the replacement of same goods for more than one time, on a case- by-case basis.

*Note: For replacement of goods the systems procedure is same as TIER.*

## **CHAPTER 13.**

### **13.1 Special Procedure for Authorized Compliant Trader**

#### **Introduction**

**13.1.1** An Authorized Compliant Trader (ACT) refers to a trader, an importer or exporter who carries out Import, Export and Transit & Transshipment facilities and has been recognized by the department as meeting specific compliance standards and requirements. This status is granted based on the trader's history of compliance with customs regulations, financial solvency, and adherence to security standards.

The Authorized Compliant Traders are provided with benefits such as simplified customs procedures and reduced inspections, which facilitate smoother and faster trade operations.

#### **13.2 Application**

**13.2.1** The trader can apply for Authorized Compliant Trader (ACT) in eCMS. The following are some of prerequisites for the ACT application:

- 1.** Traders should have a valid TPN which is available in eCMS PIN Master through RAMIS integration.
- 2.** Trader has a history of compliance (not a high risk) which can be validated against eCMS provided information in TPN master.

**13.2.2** A trader who has obtained the user credentials in eCMS shall submit an application to the Department in the eCMS. Once the application is approved by two levels of approval from the Department, the transactions of the particular traders will auto route to release without having to go through the physical inspection in the system. However, their transactions are subjected to Post Clearance Audit in the future.

**13.2.3** The concerned regional offices are required to work closely with the head office to keep detailed records and continuously monitor the activities of traders who have been officially recognized as authorized compliant traders to ensure the traders remain compliant with the regulations.

### **13.3 Approval of the Application: (approve, reject and reject for amendment), system perspective**

**13.3.1** On submission of the application, if the application fulfills the authorization criteria and all the required documents are submitted, the application will be approved and the applicant will receive the mail of the approval and receive a certificate for the ACT status in the eCMS system.

**13.3.2** If the documents are found to be incomplete, the Department will revert back for amendment to make necessary changes and notify the applicant within 30 working days. Such notification shall be communicated through email and for resubmission the application, the department will specify the time period in the notification.

**13.3.3** During verification, if the verifier concludes that the application is invalid for any reason, then the verifier or the approver will provide reasons for rejection and reject the application.

**13.3.4** The applicant shall be notified of the rejection including the reason for rejection by email. The status of the application should be rejected.

The ACTs declaration will not route to physical inspection and will be routed to PCA (the list of ACTs declaration will be available for PCA in the eCMS system)

**13.3.5** Once the application is approved, the Department shall issue a certificate of Authorized Compliant Trader status through the eCMS system.

**13.3.6.** The Department shall review an authorized compliant trader status periodically to ensure the trader maintains proper documentation, follows established procedures, and upholds any other criteria specified by the department. Further, department will also verify if there are any significant changes in the trader's business operations or processes that might affect their compliance status. Furthermore, the Department will also verify that the trader has maintained or improved their compliance practices over time, addressing any past issues while also implementing corrective actions as required. Such review shall be usually carried out after the PCA program for the ACT is completed.

### **Suspension and Revocation**

#### **13.4 Suspension**

**13.4.1** The Department may suspend an active ACT authorization under following circumstances, where:

(1) there is a reasonable ground to suspect that an importation by or in the name of an authorized compliant trader is liable to result in a criminal offense (means there is sufficient reason to believe that the trader might be involved in illegal activities related to their importations) and/or is linked to a serious infringement of a provisions of the Act and the

Regulation (any significant violations of the laws and regulations governing customs procedures, such as smuggling, false declarations, or other serious breaches);

(2) non-compliance with one or more of the authorization criteria set out in the Regulation is detected and no remedial steps have been taken within 30 working days thereof (the ACT fails to take appropriate corrective actions within 30 working days shows lack of commitment to resolving the issues and maintaining compliance).

### **13.5 Revocation**

**13.5.1** The Department may revoke an authorization in the following circumstances, where the:

(1) ACT authorization is already suspended and the authorized compliant trader fails to take necessary remedial measure to withdraw the suspension within 6 months (not resolving the problem within the specified time frame or not implementing effective solutions to ensure future compliance);

(2) Authorized compliant traders have committed serious infringement of the Act, regulation, and amendments thereof (indicates a significant violation of customs regulations, which could include actions such as smuggling, fraud, or other major breaches of customs laws), and have no further right to appeal (the ACT has exhausted all available avenues for appeal, meaning that the decision regarding their infringement is final and cannot be contested further within the legal framework of the department).

**13.5.2** If an authorization is revoked due to serious non-compliance or infringement of customs regulations, the trader is barred from reapplying for the authorized status for three years, serving as a penalty and deterrent for serious violations. This period allows the Department to ensure that the trader addresses their compliance issues thoroughly before being considered for authorized status again.

**13.5.3** The Department may suspend or revoke an authorized compliant trader status based on the following:

- ✓ **Based on the Offense Committed or Noncompliance Level:** Depending on how severe the violation is, the Department can choose to either suspend or revoke the trader's authorized status.
- ✓ **Requests from Other Stakeholders or Agencies:** The Department may suspend or revoke the trader authorized status based on requests or reports from other stakeholders or relevant agencies.
- ✓ **Collaborative Arrangements:** The Department may also suspend or revoke the trader's authorized status through collaborative arrangements, working together with other agencies or stakeholders to ensure comprehensive oversight and enforcement of customs rules.

- ✓ **Post Clearance Audit (PCA):** If the audit uncovers significant noncompliance, inaccuracies, or violations, the department will suspend or revoke the trader's authorization status.

### **13.6 Special procedures and incentives for Authorized Compliant Traders**

**13.6.1** The authorized compliant trader or authorized representative shall declare with minimum data requirements (i.e. value, quantity, description of the goods, etc.) acceptable to the Department for assessment and decision making.

**13.6.2** The authorized compliant trader shall be informed with regard to Department's decision to:

(1) examine the goods and subsequently follow normal procedure (i.e. when an authorized compliant trader's goods arrive at a Customs Station, the trader will be informed by the Department whether the goods need to be examined and after being informed of the decision regarding examination, the trader must follow the normal procedures as outlined in the Customs regulations);

(2) not to inspect the goods and directly pay the applicable Customs duty for immediate release;

(3) directly release the goods, where applicable.

(4) directly deliver the goods to the designated premises of the person (i.e. when an authorized compliant trader's goods arrive at a Customs Station, the trader will be informed by the Department that the goods will not undergo the usual customs inspection or other procedures at the station but will be allowed to deliver the goods directly to their final destination).

## CHAPTER 14

### 14.1 Warehousing

#### Introduction

**14.1.1** Warehouse means facilities or area for storage of goods for import or export designated by the Department, owned and operated either by Department or licensed private entity. The warehousing is one of the customs clearance procedures to facilitate sorting, inspecting, separate from damages, prevent deterioration, etc. before filing import or export declaration. The goods admitted in the warehouse are not liable for customs duties or taxes until cleared for home use or exported from the warehouse.

**14.1.2** There are two types of warehouses, viz; public and private warehouses. Public bodies such as public sector enterprises usually set up public warehouses, nonetheless, private operators are also allowed to establish public warehouses. The public warehouses provide common user facility and goods imported or goods to be exported by anybody may be stored therein. The warehouses of DHL, Bhutan Postal Corporation Limited, etc. are examples of public warehouses. In contrast, private warehouses are licensed to private persons only to store goods imported or to be exported by the person like Duty Free warehouses (Bhutan Airlines, Druk Air and Bhutan Duty Free Limited)

#### 14.2 Application

**14.2.1** Any person aspiring to operate warehouse may apply for the registration and operation of the public or private warehouse electronically to the Department, if a person fulfills following eligibility criteria:

1. Applicant should be Bhutanese national;
2. Applicant has not been convicted for criminal crimes or any other offenses;
3. Applicant has good compliance records with the Department; and
4. Demonstrate sufficient level of knowledge in Customs Act, Rules and Procedures.

#### 14.3 Approval of Public or Private Warehouse

**14.3.1** The Department may approve the public or private warehouse. The approval of the public or private warehouse is accorded, if the following conditions are fulfilled by the applicant:

- 1) submits detailed plan, location and description of the warehouse;
- 2) the site or building of the proposed public or private warehouse is suitable for secure storage of dutiable goods;
- 3) the site or building of the proposed public or private warehouse is suitable for general supervision by the Department and secured with a single entry and exit gate to ensure proper access, control and monitoring;
- 4) suitable measures are taken to prevent theft, loss or deterioration of goods;

- 5) equipped with separate and suitable storing facility for hazardous and perishable goods, where applicable; and
- 6) furnishes a solvency certificate from any financial institutions in Bhutan, however, the condition of furnishing a solvency certificate is not applicable for Government undertaking.

#### **14.4 Rejection of Application**

**14.4.1** If the applicant failed to fulfill any of the aforementioned eligibility criteria or conditions, the Department shall reject the application.

#### **14.5 Registration of Public or Private Warehouse**

**14.5.1** Upon thorough verification of the application and enquiries with an applicant based on application, the Department shall issue recommendations to the Ministry of Industries, Commerce and Employment for issuance of trade license. The recommended applicant shall approach the Ministry of Industries, Commerce and Employment to obtain the Trade License as Warehouse Operator. After obtaining Trade License from the Department of Trade (DoT), a person shall obtain Certificate of Registration from the Department. To obtain certificate of registration from the Department, a person shall submit electronically with the following documents;

- 1) Valid trade license as Warehouse Operator;
- 2) Tax Payer Number;
- 3) Security deposit of Nu. 100,000 in the form of a Bank Guarantee; and
- 4) Agreement signed between the Department and the Warehouse Operator.

Upon submission of above-mentioned documents, the Department shall issue a certificate of registration.

#### **14.6 Validity period and renewal of registration certificate**

**14.6.1** The registration certificate is valid for two years from the date of issuance of the certificate by the Department. The registration certificate must be renewed by the warehouse operator every two years. The warehouse operator may, one month prior to expiry date, request renewal of registration certificate to the department. Specifically, the warehouse operator must report to the Department about expiry of registration certificate on or before 10<sup>th</sup> day of the month immediately preceding the month of such expiry. For example, if the validity of a registration certificate expires in December, the warehouse operator must inform the Department of such expiry on or before 10<sup>th</sup> November.

**14.6.2** The Department shall upon receipt of renewal request, renew the registration certificate for another period of two years. The registration certificate is renewed only if a concerned warehouse operator:

- a) Has satisfactory performance during the tenure (performance may be measured based on the efficiency of the warehouse operator);
- b) Submits valid trade license;
- c) Does not have outstanding dues with the Department (produce tax clearance certificate);
- d) Submits valid bank guarantee; and
- e) Has no adverse records or criminal record.

#### **14.7 Control of goods stored in warehouse**

**14.7.1** All the goods stored in a warehouse shall remain under the customs controls and supervisions. Furthermore, the customs shall also have control over all the warehouse premises and facilities including the inventory of warehoused goods and power to examine the goods, as and when necessary. The customs control and supervision may be exercised through physical presence or unannounced spot checks or periodic audits.

**14.7.2** The goods shall not be either entered to or removed from the warehouse without prior permission from the Department. The unloading or loading of goods in the warehouse must be done in presence of customs officials.

#### **14.8 Liabilities of Warehouse Operator**

**14.8.1** Though the warehoused goods are under customs controls and supervisions, the custody of the goods stored in the warehouse remains with the warehouse operator. The warehouse operators are legally responsible for ensuring proper maintenance and operation of the warehouse as required by the Department. The warehouse operator shall:

- 1) Ensure that warehouse premises is clearly marked as customs control area;
- 2) Ensure maintenance of internal control system capable of detecting illegal or irregular transactions; (transparent accounting systems, system of check and balance if inventory is maintained manually)
- 3) Ensure proper books of account and records are maintained;
- 4) Ensure that warehouse has insurance policy to cover goods stored in warehouse against natural calamities such fire, flood, earthquake, etc.;
- 5) Be liable to pay customs duty, fees, charges, fines and penalties on goods, which are not accounted correctly, lost, damaged, destroyed or misused;
- 6) File monthly inventory report (monthly statements of goods received and released) to the Department within 10 working days after closure of the such month;
- 7) Report to the Department about the expiry of registration certificate, on or before 10<sup>th</sup> day of the month immediately preceding the month of such expiry;
- 8) Produce tax clearance certificate and report to the Department in writing regarding any changes in ownership, location or winding up of business not later than 30 working days for



the date of such events. However, in case of change in location of a warehouse, the warehouse operator must inform the department prior to such event.

Be liable for any outstanding customs duty, fees, charges, fines and penalties as applicable if the warehouse operator failed to notify the Department in the event of winding up of business.

#### **14.9 Owner's right to Warehoused Goods**

**14.9.1** The owner of the warehoused goods, with prior permission from the Department shall have the rights to:

- 1) Inspect the goods;
- 2) Separate damaged or deteriorated goods from the rest;
- 3) Sort the goods or change their containers for the purpose of preservation, sales, export, disposal or transport of the goods;
- 4) Deal with the goods and their containers in such a manner as may be necessary to prevent loss, deterioration or damage to the goods; or
- 5) Transfer the goods to another approved warehouse in event of the closure of a warehouse.

However, such activities in warehoused goods must be performed only under supervision of the Department.

#### **14.10 Admission of Goods to Warehouse**

**14.10.1** If a person wants to admit goods either in registered public or private warehouse, before or after arrival of goods, a person shall notify Department along with following documents:

- 1) Invoice;
- 2) Packing List; and
- 3) Freight and insurance documents, in case of origins of goods other than India.

**14.10.2** If a request for depositing goods in a warehouse has been approved by the Department, the person shall move goods to approved registered public or private warehouses and such goods must be registered under warehouse procedure. To move goods from customs station or area to the approved registered warehouse, the person must file and complete inland or national transit declaration formalities. Upon receiving goods at destination (warehouse), the warehouse operator must file warehouse declaration and admit the goods into the warehouse. Additionally, the warehouse operator shall also record the goods in a register or computerized system maintained at the warehouse.

**14.10.3** The admission of goods to public or private warehouses is facilitated only upon furnishing the security deposits equal to the value of customs duty of the goods stored in the warehouse.

## **14.11 Release of goods from warehouse**

**14.11.1** The warehoused goods will be removed at the time of declaration for home use, exportation, re-exportation, and transfer of goods to another warehouse. In order to release goods from the warehouse, the warehouse operator or owner of warehouse goods shall complete the clearance procedures and pay applicable customs duties, taxes, fees or charges, if any.

**14.11.2** If a person decides to remove goods stored in the warehouse for home use, then such goods will be treated under normal import procedures and declaration to Department must be initiate immediately.

## **14.12 Transfer of goods from one warehouse to another**

**14.12.1** An owner of the warehoused goods may remove and transport goods from one warehouse to another. However, the act of removing and transporting goods from one warehouse to another must be carried out only upon prior permission from the Department and under bond.

**14.12.2** The owner of warehoused goods or authorized clearing agent shall apply to the Department for transfer of goods in the e-CMS. The Department upon receipt of application shall approve or reject the application.

**14.12.3** The goods are allowed to store in the warehouse for the period of 90 working days from the date of depositing goods into the warehouse. The transferred goods shall be stored in a new warehouse for the remaining time period. For instance, the goods have to be transferred to another warehouse due to the requirement of a special facility to prevent deterioration after 25 working days of storing goods in previously approved warehouses. Now the owner of the goods can store goods in the new warehouse for the remaining period i.e. 65 working days.

**14.12.4** The stock transfer may happen when a previously approved warehouse is not suitable for storing that particular goods, space constraints, shortage of goods in another warehouse or due to notification of the Department or winding up of operation of a warehouse. The department may facilitate and accord permission to transfer stock from one warehouse to another. However, it is allowed only for a warehouse with the same TPN but different license.

**14.12.5** Upon prior permission from the Department, the stock transfer should be initiated by the particular warehouse operator from the available stock in a warehouse. The warehouse operator shall create stock transfer for goods intended to be transferred to another warehouse.

**14.12.6** The regional office at the source warehouse shall verify the stock transfer declaration and subsequently, the warehouse operator should release goods from the warehouse.

**14.12.7** On arrival of goods at the destination warehouse, the regional office at the destination shall approve the stock transfer declaration. The goods are automatically admitted to the destination warehouse, as and when stock transfer declaration has been approved by the regional office at the destination.

#### **14.13 Time period for storage of goods in warehouse**

**14.13.1** The goods are allowed to store in the warehouse for a period of 90 working days from the date of deposit into the warehouse.

**14.13.2** If the Department received the request for extension from the owner of the goods, the Department may grant additional 30 working days to store in the warehouse.

**14.13.3** If the owner of warehoused goods failed to clear goods within stipulated or extended period, the warehouse operator shall inform the Department in writing. Subsequently, the Department shall notify the owner of warehoused goods or authorized clearing agent of expiry of the warehousing period.

**14.13.4** An owner of warehoused goods or authorized clearing agent shall respond to the Department stating the reasons for inability to clear goods within stipulated time period or their intention to abandon the goods within 10 working days from date of service of the notification. If fails to do so, the Department may assume the goods to be abandoned and shall be confiscated thereof. Subsequently, the confiscated goods shall be disposed of as per the Regulations in force.

#### **14.14 Damage or deterioration of goods in a warehouse**

**14.14.1** If the goods are damaged or deteriorated by accident such as natural disasters or pandemics while under warehouse procedure, the Department shall levy customs duty in the condition in which they are presented after such accidents. That means, customs duty shall be levied on the value determined after reducing the assessed value of the damaged or deteriorated goods. However, if goods are damaged or deteriorated due to any willful act or omission or negligence of a person, customs duty shall be levied on such goods.

## **14.15 Discharge or forfeiture of security**

**14.15.1** The security of Nu. 100,000 in the form bank guarantee deposited at the time of registration may be discharged or forfeited at the winding up of warehouse operation. The security deposit shall be discharged, if the warehouse operator doesn't have any unsettled or outstanding dues with the Department. On the other hand, if a warehouse operator has unsettled or outstanding dues like customs duty or taxes, fees, charges or fines & penalties, the department shall forfeit the security deposit. If forfeited security deposit is less than applicable customs duty, taxes, fees and charges the warehouse operator shall pay the remaining amount.

## **Suspension and Cancellation of Registration Certificate**

### **14.16 Suspension of Registration Certificate**

**14.16.1** The operation of the warehouse may be suspended by the department, however, prior to any suspension decision, the department shall inform the warehouse operator.

**14.16.2** The department may suspend the operation of a warehouse in the following cases:

- 1) Warehouse operator fails to renew the bank guarantee, trade license and registration certificate within 30 working days from the date of expiry of such documents;
- 2) The warehouse operator obtained approval of warehouse application through fraudulent means or by misrepresenting material fact;
- 3) The warehouse operator fails to comply with proper orders or regulations issued by Department regarding the operation or administration of the warehouse;
- 4) The warehouse operator does not provide secure facilities or appropriately safeguard merchandise stored within the warehouse or the warehouse operation is inconsistent with any of the provisions of customs rules as the Department may deem fit.

**14.16.3** The operation of the warehouse should be suspended for a period of 30 working days from the date of issuance of suspension decision. The warehouse operator must take necessary remedial measures to withdraw suspension. Failures to take necessary remedial steps will lead to cancellation of the registration certificate.

### **14.17 Cancellation of Registration Certificate**

**14.17.1** The Department may cancel the registration certificate of a warehouse operation if there is any breach of the provisions of the customs laws. However, prior to any cancellation decision, the Department shall inform the warehouse operator and give the opportunity to submit necessary justifications.

**14.17.2** The department shall cancel the certificate of registration, if:

- 1) The registration certificate is already suspended, but warehouse operator failed to take necessary remedial measures to withdraw suspension;
- 2) The warehouse operator has committed serious infringement of Customs Act and Rules and has no further right to appeal.

**14.17.3** If the registration certificate of a warehouse has been canceled, the department shall inform the warehouse operator and owner of warehoused goods to transfer goods to another customs warehouse or to place under another customs procedure within 20 working days from the date of issuance of notification. In case the warehouse operator or owner of warehoused goods fails to take necessary actions as per notification of the department within stipulated time period or does not request for time extension, the department may assume goods to be abandoned. Such goods must be confiscated and disposed of through public auction.

**14.17.4** If the registration certificate has been canceled, the warehouse operator shall not be entitled to reapply for operation of the warehouse for a period of one year from the date of cancellation.

## **Registration and Clearance Procedures of Warehousing in eCMS**

### **14.18 Registration of Warehouse in eCMS**

**14.18.1** The registration of warehouses is mandatory under eCMS. The warehouse registration application must be submitted online to the Department electronically. The warehouse can be registered as a public and private warehouse operator.

**14.18.2** The respective regional offices will verify applicable and act accordingly. The verification officials must verify application and make onsite verification before recommendation for approval. The responsibility of verification officials is to verify the required conditions for registration. The verification official may recommend for approval or reject the application. Accordingly, the warehouse is registered in eCMS and the warehouse operator's user credentials will be generated through eCMS and sent in the registered mail.

**14.18.3** In case of a registered private warehouse, the primary TPN or TPN that is updated in RAMIS should be registered as Trader and is allowed to file warehouse declarations. The warehouse declaration will also be able to be filed by the authorized clearing agent on behalf of the trader. Furthermore, the registered private warehouse is only accessible to the warehouse operator and should store goods traded by the owner of the warehouse only. On the other hand, any authorized CFA can access the registered warehouses in case of public warehouses and the goods traded by any person may be stored therein.

## **14.19 Clearance Procedures of Warehousing in eCMS**

**14.19.1** Generally, the warehouse declaration can be filed either by a trader or authorized clearing agent. Subsequently, the warehouse operator shall admit goods into the warehouse and declare the goods after warehousing.

## **14.20 General clearance procedures for warehousing declarations.**

**14.20.1** There are various types of warehousing declarations under the warehousing regime. The authorized clearing agents may process warehousing declarations in following manners;

- a. Direct Entry for warehousing procedure
- b. Entry of warehousing after Temporary admission
- c. Entry of warehousing from International Transit
- d. Entry of warehousing from National Transit
- e. Entry of warehousing from Inland Transit
- f. Warehousing after temporary export
- g. Entry for Duty Free/Airlines warehouse

**14.20.2** The authorized clearing and Forwarding agent/ registered warehouse operator may submit warehousing declaration using any of the following declaration types mentioned above.

- Submit warehousing declaration by authorized cleared agent/ Warehouse operator
- Approval/ rejection/amendment by customs
- Payment of applicable fees and charges if any (Service charges and declaration processing fees)
- Complete valuation and Risk assessment by the Customs officials
- Complete release order and cargo by the customs officials
- Warehousing Operators will be able to admit goods in the respective warehouse once the customs formalities have been completed.

**14.20.3** The goods admitted in the respective warehouses has to release from the warehouse by processing the ex-warehouse declarations, The following import declarations must be processed in the following ways:

- Import for home use after international transit
- Post Parcel after Warehouse
- Post Parcel commercial after warehouse
- Duty Free Sales for Quota Holders
- Duty Free Sales for non-Quota Holders
- Duty Free Airlines for Sales on board
- Duty Free Airlines for Consumption/stores
- Import of Diplomatic bags/VIP/Sample after warehouse.
- Import of documents/letter after warehouse

#### **14.21 Clearance procedures for Bhutan Postal Corporation Limited and DHL (public warehouse).**

**14.21.1** The clearance procedure till warehouse declaration is same as general warehousing clearances. Under Bhutan Postal Corp Limited and DHL. The goods must be cleared from the Bhutan Post and DHL with allowance or without allowance as per the allowance eligibility for Post and courier services.

#### **14.22 Warehousing Declaration**

**1).** Select Regime: Choose "Warehousing" and declaration type (CPC): Entry for warehousing from Inland transit.

**2).** Previous Declaration: Select the previous declaration number to automatically pull details from the previous inland transit declaration.

**3).** Mandatory Fields: Fill in and edit mandatory fields.

**4).** Warehouse Selection: Select the specific warehouse where the goods will be admitted.

**5).** Submit Declaration: The CFA or declarants submits the warehouse declaration

**6).** Approval/Rejection: The declaration undergoes an approval or rejection process. If rejected, amendments may be required based on verification feedback.

**7).** Processing Fees: Pay the declaration processing fees and complete subsequent processes including valuation, risk assessment, inspection, and release of cargo.

**8).** Goods Admission: The warehouse operator admits the goods into the selected warehouse

#### **14.23 Import Declaration After Warehousing**

**1).** Select Regime: Select "Import" as the regime.

**2).** Declaration Type: Select the declaration type (CPC) as per the eligibility and nature of import:

- Post Parcel after Warehouse
- Post Parcel Commercial after Warehouse
- Import of Diplomatic Bags/VIP/Samples after Warehouse.

**3).** Mandatory Fields: Complete all the mandatory fields in the declaration. **4).** Submit Declaration: Submit the import declaration after validating all the details.

**5).** Approval/Rejection: Customs will review the declaration and either approve, reject, or request amendments.

**6).** Payment: Pay all applicable taxes, fees, and charges, including the declaration processing fees.

7). Customs Processes: Customs officials will perform valuation, risk assessment, and inspection of the goods.

8). Release Order: Customs officials will issue the release order for the cargo.

9). Goods Release: The warehouse operator will release the goods from the warehouse.

#### **14.24 Clearance Procedures Airlines Warehouse:**

**14.24.1** The trader or authorized clearing agent shall file following sales declaration to Department:

- 1) **Duty Free Airlines for Sales onboard:** the department shall complete customs formalities for declaration. When the department issues release orders for the goods, the declaration status will be pending warehouse release. Accordingly, the warehouse operator should release goods from the warehouse for onboard sales.
- 2) **Duty Free Airlines for consumption:** The department shall complete customs formalities for declaration. When the department issues release orders for the goods, the declaration status will be pending warehouse release. Accordingly, the warehouse operator should release goods from the warehouse for onboard consumption.

#### **14.25 Clearance Procedures for duty free**

**14.25.1** The Bhutan Duty Free Limited must file import declaration (sales report) duty-free sales to the department on a daily basis.

- 1) **Duty Free Sales for Quota Holders:** The quota holder must apply for duty free quota under eCMS e-services. The department shall approve the duty-free quota application and complete formalities for declaration submitted by the trader. The sales for the quota holders will not attract taxes but they have to be declared to the department. Once the import declaration formalities are completed, the customs shall release goods and subsequently the warehouse operator must release the goods from their warehouse.
- 2) **Duty Free Sales for Non-Quota Holders:** The department shall complete formalities for declaration submitted by the Bhutan duty Free Limited. The trader has to pay applicable taxes and duties if any to the department. The customs officials shall issue release orders for goods and the warehouse operator shall release goods from the warehouse for duty free sales to non-quota holders.
- 3) **Duty Free Sales from Airport:** The department shall complete formalities for declaration submitted by the trader. The declaration is linked to the passenger manifest and has validation to the passenger passport number and flight number. When the department issues release orders for goods, the declaration status will be pending warehouse release. Accordingly, the warehouse operator shall release goods from the warehouse for duty free sales from the airport.
- 4) **Duty-Free on-Board Sales:** The department will process declarations submitted by the airline or Clearing and Forwarding Agent (CFA) for duty-free on-board sales. While these



sales are exempt from taxes and duties, they must be declared to the department. The declaration is linked to the passenger manifest and includes validation against the passenger's passport number, flight number, and date. Once the import declaration formalities are completed, Customs will authorize the release of the goods, after which the warehouse operator must release the goods from their warehouse.

- 5) **Duty-Free On-Board Consumption:** The department will process declarations submitted by the airline or Clearing and Forwarding Agent (CFA) for duty-free on-board consumption. While these sales are exempt from taxes and duties, they must still be declared to the department. The declaration is validated against the flight number and travel date linked to the passenger manifest. Once the import declaration formalities are completed, Customs will release the goods, and the warehouse operator will subsequently release the goods from their warehouse.

**15.25.2** In the Duty-Free module, the system provides flexibility for traders to skip filling out the Bill of Lading and invoice fields directly. Instead of manually entering this information, traders can upload the required details in an Excel format. The system then automatically extracts and populates the invoice and Bill of Lading details from the uploaded file, streamlining the process for the trader.

## CHAPTER 15

### TRANSIT AND TRANSSHIPMENT

#### Introduction

#### 15.1 Difference between Transit and Transshipment

TRANSIT	TRANSSHIPMENT
In case of transit goods, goods are allowed to remain in the same conveyance	In case of transshipment of goods, the conveyance changes i.e. the goods are unloaded from one conveyance and loaded to another conveyance.
In case of transit goods, there is continuity of records.	In case of transshipment of goods, continuity in the record is not maintained as the goods are transferred to another conveyance.

**15.1.1** If goods are in transit or transshipment from one part of Bhutan to another, whether imported or exported, they may be allowed without payment of duties. However, exemption from the duty is contingent on the goods remaining under supervision of customs control during transit or transshipment. Additionally, a security deposit may be required as a precautionary measure to ensure compliance with customs regulations.

#### 15.2 Difference between International, National and In-Land Transit

International Transit	National Transit	In-Land Transit
When the goods are in transit to Bhutan through foreign territories (for e.g. TCI goods moving from Kolkata Customs station (LTO) to another Customs station in Bhutan, via Indian territories)	When the goods are required to move from one part of Bhutan to another part via Indian territories	When the goods are required to move from one Customs station to another Customs Station using Bhutanese route (for instance Phuentsholing to Thimphu)

## **System Procedure (eCMS)**

### **Normal International Transit Declaration (single importer, single dispatch challan)**

#### **15.3 Create an International Transit Declaration (FE Users or Traders)**

**15.3.1** The declarant creates a declaration starting with the header data. After entering all the mandatory inputs, the user can save the header data. But before allowing the header to be saved, the system will validate the inputs and will display messages, if there are errors encountered. If there are no validation issues, the system will generate a Declaration Number and the declarant shall submit the declaration.

**15.3.2** For multiple Bills of Lading (BL), the declarant must create a separate International Transit Declaration (ITD) for each BL. However, if there are multiple exporters under a single BL, the declarant can process them with a single ITD. The system does not support multiple importers under a single BL, so only one ITD can be created regardless of the number of importers.

**15.3.3** For multiple importers, each importer must obtain their own Bill of Lading from the shipping line and individually process an import license. However, if there is a single importer with multiple invoices, the ITD can be processed using a single Bill of Lading and a single import license.

**15.3.4** The commercial invoice(s), packing list(s), import license(s), and Bills of Lading (BL) are mandatory documents required for processing an International Transit Declaration (ITD). In addition to these, the declarant may need to provide additional documents such as the certificate of origin, import permit, or letter of credit (LC) as necessary or upon request by the Department. Please note that the specific document requirements may change depending on updates in laws and policies.

#### **15.4 Approve Declaration**

**15.4.1** Based on a thorough review of the declaration, invoice, and supporting documents submitted by the declarant, Customs officials will validate the details and either approve the declaration, reject it, or return it for amendment with specific feedback.

**15.4.2** Upon the acceptance of an International Transit Declaration (ITD), the system will automatically approve and generate the corresponding Letter of Guarantee (LoG). Each Bill of Lading (BL) requires a separate LoG. The LoG must be endorsed by the Liaison Transit Office (LTO), Kolkata and a copy of it should be submitted to Indian Customs at both the Port of Entry (Kolkata) and the Port of Exit (such as Jaigaon, Hatisar, Daranga, Chamurchi, Birpara, etc.).

## **15.5 Create Dispatch Challan**

**15.5.1** The declarant creates a dispatch challan and provides the following key inputs;

- Approved International Transit Declaration.
- Vehicle number for transportation of goods.
- Drivers Details
- Transporters details

Additionally, the declarant will provide all the required mandatory information and submit the dispatch challan.

**15.5.2** In case of single invoice with multiple shipments (part-shipment), the declarant must create and submit multiple dispatch challans to the LTO office.

## **15.6 Approve Dispatch Challan.**

**15.6.1** The Customs officials will verify the correctness of the dispatch challans and take the following actions in the system:

- **Approved:** If the details provided are correct and meet system requirements, the customs officials will approve the dispatch challan. After approval, the challan will be forwarded to the consolidation process, and a consolidated reference number will be generated by the system. If there are multiple dispatch challans, only one consolidated reference number will be issued.
- **Reject for Amendment:** If any errors are found during the verification of the dispatch challans, the customs officials will reject the challan for amendment. The rejected challan will then be sent back to the declarant for necessary corrections, and it must be resubmitted once corrected.

- **Reject:** If the information provided is invalid for any reason, the dispatch challan will be rejected. Once rejected, the challan cannot be amended or resubmitted by the declarant.

## **15.7 Release Order > Release Cargo**

**15.7.1** Upon approval of the dispatch challans and checking completeness of the international transit formalities, LTO shall issue release order. LTO shall complete both the release order and cargo formalities in the system.

## **15.8 Gate-out Dispatch Challan at Port of Exit**

**15.8.1** The LTO shall gate-out the consolidated dispatch challans after completion of release formalities in the system. The gate-out formalities of the dispatch challans shall be completed from gate-out menu under dispatch challans module in the system. The consolidated dispatch challans must be gate-out in order to release goods from the port of exit.

## **15.9 Gate in the Dispatch Challan at Port of Entry**

**15.9.1** Upon arrival of goods at the port of entry, the consolidated dispatch challan must be gate-in. The gate-in formalities shall be completed by the concerned customs officials (RRCO, Bhutan) at the port entry from gate-in menu under dispatch challans in the system. The international transit declaration formalities are completed after completion of gate-in formalities at the port of entry. The amendment in international transit declaration is not possible after completing gate-in formalities unless initiated reverse cancellation of the completed international transit declaration procedures.

## **15.10 Create Import /Inland/ Warehouse Declaration**

**15.10.1** The declarant must create and submit an import, inland transit, or warehousing declaration, linking it to an international transit declaration and entering all mandatory information. Before submission, the system will validate the inputs for accuracy. If any discrepancies or inconsistencies are found, a validation failure message will be displayed. The declarant must then correct the errors and resubmit the declaration. Once the inputs are validated successfully, the system will generate a unique declaration reference number upon submission.

- **Import Declaration:** the declarant must select *import for home use after international transit* at the time creating declaration. In this case, all the customs formalities shall be completed at the port of entry.
- **Transit Declaration:** the declarant can create either inland or national transit declaration:
  - a. **Inland Transit Declaration:** in this case, select *transit* under regime and *inland transit movement after international transit* under customs procedure code. The declarant must file warehousing and import declaration at destination regional office. The warehousing and import declaration formalities shall be completed by the customs at destination regional office. Only declaration processing fees, service charges and agency commission will be collected at the port of exit regional office.
  - b. **National Transit Declaration:** in this case select *transit* under regime and *national transit movement after international transit* under customs procedure code. Subsequently, declarant must create import declaration linking national transit declaration and complete the customs formalities at the port of entry regional office. Only declaration processing fees, services charges and agency commission will be collected at the port of exit regional office.

*\*The port of exit regional office must complete port of exit formalities under inter-gateway and port of entry (destination) regional office must complete port of entry formalities under inter gateway module in system for both national and inland transit after international transit.*

- **Warehousing Declaration:** in this case, select *warehousing* under regime and *entry from warehousing from international transit* under customs procedure code.

## 15.11 Approve Import Declaration

**15.11.1** With cross reference to the declaration and invoice submitted by the declarant, the customs officials after validating the declaration details shall approve, reject or reject for amendment.

**Note:** *there are also chances that single declaration, single goods cannot be dispatched in one vehicle, so in this case, the declarant will have to create more than one Dispatch Challan and send the goods in multiple vehicles, creating multiple dispatch challan such as for raw materials.*

## 15.12 National Transit

**15.12.1** The Protocol to Trade, Commerce and Transit agreement between the Royal Government of Bhutan and the Government of the Republic of India is a significant bilateral treaty that facilitates the seamless movement of goods and strengthens economic ties between the two nations. This agreement allows for a free trade regime, enabling goods to move without customs duties within and between the territories of Bhutan and India.

**15.12.2** Keeping in view the protocol, the Department shall issue the declaration to the person, if following conditions are fulfilled:

- (1) The movement of imported goods across parts of the country through foreign territories requires a transit declaration, where the owner or an authorized agent declares the imported goods to the Department for obtaining a transit declaration. The transit declaration must be completed and submitted, detailing the type of transit, content of the goods, consignor and consignee details, port of entry and exit, etc.
- (2) The process of issuing a transit declaration basically involves the verification of documents and goods at the port of exit. Upon verification of documents and goods the department shall issue a transit declaration at the port of exit.
- (3) Once approved, shall provide an electronic copy or manual SAD (Single Administrative Documents) form of the transit declaration to the owner or authorized person from which shall be received electronically by Customs officials at the port of entry;
- (4) may, prior to clearance, verify the documents and examine the goods at the port of entry;

**15.12.3** The transit process is considered complete when the goods in transit have been successfully delivered to their intended destination and all necessary procedures and formalities have been fulfilled. This includes any required documentation, inspections, and compliance checks.

**15.12.4** When an owner or authorized agent is transporting goods in transit through Bhutan, they must submit a transit declaration accompanied by a letter of undertaking. This letter must state that the goods are intended for legitimate use within Bhutan. Additionally, this letter of undertaking must be officially endorsed by the Department at the port of exit, if required

**15.12.5** Transit reconciliation for incoming and outgoing may be carried out among the Customs Stations, where necessary.

### **System Procedure (eCMS)**

#### **15.13 National Transit (Create Road Manifest)**

**15.13.1** The declarant creates a road manifest starting with the header data. After entering all the mandatory inputs, the user can save the header data. But before allowing the header to be saved, the system will validate the inputs and will display messages, if there are errors encountered. If there are no validation issues, the system will generate a unique Road Manifest Number and save the road manifest header with a Draft status.

**15.13.2** The declarant submits the road manifest after creating the necessary invoices and vehicle details. But before allowing the manifest to be submitted, the system will validate the manifest as a whole and will display messages if there are errors encountered. If there are no validation issues, the system will submit the manifest with a Pending Approval status and will route the manifest to customs officials for approval.

### **15.14 Approve Road Manifest**

**15.14.1** The submitted road manifest is routed to a customs official's dashboard for approval. The customs officials select the manifest and initiates one of the following actions.

- Approve
- Reject for Amendments
- Reject

### **15.15 Create Transit Declaration**

**15.15.1** The declarant submits the transit declaration after creating the necessary invoices and vehicle details. But before allowing the transit declaration to be submitted, the system will validate the declaration as a whole and will display messages if there are errors encountered. If there are no validation issues, the system will submit the transit declaration with a Pending Approval status and will route the transit declaration to customs officials for approval.

### **15.16 Approve Declaration**

**15.16.1** The submitted transit declaration is routed to a customs official's dashboard for approval. With cross reference to the declaration and invoice submitted by the declarant, the customs officials select the declaration and initiates one of the following actions.

- Approve
- Reject for Amendments
- Reject

### **15.17 Centralize Risk**

**15.17.1** The system will auto assess the risk in the system if the risk profiles are being updated in the system and accordingly decide the lane i.e. Red, Blue, Yellow, and Green

**15.17.2** If Risk Lane is Selected as Red: Physical inspection is required at the port of exit. Initiate and complete the physical inspection at the port of exit.

**15.17.3** If Risk Lane is Selected as Yellow: Documents inspection is required at the port of exit. Initiate and complete the physical inspection at the port of exit.



**15.17.4** If Risk Lane is Selected as Blue: PCA will be initiated as this facility is provided for the complaint traders.

**15.17.5** If Risk Lane is Selected as Green: Physical inspection is not required at the port of exit.

**15.17.6** The official who assessed the risk will accordingly decide the lane type or possible outcomes i.e. “Green”, “Yellow” or “Red” after risk assessment if it is carried out manually

The “Green” lane will go for the release process,

“Yellow” will go for document verification.

“Red” will go for physical inspection.

“Blue” will route to release however, it is subject to PCA (For complaint traders).

**15.17.7** If Risk Lane is Selected as Red: Physical inspection is required at the port of exit. Initiate and complete the physical inspection at the port of exit.

## **15.18 Release**

**15.18.1** Upon completion of Customs formalities and on payment of applicable Customs duty, taxes, fees and charges, including fines and penalties if any, the Customs officials shall complete the release order in the system.

## **15.19 Inter Gateway (Port of Exit and Port of Entry)**

**15.19.1** Upon completion of above-mentioned Customs formalities, the goods shall be released from the port of exit and the vehicle will be gated out from the port of exit by RBP officials and the same vehicle will be gated in at the port of entry by RBP officials.

**15.19.2** After the vehicle is gated in by RBP officials, the customs officials will initiate the inter gateway (Port of Entry) to reconcile the transit declaration by completing the customs formalities at the port of entry.

**15.19.3** Following conditions shall be applied at the port of entry the customs officials:

a) if the goods are required to be inspected at the port of entry, transit port of entry inspection should be selected.

b) if inspection is not initiated/required at the port of entry, then goods can be released for completing the transit formalities.

## **15.20 Inland Transit**

**15.20.1** When the goods are required to move from one Customs station to another Customs Station using Bhutanese route (for instance Phuentsholing to Thimphu) it is referred to as inland transit. Goods intended for stores, authorized postal or courier and duty-free operation may be allowed for Inland Transit provided that:

1) Declaration Requirement: The person transporting these goods must declare them as stores, postal items, or duty-free goods. This declaration ensures that customs officials are aware of the nature and purpose of the goods being transported

2) Issuance of Transit Declaration: Customs officials at the departure point will issue a transit declaration to the person transporting the goods. This document serves as proof that the goods are in transit and specifies the conditions under which they are being transported.

3) Transit Reconciliation: When necessary, transit reconciliation is conducted among customs stations and with the operators of stores and duty-free facilities. This process verifies that the goods declared at the port of entry into the transit process match with the records at subsequent customs stations and with the inventory of stores and duty-free operators. It ensures accuracy and compliance throughout the transit journey within Bhutan, preventing discrepancies and ensuring proper control over the movement of these specialized goods.

**15.20.2** If necessary, goods on inland transit may be allowed for transshipment at the port of entry in to the country, however, transshipment process must be conducted under the supervision of customs officials. This ensures that all customs procedures and regulations are adhered to during the transfer of goods.

**15.20.3** In case of any offenses or deflection of the goods on inland transit, the Department shall invoke relevant provisions of the Act and Regulation.

*The process flow that has to be applied is similar to national transit.*

## CHAPTER 16

### 16.1 Clearance of Passengers and Baggage

**16.1.1** “Baggage means personal belongings of a passenger either carried by hand or checked with a carrier and excludes motor vehicles and merchandise.” -Customs Act 2017

### 16.2 Free baggage allowance for Bhutanese Nationals, Foreign Residents and Diplomats.

**16.2.1** The Bhutanese nationals or the non-Bhutanese national above the age of 15 years residing in Bhutan, on their return to Bhutan from any country by air shall be allowed duty free baggage allowance within the value of USD \$1000. The free baggage allowance items are as indicated below:

(a) Alcohol/Spirits – 2 bottles, each bottle not larger than one liter

(b) Perfume: 1 bottle, not exceeding 100 ml

(c) Gold (including jewelry) – 50 grams

(d) Silver (including jewelry) – 1 kilogram

(e) Clothing items: Maximum of 10 pieces each of type of clothing whether stitched or unstitched

(f) Other household or personal goods including electronics and bedding shall be limited to one piece each.

(g) Items of gifts and presents shall be included in the above free allowance

**16.2.2** However, the baggage or goods of a commercial nature are not eligible for duty free baggage allowance even if the value of such goods is less than US\$ 1000.

**16.2.3 Commercial nature** means goods which are meant for buying and selling.

### **16.3 Free Baggage Allowance for Tourists**

**16.3.1 (a)** A tourist shall be allowed to import temporarily free of Customs duty his personal effects and articles reasonably required for personal use during the visit and items imported will be re-exported on his/her leaving Bhutan. A Tourist is also allowed to bring Liquor and perfumes subject to the following limits:

- Liquor: 2 bottles (Not larger than 1 ltr)
- Perfume: 1 bottle not exceeding 100ml
- Used personal effects and articles reasonably required for the visit provided items imported are for personal use and shall be re-exported on leaving Bhutan.

**(b)** Apart from the above free baggage allowance items, a tourist is also allowed to import articles free of customs duty of articles with value up to USD\$ 150 or equivalent.

**(c)** A foreigner shall be allowed to temporarily import following articles of high value such as sound recording equipment, film projectors, slides and demonstration, scientific and professional equipment, instrument and appliances like video recorders provided that:

- Tourists shall declare all his dutiable goods in the passenger declaration Form and Customs shall complete the clearance procedures electronically. For example, filing of Temporary Import Export Request (TIER) application and processing of Temporary Import declaration and Processing of Temporary Import declaration.

**d)** Produce the same goods to customs for Re-Export at the time of departure to terminate the Temporary Import within 30 working days.

**e)** If any item is found missing at the time of departure Customs Duty/Taxes shall be levied at the prevailing market value of the item in Bhutan.

### **16.4 Duty Baggage Allowance for Air Crew Members**

**16.4.1** Regulations relating to exemptions for baggage(s) belonging to Air Crew members shall be strictly enforced. As per the Rules, the crew member is entitled to avail free baggage allowance of US\$ 100/- per trip whenever they are on duty. Any parcels or consignments, which they may carry for others shall be treated as their baggage and be subject to Customs clearance as per the Rule.

**16.4.2** The following goods shall not be permitted as an aircrew baggage:

- (1) gold, silver and jewelry;
- (2) alcohol products;
- (3) electronic items; and
- (4) goods for commercial purpose or in commercial quantity

**16.4.3** However, they are mandated to declare the goods that are not permitted as aircrew baggage or if it contains goods in commercial quantity or which are restricted or prohibited or exceeds duty free baggage allowance.

*Note: All arriving and departing Passengers and air crew members shall present their baggage for checking, examination of goods, if required by the Department even if the baggage or goods are within prescribed duty-free baggage allowance.*

## **16.5 Transfer of Residence**

### **Personal Effects**

**16.5.1** A Bhutanese national who has stayed abroad for longer than 12 months can import their used personal effects as per attached item list below, on a bonafide transfer of residence to Bhutan.

## **16.6 List of Household and Personal Effect Items**

**16.6.1** Durable household and personal effects shall include the following:

- (a) Clothing
- (b) Furniture
- (c) Household items and kitchen appliances
- (d) Television sets; camera;
- (e) other similar items or professional equipment and gadgets in quantities not exceeding one of each.

**16.6.2** This benefit is available to one person per family, unless it can be proven to the satisfaction of the Department that a separate family member claiming these facilities was staying abroad independently and maintaining a separate residence. To avail this facility, Bhutanese nationals need to apply for Customs Duty exemption to the department along with relevant documents like transfer order, travel documents etc. based on the transfer of residence.

**16.6.3** The person who are not on government duty and residing more than 12 months aboard shall produce letter from the embassy that the person has stayed in the country more than 12 months to avail the benefits mentioned above. However, if the person is not able to produce or obtain any such letter from the embassy, they shall be required to present any relevant documents deemed acceptable by the department to qualify for the transfer of residence benefit.

## **16.7 Professional Equipment**

**16.7.1** Professional equipment refers to tools and instruments specifically designed for use in a particular profession that will enhance productivity, efficiency, etc. in carrying out the tasks related to that profession.

**16.7.2** In case of bona fide transfer of a scientist, doctor, engineer or person engaged in any other profession he/she shall be allowed to import, free of duty, professional equipment ordinarily required by his/her profession. For Instance, doctors bringing medical equipment for use in the Hospitals.

## **16.8 Unaccompanied Baggage**

**16.8.1** A baggage shall be treated as an unaccompanied baggage if the same is shipped or dispatched from abroad within 30 days before or after the arrival of the passenger in Bhutan. However, the Department may consider the dispatch of baggage beyond the specified period if it is genuine and accepted by the Department. A consignor and consignee must be the same person in order to claim the duty-free baggage allowance for unaccompanied baggage.

**16.8.2** The owner of the baggage or his authorized agent shall produce the following documents to the Customs Office for clearance of an unaccompanied baggage:

- (1) airway bill, where applicable;
- (2) packing list, where applicable;
- (3) invoice or value declared for Customs purpose;
- (4) letter of authorization, where applicable;
- (5) copy of passport; and
- (6) any other relevant documents

**16.8.3** If a passenger has not availed the baggage allowance of USD \$1000 at the time of arrival, the particular passenger can claim the baggage allowance later at the time of the arrival of the baggage. However, he/she shall obtain a copy of the passenger declaration form from the Customs official about the free allowance on baggage claimed and allowed at the time of arrival. If the above form is not produced, the Customs official shall not allow free baggage allowance on unaccompanied baggage.

**16.8.4** In case of any offloaded baggage, the passengers have to complete the offload form maintained by Airlines and the same has to be notified to the Customs on duty.

## **16.9 Monitoring of Suspicious Passengers**

### **16.9.1 The Customs Officials at the Airport shall follow the following procedures:**

- The Customs office shall maintain a computerized record of the manifest of incoming and outgoing passengers in the Airport with passport, identity card or any travel documents number to monitor and highlight frequent travelers. The record shall contain a list of people who have been convicted of crimes dealing with contraband goods in the past or such people, identified by the Department for closer monitoring. Such information shall also be available at DRC Head Office.
- The DRC Head Office shall share the list of suspected and frequent travelers with all the Regional Offices; who in turn shall maintain a vigil for all goods imported or exported by such people through various port of entry and exit. The Regional Offices shall also submit a list of such persons to the Head Office for surveillance. The Customs at the Airport and the Regional Offices shall submit the details of the goods imported or exported by such individuals to the Head Office on a monthly basis. The Head Office shall consolidate the report of imports and exports of these suspected persons.
- The baggage and cargo of suspected passengers shall be thoroughly examined in the presence of at least two Customs officials. Body frisking of such persons shall be carried out on every trip at the time of arrival. Such body frisking shall be carried out by the same gender. After body frisking is being completed, fill up the details in the format prepared by the Customs office.
- The de department shall compile the names of other foreign nationals who need to be targeted and inform all regions including Airport.
- The Customs officials shall also keep a close watch for unusual foreigners who do not have any specific business or purpose for visiting Bhutan or are in transit through Bhutan. The baggage of such persons shall be thoroughly examined and reports submitted to the Head Office.

## **16.10 Import and Export of Currency**

**16.10.1** As per Foreign Exchange Rules and Regulation 2022, any person leaving or entering Bhutan with an amount in cash, bearer negotiable instruments (BNIs) or both, with the value exceeding USD 10000/- or more shall declare such amount to the Customs at the port of entry or exit.

## **16.11 Rules on Import and Export of Currency**

**16.11.1 (a).** A person may bring into Bhutan, foreign exchange in the form of traveler's cheque, Bank draft or Bank notes without limit, subject to the condition that such person makes a declaration to the Customs at the port of Entry. It is not necessary to declare if the foreign exchange amount does not exceed USD 10000.

**(b).** A person may take out of Bhutan, foreign exchange in the form of traveler's cheque, bank draft or bank notes up to US\$ 10,000 or its equivalent in foreign currency at any one time provided that amount exceeding US dollars 10,000 shall be subject to a condition that such person obtains clearance from the RMA and makes a declaration to the same at Customs at port of exit.

**(c).** A person may not send in or out of Bhutan any Ngultrum banknote or circulation coin through post or courier or any other means. However, a person may carry up to a total amount as prescribed by the RMA. Currency that is attempted to be exported or imported in contravention of these regulations is liable to be confiscated and the such case shall be forwarded to the RMA.

## **16.12 Baggage Checks**

**16.12.1** The Passenger baggage will be all scanned through the X-ray machine. If any suspicious images are found, it will be further examined by the Physical inspection team. The physical inspection officials will verify the baggage of passengers traveling with any dutiable/restricted/prohibited goods or not.

**16.12.2 Diplomatic Baggage:** Such mailbags from Embassies, Missions, and the United Nations Organization are exempted from checking unless there are reasons to believe that such baggage contain goods which contravenes the customs law and any other laws of the kingdom of Bhutan in force. In such event, the case shall be forwarded to the Ministry of Foreign Affairs and External Trade

**16.12.3 Declaration by Passengers:** Air passengers shall declare any dutiable goods and restricted goods to the Customs officials at the Airport.

## **16.13 Aircraft and Ramp Area Checking**

- The aircraft and ramp duty Official should wear the “all area security access card” , reflector jacket and carry handset.
- Upon the arrival of the International Flight, the Official on aircraft duty has to wait for the aircraft door to open.



- As soon as the passengers disembark the aircraft and the cabin attendant gives signal to enter, the duty official needs to enter the aircraft. The duty officials must ensure entry into the aircraft before any other ground staff.
- The officials on duty (Enforcement & Compliance Unit) should strategically check the aircraft and maintain vigilant watch for any illegal activities and develop intelligence to guard against any possible attempts of unauthorized removals and unloading of unmanifested cargo etc.
- A thorough examination and checking of the aircrafts, also known as rummaging can be undertaken on selective basis based on the past history, airport from where the flight has arrived and also based on intelligence report.
- Vigilance of the ramp/apron area must be maintained until the goods are cleared from the aircraft and reach the Customs area.

#### **16.14 Passenger Processing**

- ❖ As per the intelligence report and risk assessment carried out by the Enforcement & Compliance unit, the physical inspection of the goods will be carried out as a team.
- ❖ As per the information shared by the Enforcement & Compliance unit, the identified high-risk passengers will be body frisked by the duty officials at the terminal the findings will be recorded, compiled and accordingly report will be submitted by Enforcement & Compliance officials.
- ❖ As per the findings, the next course of action will be carried out by the Enforcement & Compliance unit.

#### **16.15 Cargo Processing**

- ❖ The Enforcement & Compliance unit will inform the Cargo In-charge about the unattached baggage and suspicious cargos to carry out joint inspection if necessary.
- ❖ The officials posted at the will carry out thorough inspection of the suspicious cargos identified by the Enforcement & Compliance unit.

Unattached baggage & Unaccompanied baggage difference

#### **16.16 Release of VVIP Consignments**

**16.16.1** The Customs Section, Regional Revenue and Customs Office, Paro is one of the agencies involved in the clearance and delivery of unaccompanied VVIP consignments commonly known as Royal Consignments (RC). Customs has to receive unaccompanied Royal

consignment from the airlines and handover safely without delay to the authorized person of the His Majesty's Secretariat (HMS) and/or the Royal Family.

**16.16.2** The VVIP consignments on duty official shall comply with all the mandates under VVIP consignment delivery SOP that is maintained by Airport Customs office. After completing all the mandates and proper check and balance with airlines, the VVIP consignments will be released from the Cargo warehouse or ramp area.

## **16.17 Air Cargo Clearance**

**16.17.1** Air Cargo clearance is done through the Cargo Terminal by facilitating clearance of consignments such as import, export and transit of cargoes and unattached consignments from the airlines.

1. The airlines shall submit cargo manifest of incoming and outgoing international flight through the system electronically.

2. The airlines shall submit goods into Temporary Storage once the Cargo manifest is approved by the Department.

3. Temporary Storage Operator to admit the goods submitted by airlines.

4. The importers may contact Airlines or Clearing and Forwarding Agent to seek information with regard to the arrival of their consignments and submit required documents and information to Clearing and Forwarding Agent for declaring import, export and transit consignments.

5. To process customs declaration, traders will approach airlines for airway bills and provide other relevant documents such as invoice, packing list etc. along with airway bills to CFA with an authorization.

6. An Authorized CFA shall submit customs declaration and documents to the department electronically through system for customs approval.

7. The customs official shall verify documents and accordingly take action as:

- Approve,
- Reject for Amendment or
- Reject the declaration.

8. Once all customs clearance processes are completed, the cleared declaration will appear under the release button of TSO user. TSO will release the goods physically as well from the system.

## **16.18 Passenger Clearance on Arrival**

**16.18.1** In order to expedite the clearance procedure at the port of entry/exit, clearance procedure is simplified to green channel and red channel upon risk profiling and risk assessment.

## **Green Channel**

**16.18.2** A passenger can walk through the green channel, if he has nothing to declare or dutiable goods are within prescribed free baggage allowance. Customs officials can stop a passenger passing through green channel and inspect the baggage if found suspicious. Any passenger walking through the green channel with dutiable goods are more than the prescribed free baggage allowance or prohibited goods, the person is liable for fines and penalties as per the customs law. Suspected passengers and frequent/short visitors shall be checked while going through the green channel.

### **16.18.3 A passenger who misuses green channel shall be liable for following penal action:**

i). The action shall be treated as non-declaration and dealt as per the provisions of the customs law. In case of non-declaration, a person shall pay a fine of 50 percent of the value of the goods evaded in addition to the amount of customs duty and taxes.

ii.) Upon inspection, if the goods are found to be restricted or prohibited, the baggage shall be dealt as per the provisions of the customs law on restriction and prohibitions of goods.

iii). If the value of goods is found to be more than the free baggage allowance, the passenger shall be liable to pay fines & penalty on all items, however, the duty & tax shall be levied after providing the free baggage allowance.

**16.18.4** In the event that the passenger must be transferred to law enforcement authorities, such transfer shall be accompanied by preliminary investigation report outlining the basis and circumstances thereof.

## **Red Channel**

**16.18.5** Passengers carrying dutiable goods must pass through the red channel and declare the goods to the Customs officials and customs shall complete the clearance procedure. Upon completion of customs formalities, the baggage shall be released to the passenger.

## **16.19 Detention of Baggage**

**16.19.1** A Customs official may detain any baggage for import or export if he has a reason to believe that baggage contains:

- Undeclared/under-declared goods
- Goods without required documents
- Goods are of commercial nature
- Restricted or prohibited goods
- Goods on which duties and taxes have not been paid

Such detained/seized/confiscated goods shall be dealt as per the provision of the customs regulations.

## **16.20 Baggage Clearance on Arrival/Departure**

**16.20.1** The PSB Simplified Declaration streamlines the clearance process for passenger baggage that exceeds the allowable limit. This process is directly linked to the passenger manifest, making an approved manifest essential for processing import declarations under the CPC-PSB Simplified Declaration. Since the PSB declaration is created by the department, it bypasses standard procedures such as valuation, risk assessment, inspection, and release, requiring only approval. This significantly accelerates the clearance process.

## **16.21 Stores**

**16.21.1** Store means goods for use in an aircraft for consumption by or for sale to the passenger and includes fuel and lubricants.

- Airlines/Authorized agents shall submit the warehouse declaration of all imports relating to stores to the Department through the system electronically.
- Upon completion of all customs procedures, warehouse operator of the airlines shall admit the goods in to their respective warehouse
- Airlines/authorized agents shall record the goods consumed and sold on board and accordingly file Import declaration through system on daily basis upon arrival of the flight to Bhutan.
- Department may inspect the stores and approve the Import declaration.
- Warehouse Operators shall release the goods from the respective warehouse in the system, once clearance procedures are completed.

## **16.22 Fuels and Lubricants for Aircraft**

**16.22.1** An operator shall record in detail fuels or lubricants delivered to foreign and Bhutanese scheduled and chartered flights.

**16.22.2** Additionally, all goods relating to stores in warehouses are subject to Customs control and supervision may be exercised through physical presence, surprise spot checks or post audit Clearance (PCA).

## CHAPTER 17

### 17.1 Import and Export by Post and Courier Services

**17.1.1** Imports and exports facilitated by courier services are treated equivalently to those transported through any other means, rather than being classified as "baggage." The applicable duty is the standard duty rate that applies to all goods. A foreign post parcel cannot be delivered or exchanged by any post office until the Customs clearance procedures and formalities have been completed. In cases where a foreign post parcel is chosen for examination, the Department will open it either in the presence of the parcel's recipient or in the presence of a representative from the post office. The Department will label the foreign post parcel as "**Customs Examined**" and send it back to the post office along with the assessment.

### 17.2 Movement of Goods through Foreign Post

#### Post Office

**17.2.1** Foreign parcels, encompassing letters, documents, and correspondence, entering and departing Bhutan via post office are directed to the respective warehouses under Customs supervision until clearance is granted. If the clearance procedure of goods imported and exported through foreign postal cannot be completed at the entry and exit points, the declaration of goods shall be relocated from the entry points to the delivery points (Warehouse). Inland transit movement of goods via land and air is facilitated through two declaration types:

1. Inland transit movement with HS code
2. Inland transit movement without HS code

**17.2.2** Additionally, the transit declaration for inland movement of goods is conducted by authorized agents using declaration types such as Inland Transit Movement from International Transit.

### 17.3 Create Inland Transit Declaration (Air and Land) - System Perspective

**17.3.1** The authorized agent is responsible for generating Inland Transit declarations for both air and land transport modes. This involves providing essential general information including:

- Selection of transit regime
- Declaration type based on the mode of goods transportation (air or land)

- Choosing the mode of transport as either air or land
- Specifying Customs station, port of exit, and port of entry
- Updating Importer and Exporter Tax Payer Number (TPN), ensuring consistency under the same TPN
- Providing supporting documents such as invoices, packing lists, and other necessary documents
- Updating transit details such as country of commencement, exit and entry points of transit offices
- Generating a unique transit declaration number

Prior to issuing an inland transit declaration, the following prerequisites must be met:

- Tax Payer Number (TPN) must be current and up-to-date in the eCMS system.
- Authorization from the traders is required.
- If the goods are transported via air, an approved air cargo manifest is necessary.
- For inland transit movement from international transit, the previous declaration number must be provided.

## **17.4 Verification and Approval of Transit Declaration at the Transit Office Exit**

**17.4.1** The inland transit declaration submitted must undergo verification and approval procedures by customs officials at the exit transit office. The approval status of the transit declaration should be updated to one of the following:

- Inland transit declaration approved
- Inland transit declaration rejected
- Inland transit declaration rejected for amendment

**17.4.2** Authorized agents or traders are responsible for ensuring that all applicable fees are paid. The customs officials shall complete the customs formalities accordingly. Upon completion of procedures, officials at the exit transit office must issue release orders and conduct cargo release procedures to facilitate the release of goods.

## **17.5 Complete Inter Gateway Procedures for Port of Exit and Port of Entry**

**17.5.1** The Customs officials at the port of exit and port of entry shall update the status in the following manner;

- Update as **released** with exit officer remarks
- Update as **Received** with entry officer remarks at port of entry
- Update as Transit Port of entry inspection with entry officer remarks

## **17.6 Warehousing Declarations for Post and Courier**

**17.6.1** Warehousing declarations related to Post and Courier services involve the utilization of the warehousing regime by the authorized agents. This includes making warehousing declarations for entry into warehousing from inland transit and inland transit from international transit.

**17.6.2** Before making a warehousing declaration for entry into warehousing from inland transit, the following prerequisites must be met:

- Ensuring that the Taxpayer Number (TPN) is current and up-to-date in the eCMS system.
- Obtaining authorization from the traders.
- Providing the previous declaration number for inland transit movement.
- Ensuring that the warehouse operator is registered to accept goods into the warehouse.

## **17.7 Import after Warehousing (ex-warehouse declaration)**

**17.7.1** Importation following warehousing, known as Ex-warehouse declaration, falls under the import regime and comprises the following declaration types:

- Post Parcel after warehouse: Qualifies for duty-free allowance of Nu. 10,000.
- Post Parcel Commercial after warehouse: Does not qualify for the duty-free allowance of Nu. 10,000.
- Import of Diplomatic bags/VIP/Sample after warehouse: Under this regime, all applicable taxes and fees are waived, and clearance procedures are streamlined to expedite clearance.

**17.7.2** If a foreign post parcel exceeds the duty-free gift allowance of Nu.10,000, whether presented by an individual or the post office, it must be submitted to the Department for clearance. Such parcels should be accompanied by the standard Customs Declaration Form according to the Universal Postal Union Convention. The recipient or their authorized representative must submit a Customs declaration for assessment and completing the customs formalities

### **17.8 Duty Free Allowance for Foreign Post Parcels**

**17.8.1** The department shall waive customs duty for goods imported via foreign post parcel as gifts, as long as the following conditions are met:

1. The parcel must not include alcohols, alcoholic beverages, or any prohibited and restricted items.
2. The goods in the parcel should be for personal use, and the quantity imported should not be for commercial purposes.

**17.8.2** For gifts exceeding the duty-free allowance, Customs duty is collected on the exceeding value as specified hereunder, in case of:

- i. single item, Customs duty is levied directly on the exceeding value;

### **17.9 Single Item Duty Free Allowance Computation**

**17.9.1** Under this method, customs duty is levied on the value exceeding after allowing the duty-free duty allowance of Nu.10,000

**Example:** What duties and taxes will Mr. Tazee from Thimphu incur when importing a pair of Nike sport shoes from China via Bhutan Post? The invoice value for the shoes is Nu. 20,000.

<b>Item</b>	<b>Qty</b>	<b>Invoice value (A)</b>	<b>Allowance Amount (B)</b>	<b>Amount after allowance (C) =A-B</b>	<b>Customs Value</b>	<b>Sales Tax</b>	<b>Customs Duty</b>	<b>Total Tax</b>
shoes	1	20,000	10,000	10000	<b>12,112.50</b>	<b>500</b>	<b>1211.25</b>	<b>1711.25</b>



- ii. more than one item, weighted average method will be applied.

**Example:**

What duties and taxes will Mr. Dawa be required to pay to the government upon receiving his parcel, sent through DHL from his sister in Japan to Thimphu? The parcel contains shirts, pants, and a phone, with respective invoice values of Nu. 3500, Nu. 6000, and Nu. 10000, totaling Nu. 19,500.

**17.10 Weighted Average Method**

Sl.No	Items	Value	Proportionate Percentage (%)	Proportionate Value of the Exceeding Value (FOB)	Proportionate Value of the Exceeding Value (CIF)	Sales Tax	Customs Duty	Total Tax Amount	Remarks
		A	$[E\%] = [A]/[B]*100$	$[D]*[E\%]$					
1	Shirt	3,500.00	17.95	1,705.13	2,065.34	170.51	206.53	377.05	Applicable duties and taxes to be levied on the exceeding value against respective proportionate
2	Shoes	6,000.00	30.77	2,923.08	3,540.58	146.15	354.06	500.21	
3	Phone	10,000.00	51.28	4,871.79	5,900.96	-	-	-	
	Total Invoice value (B)	19,500.00	100.00	9,500.00	11,506.88	316.67	560.59	877.26	
	Duty Free Allowance (C)	10,000.00					-		
	Exceeding Value (D)	9,500.00					-		
							-		

**17.11 Undelivered Parcel**

**17.11.1** Where foreign post parcel cleared by Customs is not delivered to the addressee for any reason, Post office shall not dispose of the parcel without approval of the Customs, unless the same is being returned to the sender in normal course in accordance with postal regulations. (For e.g. a person has ordered a special package from an online retailer. The package is shipped from abroad and arrives at the post office. The customs officials inspect the foreign post parcel, verify its contents, and clear it for delivery. However, due to some unforeseen circumstances (such as an incorrect address or the recipient being unavailable), the Bhutan post office is unable to deliver the parcel.

**17.11.2** In this situation, the Post office cannot simply dispose of the parcel. Instead, post office must follow specific procedures:

- 1. Approval from Customs:** The post office must seek approval from the customs before taking any further action. This ensures that the parcel is not mishandled.
- 2. Reasons for Non-Delivery:** The post office must find out why the parcel couldn't be delivered. If it's a minor issue (like an incorrect address), they may try to resolve it and attempt delivery again.
- 3. Returning to Sender:** If all attempts to deliver the foreign post parcel fail, the post office must coordinate with customs. If the customs authorities approve, the parcel must be returned to the sender.

**17.11.3** The Post shall maintain a separate record of the parcels that could not be delivered to recipients or were sent back to the sender. By maintaining such records, the Post can effectively manage and monitor the flow of foreign parcels and also ensure compliance with customs procedures, and providing transparency in postal operations.

## **17.12 Undelivered Foreign Post Parcels**

- When a foreign post parcel cannot be delivered to the intended recipient, the postal service must maintain a record of this undelivered item.
- The reasons for non-delivery can vary. It might be due to an incorrect address, the recipient not being available, or other logistical issues.

The undelivered parcel is typically held at the post office or distribution center until further action is taken.

## **17.13 Returned Foreign Post Parcels**

- 1.** If a foreign post parcel is returned to the sender (usually the originating country), the postal service also keeps a separate record for it.
- 2.** Reasons for return can include:
  - i)** Incorrect address.
  - ii)** Refusal by the recipient.
  - iii)** Unclaimed parcels.
  - iv)** Customs issues.
- 3.** The returned parcel is logged, and the sender is notified.

## **17.14 Record Keeping**

**17.14.1** The post office maintains detailed records for both undelivered and returned foreign parcels. These records include information such as:

- Tracking numbers.
- Date of attempted delivery.
- Reason for non-delivery or return.
- Sender and recipient details.

## **17.15 Disposal of uncleared goods**

**17.15.1** The Department may, through public auction or tendering in accordance with the Regulation, dispose of goods which are not cleared within 90 working days after the date of arrival.

## **17.16 Export items moving by courier services (DHL) & Bhutan post, Thimphu.**

**17.16.1** Exports facilitated through courier services must adhere to the export procedures laid down in the Act and Regulation. When accepting goods for export, courier services are responsible for ensuring that goods are accompanied by an export declaration approved by the Department. However, for export items transported by Bhutan Post and other courier services from locations away from point of exit, additional customs formalities may be required at Thimphu and port of exit. These formalities include;

- Presenting goods to customs for verification during the booking process
- Obtaining endorsement on the invoice from customs
- Completing inland transit declaration formalities.

## **17.17 e-Commerce**

**17.17.1** Provisions laid down for post parcel and courier services under the Regulation are applicable mutatis mutandis to goods purchased through e-commerce and in such cases, the duty-free allowance value is limited to Nu. 10000.

## CHAPTER 18

### 18.1 Assessment, Demand and Recovery

#### Assessment

**18.1.1** Assessment refers to the process of determining the customs duties, taxes, and other charges applicable to goods being imported into or exported from Bhutan. This involves evaluating the declared value, classification, and quantity of goods based on duty act and tariff schedules.

**18.1.2** A person engaged in importing or exporting goods into or out of Bhutan are legally obligated to pay the applicable customs duties and taxes the Department and levy Customs duty and taxes on the Customs value determined under the methods prescribed in valuation.

**18.1.3** The Department shall apply Customs duty rates in accordance with the Customs duty Act 2021 and amendment thereof and tariff schedule.

### 18.2 Types of Assessment

#### a). Self-Assessment

**18.2.1** self-assessment refers to a system where the responsibility for determining the customs duties, taxes, and charges applicable to imported or exported goods lies primarily with the importer or exporter themselves. Under this system, individuals or entities engaged in international trade are required to accurately assess and declare the value, classification, and other pertinent details of their goods as per customs regulations. This includes calculating and paying the correct amount of customs duties and taxes owed to the Department at the time of importation or exportation. Currently these privileges are being provided to authorized complaint traders (ACT).

**18.2.2** In case of self-assessment, the person must file an electronic customs declaration and ensure that the declaration adheres to the relevant customs law, the Bhutan Trade Classification, Customs Tariff and Schedule. The declaration must explicitly state that the person is exercising their right to self-assess the declaration and pay any applicable customs duty and taxes. The person should provide proof of payment along with other relevant documents to the Department for inspection.

**18.2.3** Self-assessment is a process where the person determines the correct tariff classifications, value, duties, origin, exemptions if any and any other relevant particulars, having bearing on the correct assessment of duty on imported or exported goods.

**18.2.4** The declarations based on self-assessment are evaluated through a risk assessment process. The Department maintains a compliance record for importers and exporters. Such system ensures that while businesses can declare and assess their goods independently, the department still monitor and verify these declarations to manage risks and ensure compliance with customs regulations. Further, high-risk declarations or those from entities with poor compliance records may receive additional scrutiny to prevent fraud and ensure accuracy in duty payments. Additionally, the department will also ask the person to furnish the relevant documents and information with regard to self-assessed declarations and also carry out Post Clearance Audit on goods released on a self- assessment basis.

**18.2.5** Where, self-assessment is accepted, the Department will allow the consignment to be moved to a location approved by the department, such as a bonded warehouse or the business's own facility, instead of being held at the port of entry. This process helps in expediting the release and movement of goods, reducing delays and storage costs. However, these consignments remain subject to further verification and compliance checks by customs authorities and if the self-assessment is found to be incorrect, the Department shall reject the declaration and will invoke the necessary penal provisions as per the regulations.

**b). Provisional Assessment**

**18.2.6** Provisional assessment is a process that allows for the temporary determination of customs duties and taxes on imported or export goods when certain required information is not available or there are uncertainties that prevent final assessment by the department.

**18.2.7** The Department shall accept provisional assessment, where:

**i)** a privileged authorized compliant trader is unable to assessment customs duties and taxes immediately-for instance due to complexity or lack of information and request to the Department for provisional assessment.

**ii)** the person fails to produce required documents or information such as details with regard to invoice, shipping bills, letter of undertaking, permits, etc. and the Department considers it necessary to make further enquiry.

**iii)** the person has produced required documents or information but the Department considers it necessary to make further enquiry related to origin, valuation, classification, etc. to arrive at final assessment.

**iv)** goods are of perishable or hazardous nature and require to be brought under specific storage facilities to avoid deterioration. For instance, the import of explosives which pose potential risk are required to be handled by the professional and needs to be kept in a safe and secured place to avoid uncertain circumstances.

**v)** the Department finds it necessary to take samples of goods imported or exported to undergo any chemical or other test for determination of classification, valuation, origin, etc.

**18.2.8** If goods are provisionally assessed, the importer or exporter must submit a security deposit equivalent to the amount of applicable customs duty. Upon submission of this security deposit, the department will release the goods. This allows the goods to be moved or used while the final assessment and verification of duties and taxes are pending. This measure helps prevent delays in accessing the goods while ensuring that the potential duty and taxes liability is covered. However, for ACT status holders the provisional assessment shall be accepted without a security deposit and goods shall be released.

**18.2.9** When goods are released based on provisional assessment, the department must finalize the assessment within 30 working days. However, if the trader makes a request for a time extension for the final assessment, the department on the basis of justification may extend the time period. This is to ensure that any provisional decisions and corresponding security deposits are resolved promptly, allowing for accurate duty calculation and compliance while minimizing disruptions for the importer or exporter.

**18.2.10** Once the final assessment of goods is completed, the department will adjust the amount of customs duty and taxes payable or refundable against the security deposit provided during the provisional assessment. This means if the final duty is higher, the importer must pay the difference, and if it's lower, the excess deposit will be refunded. This process ensures accurate duty and taxes payments while facilitating the release and use of goods during the provisional assessment period.

### **c). Reassessment**

**18.2.11** The Department has a window of five years from the date of import and export to carry out reassessment such as review the duty and taxes calculation, verify declarations, conduct audits, or consider any other relevant factors that may affect the amount of duty and taxes owed within this timeframe.

**18.2.12** Customs duties and taxes are reassessed (means that the initial assessment of Customs duty and taxes on imported goods is reviewed and potentially corrected) due to various reasons) such as:

**1). Successful Appeal Directing Reassessment:** This occurs when the person appeals against the initial assessment of Customs duty and taxes, and the appeal is successful. If the dispute settlement appeal committee (at any tier level) directs for reassessment, it means they have found grounds to reconsider the original assessment.

**2). Post Clearance Audit Findings:** After the goods have been cleared through Customs, if a post-clearance audit by the department reveals that the initial assessment of Customs duty and taxes were incorrect, a reassessment may be initiated to correct the error.

**3). Discovery of Untrue Declaration:** If upon subsequent examination of the goods or associated documents (such as invoices, packing lists, etc.), it is found that the declaration made at the time of import was untrue or inaccurate, department may reassess the duty and taxes based on the correct information.

**4). Reassessment Authority:** The department has the authority to review and reassess the customs duty and taxes payable on imported goods. This reassessment can happen if there is reason to believe that the initial assessment was incorrect or if new information comes to light that affects the duty and taxes calculation.

**5). Erroneous Refund or Adjustment of Customs Duty:** If Customs duty was refunded or adjusted incorrectly due to an error in the assessment process (such as a miscalculation or misinterpretation of rules), a reassessment would be necessary to correct the error. This situation also mentions interest payable not being paid, indicating that interest may be levied on the corrected amount if applicable under Customs law.

**6).** The Department considers it necessary, for instance the head quarter classification team gives ruling on classification of certain commodities which needs to be reassessed.

**18.2.13** Normally, the department has a five-year window to reassess and demand customs duty or interest from the date of import. However, the five-year limit does not apply in cases where customs duty and taxes or interest is demanded due to:

**Collusion:** Secret cooperation or agreement between parties to deceive others, particularly to evade customs duties.

**Fraud:** Intentional deception to gain an unfair or unlawful advantage, leading to the evasion of customs duties and taxes.

**Willful Misstatement:** Deliberate provision of false information with the intent to deceive Customs authorities and evade proper duty and tax assessment.

**Suppression of Facts:** Deliberately hiding or withholding relevant information that affects the assessment of customs duty and taxes payment.

### **18.3 Reassessment (System Perspective)**

**18.3.1** The reassessment will be carried out by the department on the following cases:

- i) Amendment;
- ii) Offense management;
- iii) PCA findings.

Whenever the department finds necessary (when there is change in legislation with regard to tariff rate which leads to reassessment).

**18.3.2** The declaration which has been sent for amendment (*Reject for amendment*), the CFA will re-submit the declaration for reassessment for duties and taxes if any.

**18.3.3** The declaration which has been directed to offense management (from inspection or PCA), the customs officials will amend the declaration and reassess the additional payment along with the fines and penalties.

**18.3.4** If the declaration is routed to amendment as a result of PCA findings, the CFA should resubmit the declaration after making the necessary amendment and the department will reassess accordingly.

**18.3.5** If any additional payment linked with the reassessed declaration, the system will raise a demand note and the declaration can be cleared upon payment of all the dues.

### **18.4 Delinquent Person**

**18.4.1** Any person, who does not respond to three consecutive notices issued by the Department to pay customs duty, taxes or penalty, shall be deemed a delinquent person. Once the person is listed as a delinquent taxpayer, the person cannot engage in any trading activities and his status will be changed to inactive in the system (e-CMS). The respective regional office shall share details of delinquent persons to all the regional offices.

**18.4.2** However, before considering taxpayer as a delinquent taxpayer by the regional office, the regional office shall follow a structured process with specific steps to recover the tax due to the department. The regional office shall apply recovery measures as stipulated under the Customs regulation such as entering into an agreement with the person for payments of any dues in installments; executing bond or security by the person; or adjusting the amount which may be



due to the person, and also temporarily withhold an import, export or transit goods if any of a defaulting or delinquent person.

**18.4.3** Additionally, the regional office shall send three consecutive notifications as under:

**1). Issuance of Demand Notice/ Initial Notice:** Issuing a formal demand notice to the taxpayer specifying the nature of the non-compliance, the amount due, and the deadline for payment or response.

**2). Follow-Up Notice:** If there is no response or action taken by the defaulted taxpayer, a follow-up notice is sent that reiterate the details of the initial notice, highlight the urgency, and specify the remaining time to comply. The regional office usually provides another 15 to 30 days for compliance.

**3). Final Notice:** If the taxpayer fails to comply with the demand notice, a final notice is issued. This notice serves the last warning to the taxpayer before the case is forwarded to Customs and Excise Division for further legal or enforcement actions. Further, the final short period is given, often around 15 days, to settle the dues from the regional office.

**18.4.4** In the event of failure to recover an amount from the person or the person does not respond to the three consecutive notices send by the regional office, the regional office shall forward the case to the Customs and Excise Division for further legal or enforcement actions.

**18.4.5** Upon receipt of the case from the concerned RRCO, the Customs and Excise Division at DRC HQ shall write to the taxpayer stating that the following measures will be taken if the amount due to the department are not cleared within specific deadline:

**1).** Inform the taxpayer that department will permanently freeze the import, export, and transit goods after obtaining the court order.

**2).** Inform that taxpayer that the Customs and Excise Division will apply to the court for an order to restrain from disposing of their assets if any. This means that the taxpayer cannot sell, transfer, or otherwise get rid of their assets until the dues are settled.

**18.4.6** If the taxpayer still does not respond or refuses to clear the amount due, then the Customs and Excise Division shall obtain the court order to permanently freeze the import, export, and transit goods or obtain court order to restrain from disposing of their assets if the taxpayer is still carrying the business. Additionally, the department can also forward the case to the Ministry's legal for prosecution in the court of law without obtaining the court order for restraining the assets or permanently freezing the import, export, and transit.

## **CHAPTER 19**

### **19.1 Refund**

#### **Introduction**

**19.1.1** Refunding taxes and duties is importantly tantamount to the collection of taxes and duties as a primary responsibility of the Department. Delays in refund claims will lead to public grievances and may result in mistrust and distrust towards the Department for unfairly and unjustly delaying services without any accumulated interest on the delayed refundable amount. Whereas for payable, the department penalizes for late payment of any taxes and duties; to equalize a sense of fairness, the Department should process and deposit the refundable amount within 30 working days from the receipt of the complete and correct refund application from the refund claimant.

**19.1.2** The key objective is to standardize refund procedures by incorporating both transparency and accountability in principle; the refund process is doubly checked and verified by placing a strong check and balance system, to minimize the risk of misuse of government exchequer, to enhance prompt taxpayer service and to implement refund processing uniformly across the regional offices. It is also aimed to ensure the authenticity and accuracy of the refund by having a detailed refund process and procedures and enabling dealing officials to carry out this responsibility efficiently and effectively.

**19.1.3** Refund primarily arises on account of taxes/duties collected and deposited erroneously or in excess; taxes and duties paid by an exempt organization/individual. To process refunds, the eligibility criteria and conditions shall be strictly considered.

### **19.2 Applicability of Indirect Taxes and Duties Refund**

**19.2.1** Refund of taxes/duties shall be applicable under the following circumstances;

- An exempt organization or an exempt individual has paid customs duty, taxes, fees, or charges during the time of importation,
- a non-exempt person has paid customs duty, taxes, fees or charges for imports made on behalf of an exempted person;

- there is an excess or wrongly or erroneously levied customs duty, taxes, fees, or charges paid. In this case, the declaration needs to be amended, and submit a refund request.
- order or decision of the disputes settlement committee, appeal committee, appellate board or court judgment results in the reduction of customs duty, fees, or charges payable.
- Refund for the damaged goods discovered during the physical inspection; the customs duty, taxes, fees, or charges already paid for the declared goods, the portion of customs duty, taxes, fees, or charges paid for the damaged goods have to be refunded. In this case, the declaration will route to amendment and the declarant will resubmit with correct information.
- Refund for the cancellation of declaration where the customs duty, fees, or charges payable are paid.

### **19.3 Conditions for Refund**

**19.3.1** The Department shall be made to fulfill the following general conditions:

- 1) For a customs duty refund, claims must be made within one year from the date of import and export of goods. The date of import and export shall be the date of acceptance of customs declaration and application for refund must be submitted electronically to the Department.
- 2) When applicable taxes were paid in advance by the exempt person and subsequently claimed refund by submitting a refund application electronically.
- 3) All refund claims mentioned herein made after the expiry of one year shall not be entertained irrespective of whether it is eligible for an exemption or an exemption certificate has been issued.
- 4) The refund claims shall be made only by an exempt organization or an exempt individual and not by the third-party contractor or agent or supplier working on behalf of the exempt organization or individual.
- 5) All refund claims shall be processed through the concerned regional offices, where taxes or duties have been paid.
- 6) There shall be no outstanding taxes/duties/fees with the department against any other entity or business that may be owned by the claimant. Outstanding taxes/duties/fees with the Department should be settled or adjusted before the approval of the refund.

## **19.4 Categories of Refund**

### **Refund**

#### **Application Submission**

**19.4.1** The applicant must apply for a refund by completing an online registration of application in the system and attaching scanned copies of supporting documents. When the previous declaration number is selected, the system will link to the declaration, payment status, offense if any. The bank details, phone number and email address of the applicant will be fetched from the TPN masters.

#### **Verify Application**

**19.4.2** When the application has been made by the applicant, Customs officials will verify the application and supporting documents. When processing the application, Customs must act on the action field like approve or reject at the item level against the original refund request. The officials must clearly provide the reason for rejection in the remarks field if rejected. If the application has been successfully verified by level-I official, it must then be forwarded to the next level II official for final approval. Both the verifier I and II shall have authority to Reject, Send for Amendment or Approve the application based on eligibility.

#### **Send Confirmation**

**19.4.3** The applicant must be notified by email that their application has been rejected, sent for amendment or approved. Once the refund application has been approved, it will be redirected to the revenue system.

#### **Amendment**

**19.4.4** The applicant can amend a submitted refund if the refund is under review and yet to be approved. Post submission of the amended refund, the review and approval process will be like a fresh refund request covered under Refund submission process earlier.

## **Cancellation**

**19.4.5** The applicant can apply for cancellation of refund applications for those refund applications which have been submitted and pending approval. Once the refund application is approved, cancellation cannot be requested. The applicant will need to provide the reason for cancellation for the official's review.

## **19.5 Refund Exemption**

**19.5.1** A refund exemption refers to a formal request made by applicants, such as traders, to the department, seeking a refund of taxes and duties they have already paid. This request is made when the applicant is eligible for an exemption from certain taxes and duties under the Customs Act of Bhutan 2017, its rules and regulations, or any other applicable laws. If the applicant has previously paid the relevant taxes and duties, they can apply for a refund of the amount paid or the amount specified in the approved refund exemption application.

### **Create Refund Application and Submit Refund Application**

**19.5.2.** A registered trader (importer/exporter) or their authorized Clearing and Forwarding Agents can create a refund application by logging into the system, navigating to the 'Refund Exemption FE' module, and then clicking on the 'Create Refund Exemption' tab. An applicant must prepare an application for Refund Exemption linking a Customs cleared Declaration for which refund on exemption needs to be claimed. In case of a CFA applying for exemption on behalf of the importer, the CFA shall provide the TPN number of the Importer. System will validate that the Importer TPN of the Refund Exemption is a valid TPN in the system.

### **General Information**

**19.5.3** An external user will log in to the eCMS system to submit an application for Refund Exemption by linking it to a Customs-cleared Declaration for which they wish to claim a refund based on the exemption. If a Clearing and Forwarding Agent (CFA) is applying on behalf of the importer, the CFA must provide the importer's Taxpayer Identification Number (TPN). The system will then validate that the provided TPN is valid in the eCMS. The applicant is required to provide the following details in the application:

- Exemption details.
- Importer information.
- Exempt party information.
- Approving office details.
- Refund information, including bank account details for depositing the approved refund.

## **Invoice and Consignor**

**19.5.4** System will fetch the invoice(s) and item(s) from the linked declaration and pre-populate them in the respective fields. An applicant cannot add new items manually; however, applicants can remove existing items if required.

**19.5.5** An applicant will need to select an item for exemption and specify the exempted quantity and amount that they are eligible for. System will keep a track of the balance quantity and amount available for exemption and applicants cannot apply more than available balance quantity and amount. Multiple refund exemptions can be applied against the declaration as long as balance quantity and amount are available for exemption application.

**19.5.5** Based on the refund exemption selected and invoice and items specified, the system will calculate duties, taxes, fees and charges which need to be exempted and refunded back.

## **Supporting Documents**

**19.5.5** The applicant must submit (or attach) supporting documents, such as invoices, letters from relevant agencies, etc. to help the verifier and approver in assessing and approving the refund exemption application.

## **Summary**

**19.5.6** The applicant can submit the application after reviewing and agreeing to the disclaimer note. By accepting the disclaimer, the applicant confirms that the information provided in the application is accurate and complete and that they understand the terms and conditions of the refund exemption process. This step ensures the applicant is aware of any legal responsibilities or obligations that may arise during the verification and approval process. Once the disclaimer is accepted, the application is officially submitted for further processing. Upon submission, a unique reference number will be generated. The applicant can use this reference number to track the status of the application throughout the process.

## **Review and approval of Refund Exemption**

**19.5.7** The verifier (Level-I), after reviewing the application, will take one of the following actions: 'Recommend for Approval', 'Reject', or 'Reject for Amendment'. The status of the application will update to reflect the action taken by the verifier. For each item in the application, the verifier will specify the quantity and amount that has been approved for exemption. The system must then be capable of

generating and issuing the refund exemption based on the approved quantity and amount. If application is rejected, the applicant will not be able to amend or resubmit the application.

**19.5.8** If a ceiling value is set for the specified exemption type, the system will automatically apply the configured ceiling value. Additionally, the system should allow processing of refund exemptions for partially exempted cleared declarations. Based on the approved quantity and amount, the system will calculate the exempted duties and taxes eligible for refund and display these figures in the Duty Details tab for review by the next verifying officer.

### **Approve Refund Exemption**

**19.5.9** Once an application is marked as 'Recommended for Approval' by the verifying officer, the approving office will take one of the following actions:

- 1. Approve:** The application can be approved either fully or partially.
- 2. Reject:** If the application cannot be amended or resubmitted, it will be rejected.
- 3. Reject for Level 1 Review:** The application will be sent back for further review by the verifying officer.

**19.5.10** During the approval process, the approving office must specify the exempted quantity and amount for each item eligible for refund. Based on the approved quantity, the system will calculate and allocate the corresponding tax refund amount. Refund exemptions for an item in a declaration can be submitted multiple times, provided there are remaining quantities and amounts available for exemption claims.

### **Amend Refund Exemption**

**19.5.11** An applicant can amend a submitted refund exemption by providing reasons for the amendment. Once the amended refund exemption is submitted, it will go through the review and approval process as if it were a new application, following the same procedure outlined for the original refund exemption submission.

## **Cancel Refund Exemption**

**19.5.12** An applicant can request the cancellation of a refund exemption application by selecting the reason for the cancellation. Once the cancellation request is submitted, no further action can be taken on the linked refund exemption application until it undergoes an official review and a decision is made regarding the cancellation.

## **19.6 Time period for a refund claim**

- The time period for filing an application for a refund of taxes/duties must be within one year from the date of import or export of goods.
- The time period for refunding a claim by the Department must be within 30 working days from the date on which the decision to refund has been made.

## **19.7 Deferred Payments of CD, Taxes, Fees or Charges**

**19.7.1** Goods are typically released from customs stations or areas only after the payment of applicable customs duties, taxes, fees, or charges. However, to support the business community and modernize customs procedures, the Department may permit the release of goods without immediate payment through a **deferred payment** system.

**19.7.2** Deferred payment allows traders to defer the payment of customs duties, taxes, fees, or charges to a later, approved date under an agreement with the Department. Traders are required to settle the deferred amounts within the agreed timeframe. If the trader fails to make the payment on time, a penal interest of 24% per annum will be applied to the outstanding balance.

**19.7.3** The Department may permit the deferred payment of customs duties, taxes, fees, and charges for up to 30 working days from the date of goods release. If the trader is unable to make the payment within this period, they may request an extension. The Department may grant an additional 10 working days for the payment.

**19.7.4** Traders must complete the payment within the original 30 working days or the extended period. In exceptional circumstances, traders can request to pay in installments, subject to the Department's approval.

**19.7.5** The trader is liable to pay a penal interest of 24% per annum on the deferred duties and taxes. This interest is calculated from the date the goods are released under the deferred payment arrangement until the payment is fully settled by the trader.



**19.7.6** The defer payment facility is available for:

**1. General declaration (import/export):** For any declaration, the trader can avail defer payment facility, but it' s subject to approval from the department. The payment request and release date will be sent to BRIMS as and when declaration is released from the eCMS.

**2. Part shipment:** The trader may utilize the deferred payment facility for part-shipments, with the due date for payment based on the release date of the first shipment, regardless of when the remaining shipments are collected. Payment for the entire part-shipment process is calculated from the date of the first shipment's release. If an offence is detected in any subsequent part-shipment, it will be addressed through an Adhoc Offence process, ensuring that the violation is handled appropriately and in compliance with customs regulations.

**3. Post clearance Audit (PCA):** Declarations routed for payment through Post Clearance Audit (PCA) can be paid using the deferred payment facility. However, each PCA declaration must be submitted separately for deferred payment; multiple declarations cannot be combined into a single request. Once the deferred payment request for a PCA declaration is approved, the eCMS will send the payment details to BIRMS for processing.

**19.7.7** The defer payment facility is not available for:

- 1) **Post Entry Amendment:** the defer payment facility is not extended to additional payment liable due to post entry amendment. Any additional payments arising due to post entry amendment should be cleared using normal payment procedure.
- 2) **Offence:** any payments liable due to offence cannot be requested and paid through defer payment facility.

### **19.8 Process Flow in the system (eCMS)**

**1. Deferred Payment Request:** The traders or authorized clearing agents with a valid TPN must request deferred payment when the declaration is at the pending payment stage. For passenger baggage, Customs will submit the deferred payment request on behalf of the passenger. In such cases, the request will be automatically approved upon submission by Customs. Once the request is successfully submitted, a unique reference number will be generated.

**2. Verification and Approval of the application:** the verifier upon receipt of request, must recommend for approval, reject or reject for amendment. The assessor, on the other hand, will review and approve the request or reject to make amendment by the verifier. If approved by the assessor, the declaration will be marked as '**paid**' with payment mode as '

**deferred'** . The payment request will be sent to the BIRMS upon release of declaration along with the release date.

- 3. Receive Payment Request (BRIMS):** BRIMS will receive the payment request from eCMS along with the due date (release date) and the item level tax breakup. BIRMS will apply any additional interest (if applicable), collect the payment from Trader/CFA, and update eCMS upon completion of collection.

### **19.9 Offence detected against approved defer payment declaration:**

**19.9.1** If during inspection, an offence is detected, the deferred payment linked to the declaration will be canceled and the entire amount will be reversed to 'pending payment' . In the case, no deferred payment will be allowed and the declarant will have to clear using normal modes of payment. If during inspection, an offence is detected, the deferred payment linked to the declaration will be canceled and the entire amount will be reversed to 'pending payment' . In this case, the Declarant have to clear payment using normal modes of payment (No deferred payment request will be allowed).

### **19.10 Declaration Amendment and Cancellation:**

**19.10.1** In case of declaration amendment, where the declaration payment is done using deferred payment, no refund or additional payment will be triggered. In this case, the entire amount will be collected through deferred payment and the total outstanding amount will be sent to BIRMS at point of release as deferred.

**19.10.2** In case of Declaration cancellation where the declaration payment is done using deferred payment, the following conditions shall apply.

1. No refund will be triggered as no amount is collected.
2. The approved deferred payment request linked to the declaration will be cancelled at the point of approval of the declaration cancellation.

### **19.11 Post Entry Amendment for deferred payment**

**19.11.1** The following cases are possible in case of post entry amendment where the payment was done using deferred payment.

1. If deferred is not paid, then payment in BRIMS will be **stopped** and the new amount will be sent to BIRMS for payment collection through deferred payment mode along with the Tax breakup. The payment collection date remains the same as mentioned in the approved deferred application.
2. If the deferred payment is paid and the amount goes up after amendment, then additional amount will be collected through normal payment mode. In contrast, if the amount went

down after amendment, refund will be issued. If the deferred payment is settled and the amount increases after the amendment, the additional amount will be collected through the usual payment method. On the other hand, if the amount decreases after the amendment, a refund will be issued.

## **19.12 Post Entry Cancellation for deferred Payment**

**19.12.1** The following cases are possible in case of post entry cancellation where the payment was done using deferred payment:

- a. If deferred payment is completed, issue a refund for any excess amount, if applicable.
- b. If deferred payment is not complete, then **stop** payment process in the BRIMS and cancel the deferred payment request.

## **19.13 Deferred Payment Extension Request**

### **Eligibility for Extension Request:**

**19.13.1** Traders, CFAs, or individuals with a valid Taxpayer Identification Number (TPN) are eligible to request an extension for deferred payment if they need more time to settle the payment.

### **Approval Process:**

**19.13.2** The DRC (Customs) reviews and evaluates the extension requests submitted by traders, CFAs, or individuals. If the DRC approves the request, the trader, CFA, or individual will be granted additional time to complete the payment.

### **Special Case – Passenger Baggage:**

**19.13.3** For deferred payments related to passenger baggage, customs authorities can submit the extension request on behalf of the passenger. In such cases, the extension request will be automatically approved upon submission by customs.

### **Extension Request Submission:**

**19.13.4** Once the extension request is submitted, the process continues according to the standard deferred payment procedure.

**Approval of Extension Request:**

**19.3.5** Upon approval, the eCMS (Electronic Customs Management System) sends the updated deferred payment expiry date to BIRMS.

**System Integration and Updates:**

**19.3.6** BRIMS receives the updated expiry date from eCMS and processes the deferred payment information accordingly. BRIMS then updates the expiry date for the deferred payment in its system.

**Payment Collection and Final Updates:**

**19.3.7** BRIMS collects the payment from the trader or the authorized CFA. After payment is collected, BRIMS updates eCMS to confirm the completion of the payment.

## CHAPTER 20

### Post Clearance Verification and Audit

#### 20.1 Post Clearance Audit

##### Definition

**20.1.1** A systematic customs control measure to ensure the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems, and commercial data kept by persons directly or indirectly involved in the trade.

#### 20.2 Legal basis

**20.2.1** To facilitate PCA, it is necessary to implement legislation which provides Customs with the legal basis to conduct an audit and also sets out the rights and obligations of the auditee. For our administration, this refers to the Customs Act of Bhutan 2017 and amendments thereof, and the Customs Rules and Regulations of Bhutan 2023 (CRRB); or any other legislation, regulation, or procedure under which the customs is empowered to act.

**20.2.2** The following Chapters of the Customs Act of Bhutan apply:

- Chapter 16, Section 117 empowers the department to conduct Post Clearance Audits on a person;
- Chapter 17, Sections 119 to 121 relate to the maintenance of records and other supporting documentation by any person or company engaged in an import, export or transit business;
- Chapter 17, Section 122 relates to the furnishing of such records and information;
- Chapter 18, Section 123 provides the power for the Department to inspect the goods and documents;
- Chapter 20, Section 148 provides traders with the right of appeal to any decision passed by the department; and
- Section 190(33) of the Act, under definition, defines “person” as any individual, importer, exporter, authorized agent, company, body corporate or any other organization, institute or group of persons having a status under the Act.

**20.2.3** The following Chapters of the CRRB 2023 (Revised Edition) apply.

- Section 494 of the Customs Rules and Regulations of Bhutan, 2023 allows the department to conduct a Post Clearance Audit on goods released on a self- assessment basis.
- Chapter 20, Sections 539 to 563 provides details on the conduct of Post Clearance Audits including its scope, objectives, audit plan, pre-audit survey, notification, questionnaires, entry and exit conferences, recording and reporting and termination of the audit.

**The following Sections of the Rules on the Income Tax Act of Bhutan 2001 apply.**

**20.2.4** Section 5, 5.1 and 5.2 detail the records to be maintained by businesses referred to in Section 119 of the Customs Act of Bhutan 2023.

**Extracts from the Customs act of Bhutan 2017 on the legal basis for audits**

### **Section 117**

**20.2.5** The Department may conduct post clearance audit on a person. (Person is defined in Section 190 (33) of the Customs Act 2017 as meaning any individual, importer, exporter, authorized agent, company, body corporate or any other organization, institution or group of persons having a status under this Act.)

### **Section 119**

**20.2.6** Any person engaged in import, export and transit business shall maintain records and other supporting documents as per the Income Tax Act of Bhutan.

### **Section 122**

**20.2.7** A person dealing in import, export and transit business shall furnish books of accounts, records, documents and any other relevant information for assessment of duty, inspection of goods and post clearance audit.

## **Extract from the Customs Rules and Regulations 2017**

### **20.2.8 Legal Authority**

- ❖ 539. In execution of the power conferred by section 117 of the Act, the Department shall conduct Post Clearance Audit on any person.
- ❖ 540. The Department may, on the basis of the books of accounts or any other information that may be related to the business, demand any person to furnish information regarding Customs duty.
- ❖ 541. A person shall, on written demand, produce documentary proof of duties paid on goods or services, or furnish any information that may be required by the Department.
- ❖ 542. An officer of the Department shall have the right to inspect business premises and exhibits of a person.
- ❖ 543. The Department may, on the basis of an application from a person or on obtaining additional information on a person, carry out reassessment.

## **Rules on the Income Tax Act 2001**

### **Section 5. Information, Control and Documentation**

**20.2.9** All registered companies and business units shall maintain proper accounting records. The following sections are intended to provide guidance as to what constitutes “proper accounting records” for different categories of CIT/BIT taxpayers.

**20.2.10** The specific book of accounts to be maintained by a taxpayer depends on the category of unit to which the taxpayer belongs.

### **20.3. Companies, Large and Medium Business Units**

**20.3.1** All companies, large and medium business units regardless of their size must maintain the following books of account and associated records:

- Trial Balance
- Manufacturing and Trading Accounts
- Profit and Loss Accounts
- Balance Sheet

- General/Nominal Ledger
- Cash Book, Bank Statements and Bank Reconciliation Statements
- Sales Ledger, Registers and Supporting Bills, Cash Memos and Receipts
- Purchase Ledger, Registers and Supporting Bills, Receipts and Vouchers
- Journal Book
- Fixed Asset Register
- Stock Register.

**20. 4 Small, Cottage/Micro Business Units**

**20.4.1** Small businesses must maintain basic accounting records to ensure that all transactions are recorded. Therefore, for such business records such as cashbook, a daily list of sales summarized monthly and annually, cash memos and purchase invoice may be maintained

**20.5 Organization Structure of PCA**

**20.5.1** The policy and overall responsibility for implementation of PCA rests within the Compliance and Enforcement Unit, Customs and Excise Division, HQ.





## **20.6 The major roles of the unit will be:**

- where necessary, organize a systems-based PCA training program to ensure a sufficient number of trained officers are available to carry out the planned audits.
- monitor the results of systems-based PCA, the number of audits carried out compared to the annual plan, cases outstanding and the time taken for each audit; and
- produce regular PCA management reports for the Commissioner of Customs who in turn will update the Director General.
- Preparation of Annual Audit Plan

*Note: PCA Unit to be established under the Compliance and Enforcement Unit*

**20.6.1** The Compliance and Enforcement Unit, in consultation with the regions, will also produce an Annual Audit Plan based on the Departments priorities for the year, risk assessments and available resources. The basis for selection should be the apparent revenue risk of the individual trader determined by risk profiling, while the frequency and duration of the visits should be determined by the complexities of the traders accounting system. Factors to be taken into account include:

- Volume of imports or exports
- Value of imports or exports
- Rate of duty chargeable
- Country of Origin
- Traders' compliance history
- Industry compliance history
- Specific intelligence
- Change in trading patterns
- Reliefs claimed
- Mix of goods imported; and
- Previous audit results.

## **20.7 Responsibility of officials under PCA unit**

**20.7.1 The Audit Manager** will have overall responsibility for ensuring the delivery of the Annual Audit Plan within time and budget.

The Audit Managers responsibilities will additionally include the following:

- ensuring the PCA Annual Plan reflects the Departments priorities and addresses known risk factors
- agreeing with the Regions composition of the audit teams when auditors from one Region are to work in another Region
- ensuring the quality and integrity of the PCA program
- signing off completed audits
- ensuring that management checks are included in the PCA program, accompanying an audit team at least once a year, and ensuring the team leaders accompany an audit team at least once per quarter
- completing management reports, as required by the Department
- ensuring there are a sufficient number of trained officers to carry out the PCA plan; and
- dealing with any issues that arise during PCA.

**20.7.2 The Team Leader** will be appointed from the department/region where the audit takes place.

**The Team Leaders** responsibilities will include:

- checking the scope of the audit plan prepared by the auditors
- ensuring the audit procedures are followed by their team
- completing the PCA Review and Completion Checklist and Commentary Matrix ensuring that the audits are conducted to the standards set by the Department for planning, testing, reporting audits, maintaining integrity, and respecting the confidentiality of business data
- checking the completeness and accuracy of the audit file at the end of the audit; and
- acting as a resource if the team has any questions or needs any guidance during the audit.

**20.7.3** The audit teams (Team Members) will normally comprise three auditors from the region where the traders accounting records are kept. Where necessary, auditors from one region may work with auditors in another region to form the audit team. When considered appropriate an additional auditor could also be added to the team.

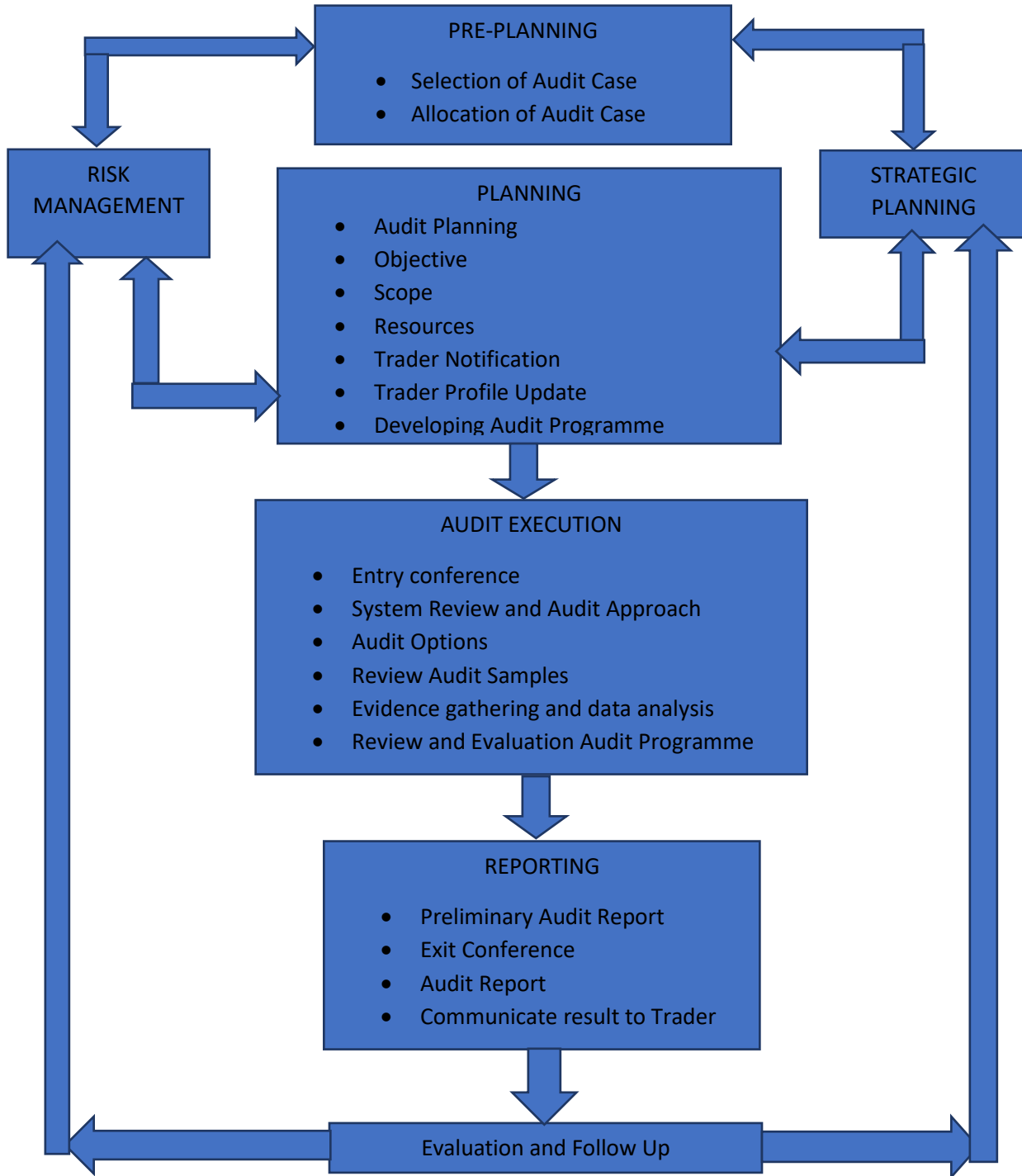
## **20.8 Post Clearance Audit Standards**

**20.8.1** The post clearance audit standards ensure consistent quality and provide a framework for the audit process. Auditors conducting PCAs must meet the high standards both traders and the department expect of them. Auditors should be trained and equipped with the necessary skills and tools in order to perform their duties effectively and efficiently. Auditors must act strictly within the law and regulations and act fairly and without bias.

**20.8.2** The main audit standards are:

- Competence
- Objectivity
- Professional due care
- Independence
- Integrity
- Confidentiality
- Equality
- Transparency

## 20.9 PCA Process Flow



## **Pre-Planning**

**20.9.1** Risk Management Unit/Enforcement and Compliance unit will come up with an annual audit plan based on selectivity criteria laid in standard operating procedures of PCA.

**20.9.2** The annual audit plan prepared by the Compliance and Enforcement Section provides information on traders to be audited in the year and the month in which the audit is to be carried out. The plan also shows which Region(s) (where auditors from more than one Region are to work together as an audit team) is responsible for carrying out the audit and the estimated time the audit will take. It is the responsibility of the Region, where the accounting records of the business are kept, to allocate individual auditors and a team leader for each audit.

## **Planning of Audit**

**20.9.3** Team leader shall plan the audit and create an audit in the system for approval. The audit plan must contain the following details:

- Objective
- Scope
- Resources
- Trader Notification
- Trader Profile Update
- Developing Audit Program

**20.9.4** The Audit Manager shall approve/reject the audit proposal and will be notified to the team leader.

**20.9.5** Audit team leader shall schedule and select the auditors in the system and decide on types of audits to be conducted.

## **20.10 Execution of Audit**

**20.10.1** Based on the audit plan, auditors shall execute the audit. Auditors need to act on declarations selected for audit and take action accordingly in the system. Following exercises need to be carried out while conducting the audit;

- Entry conference
- System Review and Audit Approach
- Audit Options
- Review Audit Samples
- Evidence gathering and data analysis
- Review and Evaluation Audit Program

### **20.11 Preliminary Audit Findings**

- Once the audit trail is completed, auditors shall come up with a preliminary audit report detailing the findings from the audit.
- Conduct an exit conference and provide an opportunity for the auditee to put forth justifications to discuss further on the discrepancies/issues from preliminary findings.
- Where the Department uncover possible offenses and directs a formal investigation to be initiated, the audit shall stand terminated and no exit conference will be held.
- Auditors shall issue receipts for documents received and samples taken.

### **20.12 Evaluation and follow up**

- The Team Leader should complete the File Commentary Matrix and the Audit Review and Completion checklist.
- The results of the audit are to be communicated internally to all interested parties, including risk management and strategic planning.
- The Team Leader will close the audit in the system
- The Audit manager will approve the audit closure.
- Respective regions or PCA unit to follow up on the findings from PCA.

### **20.13 Preparation of Final Report**

**20.13.1** An auditor shall, within 15 working days from the date of exit conference, prepare a final audit report and provide a copy of such report to the concerned auditee outlining the details of the findings and also inform the auditee of the right to appeal.

**20.13.2** An auditee shall, within the time set by the auditor (time will be specified in a cover letter) in the final report, respond in writing to the Department indicating the action taken or intended to take as a result of the audit.

### **20.14 System procedure for PCA**

#### **Create PCA Audit**

1. All users who have access to the PCA menu with the "Create Audit" option will be able to initiate and set up an audit.
2. To create a General Audit, click on the PCA menu, select "Create General Audit," Select the TPN, and proceed with the audit creation process.

*\*\* Audit proposed date is the date on which you are going to conduct an audit*

*\*\* The audit period refers to the specific timeframe during which customs declarations, financial records, transactions, or operations are examined and reviewed during an audit.*

3. Select the declarations based on your audit plan or risk analysis. Alternatively, you have the option to select all declarations.

*\*\* All the declarations processed for that particular audit period can be fetched from the declaration list.*

4. Choose the check list and audit scope and attach necessary documents (like note sheet, pre-audit workings) if any.
5. Submit the audit (Unique PCA reference number will be generated)

### **20.15 PCA Approval Process**

1. Click on "Approve Audit" to either approve or reject the audit request.
2. Audit approval is conducted through the menu assigned to the appropriate officer, such as the Customs Commissioner or another officer designated for this task.
3. The "Lead Auditor" is responsible for key activities, including selecting the audit team, scheduling the audit, submitting the audit findings, and overseeing the audit closure process.
4. The system will only allow the selection of one "Lead Auditor" for the approval of a PCA Audit. The Lead Auditor must be a member of the Department of Revenue and Customs (DRC), in accordance with PCA guidelines and the System Requirement Specification (SRS).

### **20.16 Schedule Audit –**

1. After the audit is approved by the appropriate authority, click on "Search/Schedule Audit" and proceed to schedule the audit.
2. Attach the audit notification letter as part of the supporting documents. (**This is mandatory**)
3. Select the team members who will be involved in the audit.

*\*\* Team members / auditors will be selected from different regions.*

*\*\* System will allow to choose multiple team members from regional offices.*

4. Set the audit schedule by entering the specific date for the audit in the system.
5. Submit the scheduled audit.
6. After the audit schedule is submitted, the selected declarations will be displayed on the team members' dashboards under the "**Declaration List for PCA Audit**" section.

## 20.17 Team members (Act on declaration)

- 1). Go to “**Declaration List for PCA audit**”
2. Assigned team members must be able to update declaration which belongs to their own customs station against their PCA record.
3. Team members (Auditors) shall verify all the declarations shown under “declaration list for PCA audit” and act accordingly on each declaration.
4. When auditors are updating declaration level audit outcome, they will take decision and allow to choose the audit result as below:
  - a). Amend Declaration
  - b). Compliant
  - c). Non-compliant

**20.17.1** Navigate to the "Declaration List for PCA Audit" section.

**20.17.2** Assigned team members must update the declarations that are linked to their respective customs station, ensuring they are accurately recorded against their PCA record.

**20.17.3** Team members (Auditors) are responsible for reviewing all declarations listed under "Declaration List for PCA Audit" and taking the necessary actions for each declaration.

**20.17.4** While updating the declaration-level audit outcomes, auditors will make decisions and select one of the following audit results:

1. **Amend Declaration** – Changes are required to correct or update the declaration.
2. **Compliant** – The declaration meets all regulatory requirements and standards.
3. **Non-compliant** – The declaration does not adhere to the required regulations or standards.

*\*\* Auditor will not allow to choose multiple declarations and update the audit result; it must be done individually.*

### **Audit result**

1. **Compliant: No further action is required**
2. **Amendment**

*\*\* Amendment: when Auditor choose the amendment, the particular declaration will route to post entry amendment.*

**20.17.5** The Clearing and Forwarding Agent will make the necessary amendments to the declaration. Once the post-entry submission is completed, the PCA declaration will be routed back to the same officer who initially reviewed it for further review and approval.

**20.17.6** The system will update with the details of the officer who acted on the declaration, and only that officer will have the authority to approve the declarations related to the Post Clearance Audit.



*\*\* Collect additional taxes and amendment fees, complete the whole amendment process until declaration status shows "Post entry Cleared".*

### **3. Non-compliant**

**20.17.7** When an auditor selects "non-compliant" for a declaration, the system will route that declaration to the offence management process.

**20.17.8** The auditor will initiate an ad-hoc offence by entering the declaration number along with the corresponding PCA reference. They will then follow the complete offence procedures, which include:

- Processing the offence case
- Collecting any applicable fines and penalties
- Assessing additional taxes
- Charging amendment fees as necessary

### **20.18 Search/Record Audit**

**20.18.1** After the audit is completed, the Lead Auditor will record the audit findings as follows:

- 1. Click on "Search/Record Audit":** This allows the Lead Auditor to access the section where the audit will be officially recorded.
- 2. Update each field in the checklist:** The Lead Auditor must review and update all fields in the checklist, ensuring all necessary information related to the audit is included.
- 3. Attach supporting documents:** Attach any relevant documents that support the audit, such as the preliminary findings, the full audit report, and any other documents related to the PCA findings.
- 4. Update the audit result:** The Lead Auditor should summarize the key audit observations and conclusions, clearly stating the results of the audit.
- 5. Submit the recorded audit:** Once all details are updated and documents are attached, the Lead Auditor submits the recorded audit for final processing.

**20.18.2** The system will not allow the submission of the PCA audit until all declarations listed in the audit have been reviewed and processed. This means that each declaration must be appropriately actioned—whether it is marked as compliant, non-compliant, or amended—before the audit can be submitted for final approval. The system ensures that no declaration is left unresolved before the audit is completed.

**20.18.3** Once the auditor submits the PCA audit, they will no longer be able to make any changes to the audit, including modifying attachments, documents, or the audit report. The system locks

the audit after submission, ensuring that no further edits or updates can be made to the content once the process is finalized.

## 20.19 Audit Closure

**20.19.1** The Lead Auditor, designated as the HQ focal, is responsible for closing the audit as follows:

1. **Click on "Close Audit"**: This initiates the process of finalizing the audit.
2. **Go to "Audit Closure"**: The Lead Auditor will access the section for audit closure, where they will update the status and audit result based on the findings of the audit.

*Note: The system will not allow the PCA audit to be closed until all related amendments and offence cases have been resolved and closed. This ensures that all necessary actions, such as fines, penalties, and corrections, are completed before the audit can be finalized.*

**20.19.2** The **Closure Status** indicates the final outcome of the audit and can be selected based on the results of the audit, as follows:

1. **Compliance**: This status is chosen when the audited declaration fully complies with all regulations, and no amendments or offences are required.
2. **Compliance with Amendment**: This status is selected when the audited declaration is compliant, but some amendments are needed (such as corrections to the declaration). The amendment has been made, and compliance is achieved.
3. **Compliance with Offence**: This status is chosen when the declaration is compliant, but an offence (such as a violation) has been identified. The necessary penalties or fines have been applied, and compliance is achieved despite the offence.
4. **Compliance with Amendment & Offence**: This status is selected when both amendments and offences are required. The declaration is compliant after the necessary corrections and penalties (such as fines or taxes) have been applied.

These closure statuses help indicate the level of compliance after addressing all necessary actions.

## CHAPTER 21

### 21.1 Advance Ruling

#### Introduction

**21.1.1** With the aim of providing advance and predictable information to traders in order to facilitate compliance with Customs requirements, the department shall provide advance ruling. The expression “advance ruling” generally designates the option for Customs to issue a decision, at the request of a trader (importer/exporter) planning trade operation. The Customs act 2017 states “Advance ruling” means a binding decision by the Department at the request of a person on specific particulars in relation to the imported or export of goods.

**21.1.2** As per the Customs Rules and Regulations of Bhutan: Revised Edition 2023, rulings may be issued regarding the classification of goods in accordance with the Bhutan Trade Classification and Tariff Schedule for the import and export of goods. Additionally, the Electronic Customs Management System (eCMS) also supports the issuance of advance rulings concerning the origin and valuation of goods. These advance rulings play a crucial role, as they provide clarity and certainty to businesses on the applicable duties and taxes. This practice is widely recognized and applied internationally, ensuring transparency and consistency in trade.

### 21.2 Application

#### 21.2.1

To request an advance ruling, a person must submit an application electronically to the Department through the eCMS (Electronic Customs Management System), ensuring compliance with the Department's requirements and promoting a more efficient and predictable customs process. This begins with the applicant registering in the eCMS system to obtain user credentials, which are necessary to access the platform. After registration, the applicant can submit the advance ruling request, ensuring all required details are provided. Importers and exporters can also submit their applications through authorized Clearing and Forwarding Agents.

**21.2.2** The application must include comprehensive information about the goods, such as their description, intended use, classification, origin, valuation, or any other relevant details, depending on the type of ruling requested. In some cases, the applicant may need to submit additional materials like samples, brochures, photographs, or other supporting documents to assist the Department in making the ruling.

### **21.3. Steps in the system (eCMS).**

#### **Logging in to the system**

**21.3.1** An applicant (importer/exporter) must log in to the eCMS using their user credentials and navigate to the 'Advance Ruling' module. To begin the application process, they should click on the 'Create Advance Ruling' tab. Additionally, an authorized Clearing and Forwarding agent can submit an application on behalf of the trader. The applicant or agent must then complete the necessary fields as required.

#### **Header details**

**21.3.2** The system will automatically fill in the applicant's details. However, either the authorized Clearing and Forwarding Agent (CFA) or the trader (importer/exporter) must enter the importer/exporter TPN (Taxpayer Identification Number). The applicant can then select the appropriate ruling category—'Classification', 'Rule of Origin', or 'Valuation'—from a dropdown menu. The applicant will also be asked if a ruling has been previously applied for; if so, they must provide details of the previous application. Additionally, the applicant must indicate whether they are familiar with the advance ruling process and may include any relevant remarks.

#### **Commodity details**

**21.3.3** The applicant needs to select the classification code for the goods which the person is seeking for Advance ruling along with commercial name and additional description of goods which will help to give precise ruling and his comments or opinion on the classification code. The applicant may also be required to select the country of origin in the 'Origin' field and provide the value of the goods in Bhutanese Ngultrum (BTN) in the 'Valuation (BTN)' field when applying for an advance ruling on Rule of Origin and Valuation. This ensures that the Department has accurate information regarding both the origin of the goods and their value for proper assessment and ruling.

#### **Documents details**

**21.3.4** The applicant must upload supporting documents such as the invoice, packing list, shipping bills, product images, and any other relevant materials. These documents are crucial for providing Customs authorities with all the necessary information to make an informed and accurate decision on the advance

ruling application. Once all required documents are uploaded, the applicant can submit the application, after which the system will generate a unique application number for reference.

### **Approval (CMS user)**

**21.3.5** The Customs officials will log in to the system using their CMS user credentials. The advance ruling process involves a two-tier approval system: initially, the application is reviewed by the 'verifier,' and upon completion of this review, it proceeds to the 'approval' stage for final authorization.

#### **Verifier: Level 1**

**21.3.6** The verifier will review the details submitted by the applicant and provide their assessment in the commodity details tab, including a classification description and remarks on the application. The verifier has the option to either 'Recommend for Approval,' 'Reject' (which prevents resubmission by the applicant), or 'Reject for Amendment' with clear instructions for required changes. If the application is for origin or valuation, the verifier will also provide an opinion on the Rule of Origin and Valuation. Applicants can resubmit the application after making the necessary amendments based on the verifier's remarks.

#### **Approver: Level 2**

**21.3.7** The level 2 approver will either 'Approve' the application recommended by the level 1 verifier, 'Reject' the application (which cannot be resubmitted), or return it to level 1 for further review and resubmission. For each action taken, the officer will provide detailed remarks.

**21.3.8** Once the Advance Ruling for the Classification is approved for the particular trader, the subsequent applicant is applying for the same or identical HS, then the prior shall be applicable and further, it will apply across all the traders. The approved AR for the classification will be automatically added in the HS Masters commercial description in the eCMS system.

### **21.4 Approval and issuance of Advance Ruling**

**21.4.1** The Department shall, to the extent possible, issue an advance ruling within **90 working days** from the receipt of an application. The applicant may require to furnish further information and samples if required to issue accurate ruling by the Department. The applicant will also be informed about their right to appeal and provided the opportunity to seek confirmation or clarification regarding the ruling.

**21.4.2** An applicant shall, in addition to any other associated cost, pay applicable fees as follows:

1. a fee of Ngultrum 500 to a maximum of 10 commodities;
2. additional fee of Ngultrum 100 per commodity that exceeds the maximum limit of 10 commodities.

**21.5 An Advance Ruling becomes invalid under the following circumstances**

- When the details provided previously for the advance ruling are no longer accurate across all relevant material.
- When the information or facts that the ruling was based on have significantly changed.
- When there is an important change to the Bhutan Trade Classification or any rules that apply.
- When the requirements mentioned in the ruling are no longer being fulfilled or followed.
- Two years after the notice of the advance ruling is given to an applicant.
- If a ruling is appealed by someone other than the applicant, and the appeal is successful.

## CHAPTER 22

### 22.1 Books, Accounts and Record Keeping

#### Overview

This chapter provides a brief description of the accounting requirements and minimum accounting records that a company or business is required to maintain. Most enterprises are expected to maintain further records for their own internal control and information purposes.

**22.1.1** The person shall maintain the records and supporting documents as per the Income Tax Act of Bhutan if the person is engaged in import, export and transit business. Following are information's on how it is detailed in the Income Tax Act of Bhutan regarding maintaining records and supporting documents:

#### 22.2 Record Keeping obligations for business and individuals

**22.2.1** Businesses must maintain comprehensive records of all financial transactions, including sales, purchases, receipts, and payments. This includes details of imported, exported, and transited goods. Records should be kept in a manner that facilitates easy verification and auditing by the customs authorities.

#### 22.3 Types of records and documents to be maintained

**1). Invoices and Receipts:** Detailed invoices and receipts for all transactions such as shipping documents if any, bills of lading, airway bills, and other shipping documents that detail the movement of goods.

**2). Customs Declarations:** Documents filed in the customs stations detailing the nature, quantity, and value of goods with regard to import, export and transit.

**3). Contracts and Agreements:** Contracts with suppliers, customers, and logistics providers if any.

**4). Bank Statements:** Records of all financial transactions involving banks, including payments and receipts related to import, export, and transit activities.

**5). Inventory Records:** Detailed records of inventory, including goods imported, exported, and those in transit.

## **22.4 Format and Accessibility:**

**22.4.1** Records can be maintained in physical or electronic format. However, they must be readily accessible and retrievable for inspection by customs authorities. Electronic records should be backed up regularly to prevent loss of data.

## **22.5 Audit and Verification:**

**22.5.1** The Customs officials have the right to audit and verify the records maintained by businesses. They may request access to all records and documents to ensure accuracy and compliance with customs laws.

## **22.6 Record Keeping obligations for Incorporated Company**

**22.6.1** An incorporated company shall maintain the records and supporting documents in accordance with the standards prescribed by the Accounting and Auditing Standards Board of Bhutan (AASBB). Following are the details about the standards prescribed by the AASBB for maintaining books of accounts:

### **1. General Principles**

**a). Accrual Basis of Accounting:** Financial transactions should be recorded when they occur, not when cash is exchanged.

**b). Consistency:** The same accounting methods and practices should be applied consistently from one financial period to another.

**c). Materiality:** All significant financial information should be accurately reported, and trivial details can be omitted if they do not affect the financial statements' overall interpretation.

**d). Prudence:** Financial statements should be prepared conservatively, ensuring that assets and income are not overstated, and liabilities and expenses are not understated.

### **2. Specific Requirements for Books of Accounts**

**a). Journal:** A chronological record of all transactions, detailing the date, accounts affected, amounts, and descriptions.

**b). Ledger:** A collection of accounts that shows the changes made by the transactions recorded in the journal. This includes separate ledgers for assets, liabilities, equity, income, and expenses.

**c). Trial Balance:** A statement that lists the balances of all ledger accounts to ensure that total debits equal total credits, verifying the correctness of the accounts.



### 3. Financial Statements

- a). **Balance Sheet:** A statement of the company's financial position at a specific date, showing assets, liabilities, and equity.
- b). **Income Statement:** A report of the company's financial performance over a specific period, detailing income, expenses, and profits or losses.
- c). **Cash Flow Statement:** A statement that provides information about the company's cash inflows and outflows over a period.
- d). **Statement of Changes in Equity:** A report detailing the changes in the company's equity over a financial period, including profits retained, dividends paid, and other changes in equity.

### 4. Supporting Documents

- a). **Invoices and Receipts:** Detailed records of sales and purchases, including dates, amounts, and parties involved.
- b). **Bank Statements:** Records of all financial transactions involving banks, including payments and receipts.
- c). **Contracts and Agreements:** Documents related to business deals, including terms and conditions, and obligations of the parties.
- d). **Inventory Records:** Detailed records of inventory, including quantities, values, and movements of goods.
- e). **Customs Declarations:** Documents filed in the customs stations detailing the nature, quantity, and value of goods with regard to import, export and transit.

### 5. Compliance and Verification

- a). **Internal Controls:** Procedures and mechanisms to ensure accuracy and completeness of the accounts, including segregation of duties, authorization of transactions, and periodic reconciliations.
- b). **Audit Trails:** Documentation that provides a clear history of all transactions and changes made to the accounting records, facilitating audits and reviews.
- c). **Periodic Reviews:** Regular internal and external audits to ensure compliance with accounting standards and detect any discrepancies or irregularities.

## **6. Documentation and Retention**

**a). Record Retention:** Maintaining all financial records, supporting documents, and books of accounts for a specified period, usually five years, to comply with legal and regulatory requirements.

### **22.7 Format and Accessibility:**

**22.7.1** Ensuring that records are kept in an accessible format, either physical or electronic, and are easily retrievable for inspection by customs authorities and auditors.

### **22.8 Retention Period**

**22.8.1** Records and supporting documents must be retained for a specified period, typically five years, as stipulated by the Income Tax Act of Bhutan 2001. This is to ensure that records are available for review during audits or investigations. The records for five years apply to all the business entity including individuals who engages in export, import and transit business.

## CHAPTER 23

### 23.1 Power of Customs

#### Introduction

The "power of customs" can be defined as the legal authority, operational capabilities and responsibilities conferred to the Department by the Customs Act of Bhutan 2017 and the amendments thereof. The power of customs confines various authorities and functions aimed at ensuring compliance with national laws, protecting the economy and society, and facilitating legitimate trade. The following are the key elements of the power of customs.

#### 23.2 Authority to Inspect

**23.2.1** The phrase "authority to inspect" within the context of customs refers to the legal and operational power granted to customs officials to examine goods, vehicles, and individuals at border crossings, customs stations and other ports of entry and exit. This authority to inspect is crucial for ensuring compliance with customs regulations and for protecting national security, public health, and economic interests. The following are the detail explanation of the authority to inspect:

- a. If the inspection is to be conducted within a customs station, permission is not required from the Regional Director/Head of the Customs and it is the duty of customs officials to carry out the inspection at the Customs station.
- b. If the inspection is to be conducted beyond the designated Customs station (i.e. business premises, warehouses, or other sites where goods subject to customs regulation are stored or handled) an inspection order is required from department/regional head to carry out such inspection.
- c. The inspection order from the department is required to conduct inspections beyond designated customs stations. However, customs officials can conduct immediate inspections without needing inspection order if the officials reasonably believe that waiting for an inspection order would result in the loss or destruction of crucial evidence, disposing of dutiable, non-dutiable, restricted or prohibited goods. Such swift action allows to prevent the removal, hiding, or destruction of goods or documents that are subject to customs regulations, ensuring that enforcement efforts are not hindered by procedural delays in urgent situations.
- d. After an inspection is carried out by customs officials, the individual or entity whose premises or goods were inspected must be formally notified (in writing) about the completion of the inspection.
- e. After completing an inspection, the leader of the inspection team is required to prepare a detailed report outlining the results and discoveries made during the inspection. This

report must then be formally submitted to the head of the Department or to the head of the Regional Office, depending on the jurisdiction. This is to ensure that the inspection findings are properly documented, reviewed, and acted upon by supervisors, promoting accountability and enabling informed decision-making within the customs administration.

### **23.3 Authority to Investigate**

**23.3.1** The department will carry out investigation in the following circumstances:

- (1) suspected smuggling of goods into and out of Bhutan (to investigate activities related to the illegal import or export of goods into and out of Bhutan);
- (2) fabricating invoices, permits, etc. and furnishing false information or documents with regard to false declarations about the value, quantity, nature of goods being imported or exported, etc. to the Department.
- (3) take additional evidence such as documentary, digital, physical evidence or witness such as character and expert witnesses.
- (4) clarify the cause of inconsistency in the statement (to clarify any inconsistencies found in statements or declarations made to the Department);
- (5) hold scientific, technical or expert opinion (to obtain scientific, technical, or expert opinions that may be necessary for resolving a case);
- (6) any action contrary to Customs Act and the Regulation;

The following are the process or procedures on how to carry out the investigation by the department.

#### **23.3.2 Initiation of Investigation**

- **Trigger:** An investigation can be initiated based on information received, intelligence reports, regular audits, or suspicion of customs law violations.
- **Authorization:** Authorization from the department is required to begin an investigation.

#### **23.3.3 Planning the Investigation**

- **Scope and Objectives:** Define the scope and objectives of the investigation.
- **Resource Allocation:** Assign the necessary resources, including personnel and tools, for conducting the investigation.
- **Strategy Development:** Develop an investigation strategy outlining the methods, timelines, and steps to be followed.

#### 23.3.4 Gathering Information

- **Data Collection:** Collect relevant data from various sources such as import/export and transit declarations, documents, financial records, and manifests.
- **Intelligence Gathering:** Utilize intelligence networks to gather additional information on the suspected violation.
- **Interviews and Statements:** Conduct interviews with relevant individuals, including importers, exporters, customs brokers, and witnesses

#### 23.3.5 Field Investigation

- **Inspection and Search:** Inspect goods, premises, and vehicles. Conduct searches if necessary, following proper legal protocols.
- **Seizure of Evidence:** Seize any goods, documents, or evidence that are relevant to the investigation, ensuring proper documentation of the seizure.
- **Surveillance:** Conduct surveillance operations if required to monitor activities related to the investigation.

#### 23.3.6 Analysis and Evaluation

- **Data Analysis:** Analyze the collected data to identify discrepancies, irregularities, and patterns that indicate violations.
- **Expert Consultation:** Consult with experts if needed to interpret technical data or specialized information.
- **Legal Review:** Ensure that all evidence and procedures comply with legal requirements to maintain the integrity of the investigation.

#### 23.3.7 Reporting

- **Draft Report:** Prepare a draft report summarizing the findings, evidence, and conclusions of the investigation.
- **Internal Review:** Submit the draft report for internal review by Head of Customs and Regional Director or a review committee if any.
- **Final Report:** Finalize the report incorporating feedback from the internal review process.

### 23.3.8 Legal Proceedings

- **Case Preparation:** Prepare the case for legal proceedings, ensuring all evidence and documentation are in order.
- **Coordination with Legal Authorities:** Coordinate with legal authorities, including the prosecution and judiciary, to initiate legal action against the offenders if required.
- **Presentation in Court:** Present the case in court, providing testimony and evidence as required.

### 23.3.9 Post-Investigation Actions

- **Follow-Up:** Conduct follow-up actions to ensure compliance with court orders and recovery of any dues or penalties.
- **Reporting and Documentation:** Maintain thorough records of the investigation process, findings, and outcomes for future reference and audits.
- **Policy Review:** Review and update customs policies and procedures based on the lessons learned from the investigation.

## 23.4 Possible questions and methods during interrogations

**23.4.1** During an investigation by Customs officials, the interrogation process aims to gather information relevant to the case while respecting the rights of the individual being questioned. Here are some possible questions and methods that may be used during interrogations:

### 23.4.2 Introduction and Background Questions

**Identity Verification:** "Can you please state your full name, address, and occupation?"

**Role Clarification:** "What is your relationship to the goods/persons involved in this investigation?"

**Purpose:** "Do you understand why you have been brought in for questioning today?"

### 23.4.3 Questions Related to the Incident

**Event Sequence:** "Can you describe what happened on [date/time] regarding [specific incident]?"

**Details and Observations:** "What did you see/hear during the incident?"

**Involvement:** "Were you directly involved in [specific activity]? If so, how?"

#### **23.4.4 Clarification and Confirmation**

**Documentary Evidence:** "Can you explain the contents of this document/item found at [location]?"

**Contradictions:** "We have information that contradicts your statement. Can you explain this inconsistency?"

**Verification:** "Do you have any additional information or evidence that could help clarify the situation?"

#### **23.4.5 Knowledge and Intent**

**Awareness:** "Were you aware of the regulations/laws pertaining to [specific issue]?"

**Intent:** "What was your intention or purpose in [action/event]?"

#### **23.4.6 Legal and Procedural Awareness**

**Rights and Obligations:** "Are you aware of your rights during this investigation, including the right to legal representation?"

**Consent:** "Do you consent to us recording this interview?"

#### **23.4.7 Emotional and Psychological Approach**

**Empathy:** "We understand this may be stressful. Is there anything you would like to clarify or discuss further?"

**Behavioral Observation:** Observing non-verbal cues and changes in demeanor to assess credibility.

#### **23.4.7 Closing Questions**

**Conclusion:** "Is there anything else you would like to add that may help us understand this situation better?"

**Next Steps:** "We will now review the information gathered. You may be required to provide further assistance as part of our investigation."

## **23.5 Methods of interview**

**23.5.1 Structured Interview:** Following a prepared list of questions to ensure all relevant aspects of the case are covered.

**23.5.2 Free Narrative:** Allowing the interviewee to tell their version of events without interruption initially, then asking specific follow-up questions.

**23.5.3 Cognitive Interviewing:** Using techniques to enhance memory recall and reduce misinformation.

## **23.6 Guiding Principles**

**23.6.1 Fairness and Respect:** Ensuring that the interrogation is conducted respectfully and without coercion.

**23.6.2 Transparency:** Informing the interviewee of the purpose of each question and the overall process.

**23.6.3 Documentation:** Recording the interview accurately and comprehensively for future reference.

These approaches help Customs officials gather accurate information while upholding legal and ethical standards throughout the investigation process.

## **Authority to Search**

### **23.7 Authority to search a person**

**23.7.1** The Department shall search a person who have attained eighteen (18) years of age and above if the Department suspects the person has concealed:

- 1. Goods which are dutiable:** This refers to goods that are subject to customs duties and taxes upon importation or exportation. If the Department suspects that a person is hiding such goods to evade paying the required duties and taxes, the department have the right to conduct a search;
- 2. Goods liable for confiscation:** This includes goods that are prohibited or restricted from being imported or exported, or goods that have been imported or are being exported illegally. If the Department suspects that a person has concealed such goods, the department can conduct a search to seize them;
- 3. Any documents relevant to an enquiry or investigation:** This broadens the scope beyond physical goods to include any documents that are pertinent to an ongoing customs



enquiry or investigation. If the Department believes that a person possesses documents that could provide evidence of customs violations or other relevant information, they may search for and seize such documents;

4. **Coming from abroad and going abroad:** This refers to individuals arriving from or departing to foreign countries. The Department can search and inspect the individuals if there is suspicion that they are concealing goods that should be declared or are subject to customs duties and taxes;
5. **On aircraft under Customs control:** This applies to passengers and crew aboard aircraft that are under the control of the Customs. Aircraft under customs control typically include those landing at or departing from airports within Bhutan's jurisdiction;
6. **Embarking to and disembarking from aircraft:** The Department can conduct searches when individuals are boarding (embarking) or leaving (disembarking) aircraft. This ensures compliance with customs regulations and prevents smuggling or illegal transportation of goods;
7. **Working in Customs territories:** Individuals working within customs territories, which may include mini dry ports, dry ports, airports, and other designated areas, are subject to search and inspection if there is suspicion of them being involved in illegal activities related to customs regulations;
8. **Entering and exiting Customs Station or Areas for various purposes:** This covers individuals entering or leaving specific customs stations or areas designated for customs operations. Such areas are critical for enforcing customs laws and ensuring that all goods entering or leaving the country comply with the customs laws.

**23.7.2** Minors under the age of 18 years shall be searched and inspected in the presence of:

(1) a guardian (A guardian is typically a parent or someone legally responsible for the well-being and upbringing of the minor);

(2) a person whose care the minor is under (individuals who have temporary or ongoing responsibility for the minor's care, such as relatives, caretakers, or guardians appointed by legal authorities);

(3) authorized personnel of a government institution working to protect the rights of children for instance National Commission for Women and Children, RENEW (Respect, Educate, Nurture and Empower Women), The Pema Secretariat etc.

## **Search of goods inside body**

### **23.8 Procedures and Process for Conducting a Body Search**

#### **23.8.1 Establishing Reasonable Grounds:**

Customs officials must have reasonable grounds to suspect that an individual is concealing prohibited or undeclared items within their body. These grounds may be based on behavior, intelligence reports, or other credible information.

#### **23.8.2 Informing the Individual:**

The individual must be informed of the reason for the search and the process involved. They should be told clearly about their rights and the procedures that will be followed.

#### **23.8.3 Obtaining Consent:**

Efforts should be made to obtain the individual's consent before conducting the search. If consent is not given, the search may still proceed under the authorization of a Regional Director or Head of Customs, but this must be documented, but this must be documented.

#### **23.8.4 Conducting the Search in Private:**

The search must be conducted in a private area away from public view to maintain the individual's privacy and dignity.

#### **23.8.5 Presence of Same-Gender Official:**

The search should be conducted by or in the presence of a same-gender official to ensure comfort and privacy for the individual being searched.

#### **23.8.6 Witness Presence:**

A neutral witness, preferably a same-gender official or medical professional if any, should be present during the search to ensure transparency and accountability.

#### **23.8.7 External Search:**

Initially, an external body search may be conducted, which includes a thorough pat-down of the individual's clothing and external parts of the body.

#### **23.8.8 Medical Examination for Internal Search:**

If there is a need for an internal body search, it must be conducted by a qualified medical professional in a medical facility. Customs officials are not permitted to conduct internal body searches themselves.

### **23.8.9 Documentation:**

The entire procedure must be thoroughly documented, including:

The reason for the search, the names of the officials involved, the presence of witnesses, the outcome of the search, and any items discovered. This documentation should be maintained as part of the official records.

### **23.8.10 Handling of Discovered Items:**

Any items found during the search must be carefully handled, documented, and stored as evidence according to established protocols. The individual should be informed of their rights regarding the seized items.

### **23.8.11 Post-Search Procedures:**

After the search, the individual should be provided with appropriate support and information, including how to lodge a complaint if they believe the search was conducted improperly.

### **23.8.12 Legal Safeguards and Rights:**

The individual has the right to seek legal representation if they feel their rights have been violated during the search process. The individual has the right to file a complaint with the appropriate authorities if they believe the search was conducted unlawfully or inappropriately. All information related to the body search must be kept confidential and only shared with authorized personnel.

### **23.8.13 Legal and Ethical Considerations**

#### **Human Rights and Dignity:**

The procedures must respect the human rights and dignity of the individual at all times. Any form of abuse or misconduct by Customs officials is strictly prohibited and subject to disciplinary action.

## **Search of premises and conveyances**

### **23.9 Procedures and Process for Conducting a Search of Premises and Conveyance**

#### **23.9.1 Establishing Reasonable Grounds:**

Customs officials must have reasonable grounds to suspect that premises or conveyances (vehicles, vessels, aircraft, etc.) are being used to store or transport contraband, undeclared goods, or items subject to customs duties. These grounds may be based on intelligence reports, behavior, prior records, or other credible information.

#### **23.9.2 Informing the Owner or Occupant:**

The owner or occupant of the premises or conveyance should be informed of the reason for the search and the process involved. They should be told about their rights and provided with a copy of the search warrant, if applicable.

#### **23.9.3 Presenting a Search Warrant:**

In most cases, a search warrant issued by a competent authority (i.e Court) is required before conducting a search. The warrant should specify the premises or conveyance to be searched and the suspected items to be seized.

#### **23.9.4 Conducting the Search:**

##### **Search of Premises:**

The search should be conducted in the presence of the owner, occupant, or a responsible representative. The search must be thorough, covering all areas where contraband or undeclared goods could be concealed. Customs officials should take care not to cause unnecessary damage to property during the search.

##### **Search of Conveyance:**

The search of conveyances should include all compartments, cargo holds, storage areas, and any other places where goods could be hidden. The driver, owner, or operator should be present during the search if possible.

#### **23.9.5 Seizing Items:**

Any contraband, undeclared goods, or items subject to customs duties discovered during the search should be seized. Seized items must be carefully documented, including descriptions, quantities, and any identifying marks or numbers. A receipt or any other records for the seized items should be provided to the owner or occupant.

### **23.9.6 Documentation:**

The entire search procedure must be thoroughly documented, including:

The reason for the search, the authorization details, the names of the officials conducting the search, the presence of witnesses, the outcome of the search, and details of any items seized. This documentation should be maintained as part of the official records.

### **23.9.7 Post-Search Procedures:**

The owner or occupant should be provided with information on how to reclaim any non-contraband items seized during the search, if applicable. They should also be informed about their rights and the process for filing a complaint if they believe the search was conducted improperly.

### **23.9.8 Legal and Ethical Considerations**

#### **Respect for Rights and Dignity:**

The procedures must respect the rights and dignity of individuals at all times. Any form of abuse, harassment, or misconduct by Customs officials is strictly prohibited and subject to disciplinary action.

#### **Confidentiality:**

All information related to the search must be kept confidential and only shared with authorized personnel. The privacy of individuals and businesses should be respected throughout the process.

### **23.10 Search warrant**

**23.10.1** When the Department needs to conduct a search of premises, it is required to obtain a search warrant from the nearest court that has jurisdiction. This legal process ensures that searches are conducted lawfully and with proper authorization.

**23.10.2** The search warrant for premises shall be executed in accordance with the Civil and Criminal Procedure Code of Bhutan which indicates that the process for carrying out searches under a warrant must follow the established legal procedures set forth in Civil and Criminal Procedure Code of Bhutan

**23.10.3** Any officials involved in executing a search warrant shall:

- (1) Identify themselves as Officials of the Department:** The officials must clearly identify themselves as a customs official to the person or persons present at the premises. This identification process helps establish the officer's authority and legitimacy in conducting the search.

**(2) Show a Search Warrant:** The official must present the search warrant to the person in-charge of the premises or the occupants. The search warrant is a legal document authorized by a court that permits the search. Showing the warrant ensures that the search is legally sanctioned and that the person understands the official basis for the search.

**(3) Inform the person of their rights:** The official must inform the individual of their rights during the search process. This could include the right to witness the search, the right to legal representation, and any other rights protected under Bhutan's legal framework. Informing individuals of their rights is crucial for transparency and to ensure that the search is conducted in a manner that respects legal and human rights.

**23.10.4** The Customs officials must first identify themselves as representatives of the Department and present a valid search warrant. However, after proper identification and presentation of the search warrant, the occupants of the premises refuse to allow entry, the officials are permitted to use reasonable force to gain access to the premises. "Reasonable force" means the minimum amount of force necessary to overcome the resistance and ensure entry. This is intended to prevent excessive or unjustified use of force, ensuring that actions taken are proportional to the situation. (For example, if the owner does not allow to enter the premises, break the lock to enter the premises).

## **23.11 Power to detain person, goods, documents and conveyance**

**23.11.1** The Department may detain a person, goods, documents or conveyance

- (1)** For checking, examination, search, inspection and verification of goods or person - Customs officials can detain individuals, goods, documents, or conveyances to perform necessary checks and inspections. This includes verifying the contents of shipments, ensuring compliance with customs regulations, and confirming the identity and legal status of individuals and goods;
- (2)** If the goods are suspected to have been imported or goods are to be exported in contravention with the customs or any other laws in force- If there is suspicion that goods have been imported or exported illegally, violating customs laws or other applicable laws, customs officials can detain the goods. This measure is taken to prevent illegal trade, smuggling, and other violations;
- (3)** If a person has violated the provision of the customs laws- Individuals who are suspected of violating any provisions of the Customs Act of Bhutan 2017 can be detained. This could include acts like smuggling, providing false declarations, or any other breach of customs regulations;

- (4) If a person refuses to be searched- If an individual refuses to comply with a lawful request for a search by customs officials, they can be detained.

**23.11.2** The department have the authority to temporarily hold or detain goods, documents, and conveyances (such as vehicles, rails, or aircraft) when there is a need to conduct further investigations or verifications. This detention is a preliminary step before the official seizure and confiscation of the goods. The detention allows customs officials to inspect and verify whether the goods, documents, or conveyances are in compliance with customs laws. It provides an opportunity to confirm any suspicions of illegal activity or non-compliance. However, in the case of prohibited goods, customs officials do not need to detain them prior to seizure and confiscation; they can directly proceed with the seizure and confiscation due to the inherent illegality of the goods.

### **23.12 Detention of person**

**23.12.1** A person detained shall be issued a detention memo containing the following information:

- (1) personal details of the person detained (this includes the name, address, and other identifying information of the detainee);
- (2) reason for detention (a clear explanation of why the person is being detained).
- (3) place where the detainee is to be taken (the location where the detainee will be held or transferred to);
- (4) rights laid out under the Act (the detainee must be informed of their rights, which include-being informed of the grounds for such search or detention and the detainee has the right to know the reasons for their search or detention, the detainee must be cautioned that any statements they make can be used as evidence in court, and the detainee has the right to legal representation and must be informed of this right).
- (5) if the detainee needs to be transferred to another place for investigation purposes, the detainee shall be informed of such transfer accordingly.

**23.12.2** When a person is detained according to Customs Regulation, certain procedures must be followed within 24 hours of the detention. The actions that must be taken within 24 hours are:

**Produced before the courts in collaboration with the concerned authority or agency:** The detainee must be brought before a court, ensuring that the detention is legally reviewed and that the detainee has access to judicial oversight.

**Released on execution of a security or furnish a guarantor with the condition that the person shall report to a specific Customs Station on a specific date:** The detainee can be released if they provide a security bond or a guarantor, with the obligation to report to a designated Customs Station on a specified date. This allows for conditional release while ensuring that the detainee remains accountable and available for further proceedings.

**Released unconditionally, if evidence does not support charges against the person:** If there is insufficient evidence to support the charges, the detainee must be released without any conditions. This ensures that individuals are not wrongfully detained without evidence.

However, the stipulation that the 24-hour detention period is exclusive of the time necessary for the journey from the place of arrest and if any Government holidays occur during this 24-hour period, those days are also excluded from the calculation.

**23.12.3** As in practice by other law enforcing authorities during the time of detention of a person, the department may collaborate with other law enforcement agencies to utilize their detention facilities by the department.

### **23.13 Detention of goods, documents and conveyance**

**23.13.1** The Department shall detain the goods and issue detention memos (generated from eCMS) for goods, documents and conveyance detained indicating the reasons for detention.

**23.11.2** The Department shall raise a detention memo in the presence of a person or the authorized representative of the person means whenever goods, documents, or conveyances are detained by Customs officials, the detainee or their representative must be present. By raising the detention memo in the presence of the affected party or their representative, the Department provides an opportunity for the detainee to be informed firsthand of the grounds for detention. It also allows the detainee or their representative to witness and verify the legality and accuracy of the detention procedure.

**23.13.3** If a person or their authorized representative wishes to retain custody of goods, documents, or a conveyance that has been detained by the Department, the person must provide a security deposit. This deposit must cover the amount of Customs duty and taxes, fees, charges, fines, and penalties that may be applicable to the detained goods. By requiring this security deposit, the department aim to ensure that potential liabilities associated with the detained goods are covered while allowing the detainee or their representative to retain temporary custody of goods, documents and conveyance.

**23.13.4** The person or their authorized representative shall have ownership of the goods, documents, and conveyance despite being detained by the department and it means the detainee or their representative retains all legal rights associated with ownership, such as the right to



reclaim the goods, documents and conveyances upon satisfying Customs requirements and the owner or authorized representative remains responsible for fulfilling any legal obligations, such as payment of duties and taxes, fines, or penalties, associated with the detained goods. Additionally, the ownership status ensures that the detainee or their representative can take necessary legal actions to protect their rights and interests concerning the detained goods, documents and conveyances.

**23.13.5** A person or their authorized representative must sign an undertaking acknowledging their responsibility to safeguard the detained goods, documents, or conveyance and not to dispose of or destroy the goods, documents, or conveyance without prior permission from the Department. The undertaking is to ensure that the detained goods, documents, or conveyance remain under the control and scrutiny of Customs authorities until the matter is resolved according to legal procedures.

**23.13.6** Any goods, documents, or conveyances detained by the Department must not be held for more than 20 working days from the date of their detention. This is to ensure that any goods, documents, or conveyances detained for suspected customs violations or regulatory issues are processed promptly and either released or dealt with according to customs regulations within a reasonable timeframe. Additionally, it also aims to prevent prolonged disruptions to business operations and to expedite the resolution of customs-related matters.

**23.13.7** Goods, documents and conveyance detained may be dealt in following manner:

- 1.** Release under normal Customs procedure: If the Department is satisfied with the documentary evidence and information provided by the person indicating compliance with the Customs Act and Regulations, the detained goods, documents, and conveyance may be released according to normal Customs procedures.
- 2.** Assessment or re-assessment: The detained goods, documents, and conveyance may undergo assessment or re-assessment based on the results of examination or inspection, as well as information received during the process.
- 3.** Seizure for further investigation: If the Department finds it necessary to conduct further investigations and has reason to believe that the goods, documents, or conveyance may be liable for confiscation (for instance, due to violations mentioned in sections 136 to 138 of the Customs Act of Bhutan 2017), they may seize the detained goods, documents, and conveyance

## **23.14 Power of seizure**

**23.14.1** Department is authorized to seize goods, documents, or conveyances if there is reasonable believe that such goods are liable for confiscation. Under the following circumstances goods, documents, or conveyances can be seized by the department:

- Restricted goods or goods imported, exported or sold without prescribed documents, permit or pass.
- Taxable, dutiable, restricted goods are unloaded or attempted to be unloaded without authorization or removed from a customs station/area or a warehouse without permission.
- Where a person or entity fails to produce documentary evidence for the taxes and duties paid thereof.

**23.14.2** If it is not feasible for the Department to immediately seize goods suspected of being involved in a customs offense or any other legal violation, the owner of those goods is prohibited from removing them, parting with them, or engaging in any transactions involving them without prior permission from the Department. This restriction ensures that suspected goods remain under the control and scrutiny of the Customs authorities until a decision regarding their status (such as seizure, release, or further investigation) can be made in accordance with the applicable laws and regulations.

**23.14.2** The Department seizes goods, documents, or conveyances from a person or their authorized representative, the Department is required to issue a seizure memo. The memo serves as an official document that outlines the reasons for the seizure. It provides clarity and transparency regarding why the goods, documents and conveyances were seized, ensuring that the affected party understands the basis for the action taken by the department. Further, the seizure memo is an important procedural step aimed at maintaining accountability and enabling the affected party to respond appropriately, such as by contesting the seizure or providing necessary clarifications or evidence in their defense.

**23.14.3** The Department is required to provide a decision on the seizure of goods within 10 working days from the date of seizure. This is to provide clarity to the owner or authorized representative of the seized goods about the outcome of the seizure, whether it involves releasing the goods under normal Customs procedures, initiating further investigations, or taking any other necessary actions in accordance with the Customs Act and regulations. This timeframe helps uphold transparency and efficiency in customs enforcement operations, ensuring that parties involved have timely access to decisions affecting their goods or documents.

**23.14.4** Seized goods, documents and conveyance may be dealt as follows:

- 1) Release under normal Customs procedure: Seized goods may be released if the applicable fines and penalties are paid in accordance with the Customs Act and Regulations.
- 2) Confiscation for non-payment: If the fines and penalties are not paid within the specified time period set by the Department, the goods, documents, and conveyance may be confiscated.
- 3) Specific confiscation may occur under various circumstances, including:

- a) Importing or exporting goods that are restricted or prohibited.
  - b) Smuggling of goods (non-dutiable, dutiable, restricted, or prohibited).
  - c) Unauthorized unloading or removal of goods from customs areas or warehouses.
  - d) Failure to provide documentary evidence of duty and taxes paid.
  - e) Abandonment of goods before customs clearance.
  - f) Mixing of smuggled goods with other goods in a way that prevents separation.
  - g) Deliberate use of conveyance (such as vehicles or vessels) in smuggling activities.
- 4) Dispute settlement or court decision: The Department may decide to confiscate or release the seized goods, documents, and conveyances based on the decisions of a three-tier Dispute Settlement Committee or as directed by a court order. This process ensures that decisions regarding confiscated goods are made through appropriate legal channels and may involve appeals or legal proceedings.

### **23.15 Confiscation of goods, documents and conveyances**

**23.15.1** Customs officials have the power to confiscate the goods under the following cases;

(1) Contravention of restrictions or prohibitions: If the imported or exported goods violate restrictions or prohibitions outlined in the Customs Act or any other laws in force in Bhutan.

(2) Smuggling: If there is evidence of smuggling activities involving the imported or exported goods.

(3) Unauthorized unloading or removal: If non-dutiable, dutiable, restricted, or prohibited goods are unloaded, attempted to be unloaded, or removed from a customs area or warehouse without proper authorization.

(4) Failure to produce documentary evidence: If a person fails to provide documentary evidence proving that the required duties and taxes have been paid for the goods.

(5) Abandonment: If goods are abandoned before they have been cleared from customs control.

(6) if smuggled goods are mixed with other goods in a way that makes it impossible to separate the smuggled items from the legitimate goods, the entire mixture of goods is subject to confiscation.

(7) if a conveyance (such as a vehicle, vessel, or aircraft) is intentionally used as a means to transport restricted or prohibited goods involved in smuggling, the Department has the authority to confiscate the conveyance itself.

## **23.16 Detention or seizure expenses**

**23.16.1** The individual or entity who owns the goods that have been detained or seized by the Department is responsible for covering the costs associated with transporting and handling those goods. These expenses may include fees for storage, handling, and any necessary transportation required during the period when the goods are under the custody of the department. This requirement ensures that the financial burden of managing detained or seized goods does not fall on the Department but on the owner of the goods, thereby incentivizing compliance with customs regulations and timely resolution of any related proceedings or investigations.

## **23.17 Power to summon**

**23.17.1** A summon order shall be issued to a person under the seal and signature of the Department:

**(1) Giving evidence:** The Department can require a person to provide testimony or evidence relevant to an ongoing investigation into a suspected offense under the Customs Act. This ensures that individuals involved in or possessing information about alleged customs violations can be compelled to share pertinent details.

**(2) Producing books of accounts, documents, or certified copies:** Individuals may be mandated to submit their financial records, documents, or certified copies thereof. This enables the Department to verify transactions, assess duty payments, or gather evidence related to suspected customs offenses.

**(3) Producing other articles:** If there are specific items or materials believed to be relevant to the investigation of a customs offense, the Department has the authority to request their production. This could include physical goods, materials, or objects that may assist in substantiating claims or uncovering illegal activities under the Customs Act.

**23.17.2** The person who fails to comply with a summons can lead to legal penalties or sanctions, which may include fines, legal proceedings, or other punitive measures specified within the Customs law. This is to ensure that person is cooperative and compliant with investigative procedures mandated by the Department, ensuring that individuals involved in or possessing information relevant to customs offenses are legally obligated to participate in investigations as required.

**23.17.3** The Department may seek assistance from relevant authorities or agencies if a person is difficult to locate or evade compliance, or seek assistance to deliver summonses physically or electronically to ensure they reach the intended recipients and also collaboration may include support in ensuring individuals comply with summonses, which could involve legal enforcement measures if necessary.

## CHAPTER 24

### 24.1 Offenses and Fines

#### Introduction

**24.1.1** The term offense can be defined as a breach of a law or rule, an act that is deemed to be against what is judged to be right or natural. Offenses can also be termed as an act or omission made punishable by any law in force.

**24.1.2** The primary task of Customs is to ensure that any declarations made to the department are in compliance with Customs law. If there is any breach in the Customs law, then the department will categorize the defaulter under following offenses:

- 1. Customs Offense.**
- 2. Administrative Offense.**
- 3. Criminal Offense.**

**24.1.3** The Department shall impose fines on following offenses:

- 1. Customs offense;**
- 2. Administrative offense.**

### 24.2 Customs Offense

**24.2.1** The penalties for the customs offense include a fine equal to 50 percent of the evaded value. For example, if a person importing goods worth Nu.100,000 but declares only Nu. 50,000 to the department, the evaded value is calculated as a difference between the total value (Nu. 1,00,000) and the declared value (Nu. 50,000). In this case, the fines and penalties will be levied on evaded value of Nu. 50,000 along with the applicable taxes and duties, if the person:

- 1.** Under invoices the value or quantity of goods imported or exported.
- 2.** Does not declare or deliberately mis-declare imported or exported or transited goods.
- 3.** Conceals any import or export goods.
- 4.** Involves in storing, conveying, removing, depositing or dealing with any dutiable and taxable goods with intent to evade customs duty and taxes thereon.
- 5.** Sells, transfers, exchanges or gives away or misuses exempted goods
- 6.** Makes or signs untrue or incorrect declarations, certificates and documents, submitted to the Department.
- 7.** Does not comply with the conditions of the temporary admissions of goods.

8. Obtains, attempts to obtain or assist in obtaining, any amount by way of refund of customs duty or taxes which is not allowable in respects thereof or which is more than the amount so payable.
9. Misuses permits or certificates issued.
10. Deflection of goods on inland transit.
11. Bogus import/export declarations.

### **24.3 Administrative Offense**

**24.3.1** A person shall be liable to pay a fine ranging from Nu.5,000 to Nu.100,000. A fine of Ngultrum 5000 is imposed, if a person or person in charge fails to:

- (1) maintain proper books of accounts such as purchase, sales, etc.;
- (2) submit reports and provide information when demanded by the Department;
- (3) submit Advance Passenger Information/Passenger Manifest and air cargo/road/rail manifest in accordance the Regulation;
- (4) enter into a designated Customs Station or Customs area;
- (5) stop without any reasonable excuses, when so directed by the Department, (during the highway inspection beyond customs stations, and also within the customs station, if the importer fails to comply with customs instruction)
- (6) cooperate with the Department;
- (7) comply with government notifications, circular and conditions laid down under the Act or the Regulation.

**24.3.2** If a clearing and forwarding agent or courier service agent fails to fulfill any obligation/breach of agreement as required under the Regulation, the Department shall impose a fine of Ngultrum 5000. For Second-time offense a fine is increased to Ngultrum 10,000 and for every subsequent offense, it will increase by Ngultrum 10,000 up to the maximum of Ngultrum 1,00,000. Once the ceiling is crossed, the Clearing and Forwarding Agent shall be invoked with relevant legal provision as per the Customs law.

## 24.4 Criminal Offense

**24.4.1** A person who commits the following offense shall be booked under criminal offense and will be liable as per Penal Code of Bhutan:

- (1) Import or export of prohibited goods;
- (2) Smuggling of prohibited or restricted goods;
- (3) Willful act or omission to pay customs duty or taxes;
- (4) Impersonations;
- (5) Forgery of documents related to import and export of goods;
- (6) Obstructions to lawful authorities;
- (7) Deceptive practices;
- (8) Any other criminal offenses not expressly provided.

**24.4.2** A person who commits a criminal offense shall be handed over to Royal Bhutan Police with the preliminary investigation report (example First Information Report (FIR), Physical Inspection Report, Forwarding letter, relevant documents and evidence, statement from the particular offender) for further legal action.

## 24.5 Offense Management in e-CMS (system procedure)

**24.5.1** Offense module shall provide the functionalities to cater the administrative offense, customs offense and criminal offence in the system to manage the offense committed during the import or export or transit of goods. The type of offense committed determines the selection of offense categories and procedures.

### Offense from Inspection

**24.5.2** From the inspection “ non containerized item ” select the status as “*OFFENSE MANAGEMENT* ” and in the examination completion, select physical examination status as “*FAILED* ” and the further action as “*ENFORCEMENT* ” .

**24.5.3** Under Offense Management Customs dashboard: the list of transactions routed to offense from the inspection will appear and the following steps shall be followed in the system:

**1. Create Offense:** Click on "Create Offense," select the offense routed from Inspection, and then click "Create Offense."

**2. Search offense:** Navigate to "General Information," select the offense type and category, describe the modus operandi, and update the offense details.

**3. Go to Item details** Choose the requested offense outcome. If the outcome involves detention, seizure, or confiscation, select a warehouse (optional) to store the goods and submit the details.

**4. Detention Outcome:** If the offense outcome is detention, select the warehouse and admit the detained goods into the customs warehouse.

**5. Amendment by Customs:** In "Declaration CMS," click "Amendment by Customs" to update invoice and item details, including any fines to be levied on the items.

**6. Demand Note Check:** In "Offense Management," search for the offense and verify that fines and penalties are captured in the Demand Note.

**7. Submit Offense:** Submit the offense under "Offense Management" and collect fines and penalties (optional), noting that an appeal can be made later.

**8. Release Goods:** Once fines and penalties are paid, release the goods at the item level.

**9. Close Offense:** The offense status will be marked as "Closed."

## **24.6 Simplified declaration for offense**

**24.6.1** The goods which have not been declared to Customs and if the goods are treated as Customs offense, it has to be declared using CPC (Customs Procedure Code) as “**simplified declaration for offense**” which will be routed to offense for collection of fines and penalties as well as to collect the duties and taxes for the goods

**24.6.2** The simplified declaration for offense will also cater to the **PCA**, where the goods are found not declared during the PCA and subject to declaration along with fines and penalties – (For the simplified declaration offense – if it is routed from PCA, we need to feed in the PCA reference number.

## **24.7 Ad hoc Offense**

**24.7.1** The Ad-hoc offense where in the goods are directly detained or confiscated without declaration as in the case of prohibited items. For restricted items, the goods maybe detained and released later if the trader produces the permits and can be released and declared after its being released from the offense as the trader may have produced the permits.



**Create Offense:** Click the Plus button, select "Offender Source" as "Others," and choose "Customs Offense" as the offense type.

- a). The business transaction number will be auto-generated as ad-hoc.
- b). At the item level, if detention is selected (indicating the item needs to be detained for further investigation), select the customs warehouse where the item will be stored.
- c). Admit the goods into the customs warehouse if they are detained and stored until further action.
- d). After detention, at the item level, select the offense outcome as "Seizure." The offense status will then change to "Declaration Amendment."

**Amendment by Customs:**

- e). Navigate to the "Declaration CMS" and select "Amendment by Customs" to make amendments based on the findings.
- f). If additional taxes and duties are assessed after the amendment, proceed to the payment section to collect these taxes and duties.

**Collection of Fines and Penalties:**

- g). In "Offense Management," check the Demand Note for fines and penalties, which will be collected through BRIMS.

**Release of Goods:**

- h). At the item level, release the goods once fines and penalties are collected. If the fines and penalties are paid, the offense status will be marked as "Closed."
- i). If the offender wishes to appeal, the goods can be released without payment, but the offense status will remain "Pending Payment" until the fines and penalties are settled.

**Warehouse Release:**

- j). The goods stored in the warehouse will be released once the above procedures are completed.

**24.7.3** If the offence is detected for PSB or if the offence is restricted/prohibited which needs to be detained/confiscated

**i). For Restricted Items**

- ❖ Create offence, offender source as "PSB/Others" , and enter the Passenger manifest details in the general information tab.
- ❖ At the item level, select the offence outcome as detention or confiscation.
- ❖ Same process for detention.
- ❖ If the items which are detained are restricted items and if the trader produces the permits at the later stage, the goods may be released from detention and a new declaration shall

be created. for e.g. handset which requires a permit has been imported without the permit and has been detained and later produces the permit, shall be released.

- ❖ If they are not able to produce the permits and are subject to confiscation, then the goods shall be confiscated from the item level and handed over to relevant authorities.
- ❖ The offence status will be closed after handing over to the relevant authorities.

## **ii). For Prohibited Items**

- ❖ Create offence, offender source as “PSB/Others” and enter the Passenger manifest details in the general information tab.
- ❖ At the item level, select the offence outcome as confiscation and submit
- ❖ At the item level select the offence outcome as hand over to relevant authorities
- ❖ The offence outcome will be closed

This scenario will appear in case of import/export of prohibited items and in case of passengers importing tobacco products who wish not to pay taxes and duties and instead surrender goods to customs for confiscation.

## **24.8 Bogus import/export transaction (to book under ad-hoc offense)**

There are two scenarios for Bogus Transactions

### **i). Whole item is bogus**

**24.8.1** Declared the goods and the whole declared goods is bogus (no physical presence of goods). The trader has paid the taxes and duties for the declaration, it has to be refunded by cancellation of the declaration. Further it should be classified as an offence and create an ad-hoc offence for the collection of fines and penalties. For the taxes and duties paid, it should be refunded and the declaration has to appear under refund module for refund.

*If a declaration is routed to an offense from inspection or after being cleared and later found that the declaration is found to be fraudulent (whole items as bogus), the entire shipment will be treated as an offense.*

1. During the inspection, under Non-Containerized Details, mark the item as an offense if it is identified as a bogus import. If this is discovered during inspection or through other means, an ad-hoc offense can be created directly.

2. Create the offense by linking it to the relevant declaration. For cleared declarations, initiate an ad-hoc offense and link it with the corresponding declaration.

3. At the item level, set the offense outcome as "bogus import."

4. The item will automatically be removed from the declaration, resulting in the cancellation of the declaration.

5. A demand note (PA) will be generated in the offense system when fines and penalties are imposed and paid.

6. Once the declaration is canceled, it will be routed to the refund process, where the refund of taxes and duties will be auto-approved

7. After the payment of fines and penalties is completed, the offense will be marked as closed. However, if the trader decides to appeal, the appeal process will follow the same procedure as for other offenses.

*Create offence for bogus import (Post/after clearance/release) as Ad hoc offence and follow the steps outlined above.*

## ii) Partial item is bogus

**24.8.2** If the trader has declared and paid the taxes and duties if any and during the inspection, the inspection official has found out that some of the goods declared are missing and declaration will be routed to offense. However, the Inspection official should first route the declaration to amendment from the Inspection and accordingly refund the taxes and duties if any by amendment of the declarations (**i.e. do not enter the commodities in the amended declaration**). **The refund is only for the goods which were not present during the declaration.** After amendment of declaration is completed and approved by customs, such declaration should be routed to offense from the Inspection for levying the fines and penalties. The following are the steps to complete the offense process.

**If a declaration is routed to offense from inspection or after being cleared and later found to include bogus items, but only for a partial item, the following process applies:**

1. During the inspection, in the Non-Containerized Details section, mark the item as an offense if it is identified as a bogus import. If discovered during inspection or otherwise, create an ad-hoc offense directly.
2. Create the offense by linking it to the declaration. For cleared declarations, create an ad-hoc offense and link it with the declaration.
3. At the item level, select the item identified as a "bogus import" as the offense outcome.
4. The item marked as a "bogus import" will automatically be removed from the declaration, and the remaining declaration should be cleared.
5. . In the offense record, a Payment Advice (PA) will be generated when the fines and penalties are paid.
6. The declaration, with the bogus item removed, will be routed for a refund (auto-approved as the declaration is amended) for the refund of taxes and duties related to the canceled item.
7. . Once the fines and penalties are paid, the offense will be closed.

*Note: The item which is removed during the amendment and cancellation will appear in the report.*

## **24.9 Offense for Prohibited Goods**

**24.9.1** The prohibited goods should be directed to detention or confiscation without the collection of taxes and duties as well as fines and penalties. Under offender source, select the field as "OTHERS" and the offence type is will show ad hoc offence (auto populate) so that prohibited goods can be either detained or confiscated without going through normal declaration and it does not collect taxes and duties as well and fines and penalties.

*Note: Offense routed through PCA will follow the Ad-hoc offense steps outlined above.*

## **24.10 Transit Deflection:**

**24.10.1** When transit (National/Inland) goods are deflected before arriving at the designated entry port/customs station from the exit port/customs station, fines will be levied on the total value of the deflected goods. The following procedures apply under three different circumstances:

### **Transit Declaration Cleared from Inter-Gateway (Entry Point):**

- Create a simplified declaration for the offense.
- Select the regime as "Transit."
- Follow the same procedures as for other offenses.

### **Transit Declaration Offense Routed from Inter-Gateway (Inspection):**

- Handle the offense following the standard procedure for offenses identified during inspection (use the same steps as for Offenses from Inspection).

### **Additional Goods Found in Transit-Bound Vehicle (Simplified Declaration for Offense):**

- Create a simplified declaration for the offense.
- Select the regime as "Import."
- Follow the same procedures as for other offenses.

## **24.11 Administrative Offense**

**24.11.1** Administrative offenses have no linkage with the declaration in the system; if a trader or clearing and forwarding agents commits an administrative offense, the customs shall book them under administrative offense in the system. Following are the steps to create the Administrative Offense.

- Go to Offense Management and Create offense
- Select Offender source as “non-compliant”
- Select Offense type as administrative offense
- Select the offense category from the dropdown list shown in the system

## CHAPTER 25

### 25.1 Settlement of Disputes and Appeals

#### Introduction

**25.1.1** Like any other taxation statute, the Customs Act of Bhutan 2017 contains detailed provisions for judicial review, for resolution of disputes, by way of appeals and review. Therefore, a person or traders shall have the right to appeal to any decision passed by the department/regional office.

**25.1.2** Appeal can be on the following grounds:

- Assessment or Reassessment of Customs Duty/Sales Tax
- Fines and Penalties
- Detention, Confiscation or Seizure of Goods
- Any other decisions passed by the Department

**25.1.3** Customs authorities are empowered to determine classification, valuation, processing of refund claims, initiating detention, seizure and confiscation, etc. They are also empowered to grant various permissions under the Customs Act of Bhutan 2017 & Rules thereof and impose fines & penalties etc. This is called “departmental adjudication”. Adjudicate means to hear or try and decide quasi-judicially and adjudication means “giving a decision”. The aforementioned examples are “quasi-judicial authorities” of Customs officials and they are not bound by instruction of superiors. Thus, uncontrolled authority may cause great damage to a person and hence appeal against any decision has been provided in the Customs Act of Bhutan 2017.

**25.1.4** The person making an appeal against any decision passed by the department/regional office with regard to the assessment of Customs duty and taxes shall not postpone the payment of applicable duties and taxes.

**25.1.5** The department/regional office shall accept the appeal from the person only if the person has paid the applicable taxes and duties that is liable to the department.

**25.1.6** The appellant or the authorized representative are required to file the appeal electronically using their user credentials provided by the department and upload the documents if any while filing an appeal.

**25.1.7** The DSC will review the appeal file by an appellant in the system and will either approve or reject the appeal. Additionally, the department will also reject the appeal for amendment through the system if some of the information's are missing from the appellant.

**25.1.8** If the appeal is being rejected by the Dispute Settlement Committee, the department shall write reasons very clearly in the remarks column provided in the system to convey the appellant for rejection.

**25.1.9** The appellant or the AUTHORIZED representative shall present the case at three tier levels or appellate authorities. The various appellate authorities or three tier levels are Dispute Settlement Committee at Regional Office, Appeal Committee at Head Office and Appeal Board in the Ministry of Finance.

**25.1.10** The appeals submitted electronically will be automatically routed to the Dispute Settlement Committee at the Regional Office irrespective of the disputed amount and the Dispute Settlement Committee at the Regional Office will accordingly approve, Reject or Reject the appeal for the amendment.

**25.1.11** Besides the route of appeals and the disputed amount limit authority, the Customs Act of Bhutan 2017 allows a person or the representative to directly appeal to the court of law if he/she so desires.

## 25.2 Appeal Committee and Composition and Duration to file an Appeal by the appellant

Appeal Committee	Composition	Duration for decision	Duration to file the appeal
Dispute Settlement Committee at the Regional Office	<ul style="list-style-type: none"> <li>Regional Director as a Chair</li> <li>Three members from any section, however, the person who pass the decision will not be the member</li> </ul>	30 working days	30 working days from the date of demand or seizure notice
Appeal Committee at the Head Office	<ul style="list-style-type: none"> <li>Director General/Director as Chair</li> <li>Five members from any division</li> </ul>	45 working days	30 working days from the date of the decision or fails to pass the decision by the Dispute Settlement Committee at the Regional Office
Appeal Board in the Ministry of Finance	<ul style="list-style-type: none"> <li>Two regular members from Ministry of Finance</li> <li>One regular member from Ministry of Industry, Commerce and Employment</li> <li>One regular member from private sector appointed by BCCI</li> <li>One ad-hoc member appointed by the board</li> <li>Any Appeal meeting conducted by the Appeal Board to be valid, at least three members of the Board must be present.</li> </ul>	45 working days	<ul style="list-style-type: none"> <li>30 working days from the date of the decision by the Appeal Committee at the Head Office</li> <li>Appeal Committee at the Head Office fails to pass the decision within 45 days of filling an appeal</li> </ul>
Court of Law	No requirement of composition	Indefinite	<ul style="list-style-type: none"> <li>Appeal Board fails to pass decision within 45 days</li> <li>30 working days from the date of decision from the Appeal Board. This applies if the appellant has followed the three TIER appeal process</li> </ul>



**25.2.1** The three tier Dispute Settlement Committee shall within 7 working days from the date of the appeal meeting is required to inform or notify an appellant about the outcome of the appeal meeting.

**25.2.2** Further, the any appeal committee members should declare the conflict of interest before the appeal meeting commence for the particular case.

### **25.3 Power for waiver by the Three Tier Dispute Settlement Committee**

**25.3.1** The Dispute Settlement Committee of the Regional Office, the Appeal Committee of the Department, or the Appeal Board of the Ministry have the authority to waive off penal interest or fines that have been imposed on a person. The Dispute Settlement Committee can either completely waive the fines and penalties or o reduce them partially, depending on the cases. However, Dispute Settlement Committee at the regional offices may waive-off fines and penalties up to a maximum limit of Ngultrum 500,000. Further, if the fines and penalties are more than Ngultrum 5,00,000 it doesn't mean that Dispute Settlement Committee of the Regional Office should not deliberate the appeal case. The Dispute Settlement Committee of the Regional Office should deliberate the appeal case and initiate the appeal cases accordingly.

**25.3.2** further if the person has not received any waiver for the appeal or received the partial waiver on fines or penalties and the person chooses to appeal the same case to a higher appeal body or court of law, the decision of the lower appeal body remains cancelled. This is to discourage appellants from seeking multiple reviews in the same appeal committee and ensures that the decision of the waiver-granting authority is respected unless further appealed.

## CHAPTER 26

### 26.1 Disposal of Confiscated Goods

#### Introduction

**26.1.1** Confiscation means to deprive the ownership of goods as the rights transfers to the Government by the way of penalty. Confiscated goods become property of the Government and such goods shall be disposed of by the Department.

#### Disposal of Confiscated Goods

**26.1.2** The Department may hand over the confiscated goods to the relevant authorities if the confiscated goods are:

1) **Restricted and Prohibited Goods:** The goods whose import, export, or possession is regulated or prohibited by law. Such goods may include items that are illegal to trade or possess due to their nature (e.g., certain drugs, wildlife products, etc.). The Department may hand over these goods to the relevant authorities responsible for enforcing laws related to their restriction or prohibition.

2) **Dangerous and Hazardous Goods:** Goods that are deemed dangerous or hazardous, which could pose risks to human health, safety, or the environment, may also be handed over to authorities equipped to handle such materials safely. Examples could include hazardous chemicals, explosives, or other materials that require specialized handling and may endanger individuals or the environment if mishandled. In such cases, the Department may transfer these goods to authorities equipped to safely store or dispose of them, ensuring they do not pose a risk to society.

**26.1.2** When goods are confiscated and deemed necessary for transfer to relevant authorities (such as law enforcement, environmental agencies, etc.), the Department will offer these authorities the opportunity to take possession of the goods. This is done in accordance with the laws and regulations governing those specific goods. However, If the relevant authorities decline to take over the confiscated goods or are unable to do so within a specified timeframe, the responsibility for disposal of the goods may then fall back to the Department. In such cases, the Customs law typically empower an auction committee to handle the disposal of these goods. The auction committee is responsible for organizing and conducting a public auction where the confiscated goods are sold to the highest bidder.

**26.1.3** If the relevant authority does not take over the confiscated goods, then the goods shall be disposed of through public auction. The process and procedures for carrying out public auctions of confiscated

goods by the Customs administration involve several steps to ensure transparency, compliance with legal standards, and efficiency. The following are the detailed outline of the process:

### **1). Inventory and Valuation**

**Inventory Listing:** All confiscated goods are cataloged in a detailed inventory list, including descriptions, quantities, and conditions.

**Valuation:** The goods are appraised to determine their market value. This can be done by a valuation committee at the regional office.

### **2). Approval and Notification**

**a). Internal Approval:** The respective regional office to seek necessary approvals from the department to carry out the public auction.

**b). Public Notification:** Once the department accords approval, the respective regional office or the department will publicly announce the auction through multiple channels such as newspapers, official websites, and other media. The notification includes:

- Date, time, and location of the auction
- List and description of goods to be auctioned
- Terms and conditions of the auction

### **3). Pre-Auction Procedures**

**a). Inspection Period:** Potential bidders shall be given the opportunity to inspect the goods. This inspection period is usually scheduled ahead of the auction date.

**b). Bidder Registration:** Interested parties must register to participate in the auction. Registration may require submission of identification documents and payment of a refundable deposit to ensure serious bidding

### **4). Conducting the Auction**

**a). Auctioneer Role:** An appointed auctioneer or auction committee conducts the auction.

**b). Bidding Process:** The auctioneer presents each item or lot, and registered bidders place their bids. The highest bid is accepted, provided it meets or exceeds any reserve price set for the goods.

**c). Payment Terms:** The successful bidders must make payment according to the specified terms, usually immediately or within a short period after the auction.

### **5). Post-Auction Procedures**

**a). Issuance of Receipts:** Receipts are issued to successful bidders upon payment.

**b). Transfer of Ownership:** The legal ownership of the goods is transferred to the successful bidders.

**c). Collection of Goods:** Bidders are allowed to collect their purchased items within a specified timeframe after completing payment.

#### **6). Financial Documentation**

**a). Accounting:** All financial transactions are recorded, and the proceeds from the auction are accounted for.

#### **7). Follow-Up Actions**

**a). Handling Unsold Items:** Determine the disposition of any unsold items. Options may include re-auctioning, donating, or destroying the goods.

**b). Review and Reporting:** Conduct a review of the auction process, addressing any issues or improvements needed, and prepare a detailed report on the auction outcomes.

**26.1.4** The department must act swiftly and efficiently in disposing of perishable goods and live animals, specifically within 48 hours of confiscation. This timeframe is crucial to prevent the deterioration of goods and to mitigate any associated health, safety, or environmental risks. The perishable goods mean the goods that are likely to decay, spoil, or become unusable if not handled promptly. Examples include fresh food items, plants, and certain pharmaceuticals. Further, the live animals include any living creatures captured or detained due to customs violations. Examples may range from pets to exotic wildlife.

**26.1.5** The Department, through its Departmental committee, is authorized to dispose of low-value items that are not economically viable for inclusion in a public auction or due to their low market worth or minimal value- examples could include inexpensive consumer goods, small quantities of goods, or items with negligible resale value. The departmental committee will assess the market value of such goods and determining a minimum reserved value below which they may be disposed of through alternative means. These goods, which typically include items of minimal worth or quantity, may be sold directly to interested parties or businesses, or disposed of in an environmentally responsible manner. This approach allows the Department to efficiently manage and clear inventory of low-value items while maintaining adherence to procedural guidelines and ensuring responsible stewardship of public resources.

## 26.2 Sale Proceed for Disposal of the Confiscated Goods

**26.2.1** Any agency responsible for the disposal of confiscated goods must deposit the sale proceeds in the Government revenue account. Additionally, when goods are confiscated and subsequently sold through auctions or other approved methods, the agency overseeing the disposal process is mandated to collect the proceeds and deposit them directly into a designated Government revenue account.

## 26.3 Sale Proceed for Disposal of Abandoned Goods

**26.3.1** The Department shall consider goods as abandoned, if the person:

1. writes to the Department, the intention to abandon the imported goods;
2. fails to lodge the goods declaration within 40 working days from the date of arrival of the consignment.
3. fails to clear the declared goods within 40 working days from the date of declaration of the consignment

**26.3.2** If goods are abandoned, the sale proceed of the auctioned goods is dealt in the following manner and order of priority:

- **Costs and Expenses Incurred by the Department:** The first priority is to recover the costs and expenses incurred by the Department in relation to the abandoned goods. This includes expenses such as storage fees, handling charges, and any freight costs associated with the goods while in custody of the Department.
- **Payment of Applicable Customs Duties and Taxes:** The next priority is to collect any Customs duty and taxes that is applicable and owed in respect to the auctioned goods. This ensures that all relevant taxes and duties owed to the government are settled before any remaining funds are disbursed.
- **Balance to the Person:** After deducting the costs, expenses, and Customs duties and Taxes from the auction proceeds, any remaining balance is then paid to the person or entity who originally owned or was responsible for the abandoned goods. This could be the importer, exporter, or any other party with a legitimate claim to the funds.

## CHAPTER 27

### Miscellaneous

#### Overtime fees

##### 27.1 Working on Holidays and Beyond Prescribed Working Hours

**Overtime Services:** Customs services that are required outside of the regular working hours.

**27.1.1** Application Requirement: If an individual, or an authorized agent or representative, require overtime services, they must submit a formal request in advance in writing or an individual, or an authorized agent or representative can also inform in advance without application to the respective customs stations if formal application in writing is not possible. This allows the customs stations to plan and allocate the necessary resources and personnel to provide the requested services.

**27.1.2** Prescribed overtime service charges are as under for clearance of goods for export, transit, Post and import.

<b>Particulars</b>	<b>Overtime fees per declaration on public holidays, weekends and beyond normal working hours</b>
For EXPORT, TRANSIT and IMPORT from INDIA	Nu. 50
For POST	Nu. 25

**27.1.3** Prescribed overtime service charges are as under for clearance of import and export of goods via air and import from countries other than India

<b>Particulars</b>	<b>Lump-sum Overtime Fees per Hour on public holidays, weekends, and beyond normal working hours</b>
For import and export via Air	Nu. 600
For import from Countries other than India	Nu. 600

**27.1.4** The services availed for clearance of goods for export beyond 10:00 pm to 6:00 am are liable for overtime fees of Ngultrum 600 per hour. A minimum chargeable hour for overtime service fee is one hour and thereafter services exceeding 30 minutes shall qualify as one hour.

<b>Particulars</b>	<b>Overtime fees per hour</b>
<b>Time</b>	<b>10 pm – 6 am</b>
For export during peak off-hour and seasonal period	Nu. 600

## **27.2 Collection and deposit of overtime charges**

**27.2.1** The collected overtime charges shall be deposited in Subsidiary Budget Account (SBA).

## **27.3 Payment of overtime charges**

**27.3.1** Overtime charges shall be paid only to the concerned officials from Subsidiary Budget Account.

## **27.4 Reward for Informants**

**27.4.1** The concept of rewarding informants is a common practice in law enforcement and government agencies. The rewards are offered to encourage individuals to provide valuable information that can assist in uncovering illegal activities or providing critical intelligence for increasing the compliance level of the importer or exporter.

**27.4.2** A person providing any information to the Department which leads to a seizure or confiscation of the goods shall be rewarded.

## **27.5 Informal Informants**

**27.5.1** Informal informants are casual and unofficial individuals that are not formally recognized or employed by the department. Their cooperation is typically spontaneous or occasional.

**27.5.2** The Department shall accept information provided by informal informants that are genuine and results in seizure or confiscation of goods. Informal informants may, with the approval of the Department, be eligible for reward.

## **27.6 Formal Informants**

**27.6.1** Formal Informants are formally recognized and often have contractual or official relationships with the department. The Department shall register a formal informant and maintain proper records of the registered informants. Records maintained on formal informants are considered highly confidential or classified.

**27.6.2** The head of regional office and head of Customs shall have access to the records and information regarding the formal informants. The regional offices and the Department shall ensure proper coordination and exchange of information about formal informants.

## **27.7 Handling of Informers**

**27.7.1** Handling of informers is crucial, if not handled deftly, can result in unsavory incidents. The following are some tips to handle an informer.

- I.** Remember that the informer is a person whose services you and would not employ if you have an alternative
- II.** Maintain control over the informer at all times
- III.** Be friendly with him/her but don't become his/her friend. He/she is your informer not your friend.
- IV.** Never accept his/her hospitality or assistance in personal matters
- V.** The informer must have trust in you. He/she is taking the risks. You are taking the credit
- VI.** Be discreet as far as possible, do not meet him/her in the office or at your home. Neutral ground, i.e. public place is the best.
- VII.** Arrange for him/her to use code number when he/she telephones you.
- VIII.** Do not allow him/her to become familiar with your methods or procedure.
- IX.** Maintain confidentiality. Do not reveal your informer to the supervisors but keep your supervisors informed on the information's being received.
- X.** Informers will continue to supply information when they know it is acted upon. But information should be acted upon only after it is verified or corroborated
- XI.** Channel the information to the appropriate branches if it does not concern you
- XII.** If you have evidence that your informer has committed an offence, he/she should not spare. He/she cannot be given any protection or immunity
- XIII.** The informer belongs to the department and not to the individual, so hand them over to your successor provided the informer has no objection.
- XIV.** Never disclose his/her name. He/she should remain anonymous.
- XV.** The informer must be paid his/her reward properly and in time. But don't let him/her harbor unrealistic expectations.



- XVI.** Payment of reward shall be made as per the regulations and the accurate record should be kept
- XVII.** Maintain frequent contacts with the informer
- XVIII.** In order to evaluate the information given by the informer, it is necessary to know his/her motives. Motives can be reward, rivalry, personal grudge, revenge, diverting attention, jealousy, protection of law etc. Once you are able to discern the true motives of an informer, you will be able to know the worth of the information.
- XIX.** An informer should be handled by one official at a time. He/she should not be allowed to be in touch with various officials within the department to give an information or intelligence.
- XX.** Departmental and official affairs should not be discussed with the “Informer. He/she is not a friend to chat with.

## **27.8 Reward**

**27.8.1** An informant shall be rewarded on following basis:

- 1.** in case of seizure, 20% of the fines and penalty value but not exceeding the limit of Ngultrum 200,000;
- 2.** in case of confiscation, 10% of the auctioned value but not exceeding the limit of Ngultrum 200,000;
- 3.** in case of prohibited goods, a lump-sum amount not exceeding Ngultrum 100,000.

## **PART II**

### **1.1 Excise**

#### **Introduction**

**1.1.1** The term "**Excise**" refers to a type of tax levied on the production of goods within a country. Currently Excise duty is levied only on alcoholic beverages (i.e. Army Welfare Project Limited products). In addition to the above, the government may levy excise duty on any other domestically manufactured products.

#### **1.2 Exemption of Excise Duty**

**1.2.1** Excise Duty Exemption means to grant exemption from the payment of excise duties on specified goods. The Department may exempt any agency or person from the payment of Excise duty based on satisfaction and public interest. Such exemptions are provided to Foreign Diplomatic Missions, International Organizations, their Privileged Personnels and Armed Forces, DANTAK, IMTRAT, Bhutan Duty Free shop and Airlines etc. The Department also provide an annual quota of excisable goods free of Excise duty for certain organizations (e.g. Local Defense & RBG Security Branch, DANTAK, IMTRAT).

#### **1.3 Procedures to avail Excise Duty Exemptions**

**1.3.1** A person or agencies eligible for exemption of Excise duty shall apply to the Department as follows:

- a.** The head of the organization shall submit an application with details for exemption of Excise duty to the Department prior to the lifting of the exempted excise duty products. (prior to the start of new calendar year/ lifting of quota for excisable goods)
- b.** The Department will review and subsequently approve the annual quota of excisable goods and send the approved annual quota (Exemption certificate) to the respective Regional Office for issuance of the exempted excisable goods to the respective local defense and RBG Security. The approved annual quota exemption certificate is also issued to the local defense or RBG security for their reference.
- c.** The eligible agency shall furnish the approval letter to the Regional Office in order to obtain the annual quota (exempted excisable goods).
- d.** The Regional Office shall issue Excise Duty Exemption Certificate to the exempted agency for lifting of the annual quota

#### **1.4 Rates and Fees**

##### **a). Rates**

**1.4.1** The products that are domestically manufactured shall be levied Excise duty on ad-valorem rates determined by the ex-factory price as mentioned below in Schedule B (Tax Revision Act 2011). The rates of Excise duty on excisable goods shall be fixed and revised by the Government.

**SCHEDULE B**

<b>Sl.No</b>	<b>Brand</b>	<b>Size in ML</b>	<b>ED Rate</b>	<b>DPF Rate per Case</b>
1	TER Whisky	700	30	180
2	2020 VSOP Cognac	700	30	167
3	K5 Whisky	750/180	30	167
4	Misty Peak	750	30	167
5	Yahla Cream Liquor	700	30	196
6	Special Courier Whisky (WMC)	750/375/180	30	170
7	Rock Bee Grape Brandy	750/180	60	170
8	Bhutan Grain Whisky (WMC)	750/180	60	170
9	Raven Vodka	750	30	183
10	Fizzer Passion	275	30	192
11	Fizzer Pink Guava	275	30	193
12	Fizzer Pineapple	275	30	194
13	Black Mountain Whisky	750/180	60	170
14	Royal XXX Rum	750/180	75	164/167
15	Bhutan Whisky	750/180	75	180
16	Crystal Duet Gin & Lime	750	75	181
17	Sonfy Liquor	750	75	182
18	Raven Red Wine	750/375	30	184/185
19	Takin Red Wine	750/375	30	186/187
20	Vintria Dry Red Wind	750/375	30	188/189
21	Zumzin Peach Wine	750/375	30	190/191
22	Zumzin Rose Wine	750/375	30	194/195

**b). Fees**

**1.42** The Department shall levy and collect at the time of sale or removal of the goods from the factory or warehouse. The fees levied and collected are as under:

**a. Distribution Permit Fee (DPF)**

The Distribution Permit Fee was introduced in 2014 in lieu of liquor license fee. The distribution permit fee is 35 percent on the commission of the distributors.

**b. Import Permit Fee**

To import of liquor from other countries, the department collects import permit fee of Nu.30/- per case containing not more than 12 (twelve) liters for all imported alcohol/beer.

**c. Brand Registration Fee**

There shall be an annual brand registration fee of Nu. 20,000/- per brand per dealer for every brand of alcohol/beer imported or manufactured locally for sale.

**1.5 Registration of brand and sizes of liquor, beer and wine products**

**1.5.1** Any brand of alcohol imported/manufactured domestically for sale shall be registered with the Department as under:

- a.** The applicant must seek approval from the Department for the registration of a new brand.
- b.** The manufacturer or licensed dealer must formally submit a written request to the Department or Regional Office for the registration of any newly introduced liquor, beer, or wine product within the Excise Module of BACS.
- c.** The applicant shall furnish a copy of license or a letter showing the brand and size of the new product intended to be registered with the department which has been approved by the Ministry of Industry, Commerce and Employment.
- d.** If the Regional Office is satisfied with the documents submitted by the manufacturer/dealer of liquor, beer and wine, the same shall be submitted to the DRC, HQ for approval.
- e.** Once the DRC, HQ is satisfied with the documentation provided by the concerned Regional Office, it may grant approval for registration and subsequently inform the approval to the RRCO as well as to the applicant.
- f.** The registration of a brand is valid for a period of one year and has to be renewed on an annual basis

## 1.6 Transfer of Products from Factory/Distillery to Warehouse

1.6.1 The process of transferring stock of excisable goods involves several specific requirements:

- **Transfer Under Bond:** When excisable goods are transferred from a factory to an approved warehouse located outside the factory premises, this transfer must be done "under bond". This means that the goods are being transferred without the immediate payment of excise duty, under a guarantee (bond) that the duty will be paid when required.
- **Application for Permit:** The person responsible for transferring the excisable goods must apply for a permit from an Excise official each time such goods need to be transported under bond from one unit (factory) to another (warehouse).
- **Liability for Loss or Damage:** If there is any loss or damage to the goods during transit, the owner of the goods (AWPL) is liable to pay the excise duty for the lost or damaged goods to the Regional Office.

This regulation ensures proper control and monitoring of excisable goods during transit, preventing evasion of excise duty and ensuring that the government revenue is protected even in case of losses or damages.

## 1.7 Guidelines on Collection of Excise Duty and Distribution Permit Fee from Army Welfare Project Ltd.

### a). Roles and Responsibilities of Customs and Excise officials at Factory (Samtse/Gelephu):

- Shall receive duly filled stocks release or transfer application form from the AWPL Factory as per **Annexure 1**
- Shall carry out Excise duty & DPF payable assessment as per **Annexure 2**
- Shall duly verify the stocks before it leaves the factory premise to ensure that the stock transfer application is true and correct,
- Shall issue permit for under-bond transfer of excisable goods as per **Annexure 3**
- Shall issue transit permit for stocks sold that are transported via Indian territories as per **Annexure 5**
- Shall continue to provide monthly storage breakage and damages of stocks in the bonded warehouses as per existing notification (i.e. 0.03% of the total stock). **Total Stock** means the total amount of liquor stored in the warehouse at the beginning of the month.

- Shall maintain the records of the stocks released to warehouse as per format in **Annexure 1**
- Shall maintain monthly production statements of stocks at the respective factories,
- Shall maintain monthly record of stocks received for reprocessing
- Shall conduct quarterly audit and verification along with the Revenue Accounts and Audit officials.

**b). Roles and Responsibilities at RRCO, Gelephu:**

- Shall collect the Excise Duty payable and Distribution permit fees payable from AWPL head Office, Gelephu as per **Annexure 4**
- Shall compile and maintain monthly statement of:
  - i. Excise Duty and Distribution Permit Fees collected,
  - ii. Excise Duty forgone report, Share the same with DRC and the Customs and Excise officials at the Factories as per **Annexure 4**,
- Shall receive monthly storage breakage and damages of stocks in the Bonded Warehouses from AWPL head office.

**c). Roles and Responsibilities of Customs and Excise Officials at Regional Offices:**

- Shall issue Excise Duty Exemptions to warehouses,
- Shall issue transit permit for stocks sold that are transported via Indian territories as per **Annexure 5**
- Shall process export as per existing procedures in place,
- Shall maintain monthly excise Duty Exemption statement as per **Annexure 6** and submit the same to DRC.

**d). Roles and Responsibilities of DRC:**

- Monitor overall collection process and monitor the conduct of quarterly audit and verification process,
- Receive Monthly report from RRCO, Gelephu on the collection of Excise Duty and Distribution permit fees from AWPL and revenue forgone report,
- Receive feedbacks from the Concern officials and review the procedures to further streamline the process.

#### **e). Roles and Responsibilities of AWPL**

- Roles and responsibilities of AWPL at Factory (Samtse/Gelephu):
- To ensure that Prior permission is sought from Customs and Excise Officials at the factory for the transfer of any Excisable goods from the factory to Bonded Warehouses as per **Annexure 1**.
- To obtain duly assessed Excise Duty & Distribution Permit Fees payable form as per **Annexure 2** and permit for under bond transfer of excisable goods as per **Annexure 3** prior to removing stocks from Factory to Bonded warehouses,
- To obtain transit permit for stocks sold that are transported via Indian territories as per Annexure 5 and should handover to the Sub distributor

#### **f). Roles and Responsibilities of AWPL, Head Office:**

- Pay Excise Duty Payable and Distribution Permit Fees payable on or before 10<sup>th</sup> day of the following month as per **Annexure 4** to RRCO, Gelephu,
- Shall maintain proper records of the following for Audit purposes:
  - i) Monthly Production statement (Distillery wise)
  - ii) Monthly sales record (Bonded Warehouse wise)
  - iii) Monthly exemption statements (Bonded Warehouse wise)
  - iv) Monthly statement of Excise Duty and Distribution Permit fees paid to RRCO, Gelephu.
  - v) Damages and loss of the goods during the transit
- Shall provide necessary support during the conduct of audit and verification process,

If AWPL fails to pay the Excise Duty and Distribution Permit Fees on or before the 10<sup>th</sup> day of the succeeding month, DRC, reserves the right to levy 24% late payment penalty.

#### **1.8 Definitions:**

**1.8.1 Bonded Warehouse:** In this context means the AWPL warehouses located in AWPL Factory premise in Gelephu and Samtse which are under the control of Customs and Excise and AWPL

**1.8.2 Warehouse:** In this context means the AWPL warehouses located in Samtse, Gelephu, Phuentsholing, S/Jongkhar, Tashigang and Thimphu, which are administered by AWPL

**Annexure: 1**

**Date:.....**

The Officer In-Charge,  
Regional Revenue and Customs Office,  
.....,

**Subject: Application for the stock release:**

Sir,

Kindly, release following items for the bonded warehouse

<b>Sl No.</b>	<b>Item/Brand</b>	<b>Size</b>	<b>Quantity C/S</b>	<b>Remarks</b>

Sincerely,

**Name and Signature:**

**Army Welfare Project,**



**Annexure: 2**

**Excise Duty and Distribution Permit Fee assessment Form (for AWP products).**

Book No.....

Sl.No.....

Date.....

<b>Sl.No</b>	<b>Description of goods/brands</b>	<b>Size</b>	<b>Qty issued in cases</b>	<b>Ex-factory price per unit/case</b>	<b>Rate of excise duty per unit/case</b>	<b>Amount of Excise Duty (ED)</b>	<b>Distribution Permit Fees (DPF)</b>	<b>Total ED and DPF</b>
	<b>Total Nu.</b>							

**Assessing Officer**

**Office Seal**

Instruction:

1. A copy shall be submitted to the In-Charge, bonded warehouse at the factory (Samtse/Gelephu)

**Annexure: 3**

**PERMIT FOR TRANSFER OF EXCISABLE GOODS FROM FACTORY TO BONDED WAREHOUSES**

**Permit No.....**

**Date.....**

The excisable goods as per the description and quantity given below is hereby permitted to be transported from the factory/distillery/ at.....to the bonded warehouse at .....by the management of Army Welfare Project Ltd in Bhutan or through the Indian territories via.....by vehicle No.....Type of vehicle.....

**DESCRIPTION AND QUANTITY OF EXCISABLE GOODS**

<b>Sl No.</b>	<b>Description of goods</b>	<b>Unit/size</b>	<b>Quantity</b>	<b>No. of sealed bottles/cans of alcoholic beverages</b>	<b>Bulk litre</b>	<b>Proof litre</b>	<b>Remarks</b>

Note:

1. This permit is granted under the provisions of Section-9 of Sales Tax, Customs & Excise Act, 2000 and shall be valid for ..... days from the date of issue.
2. The above consignment is permitted to be transported through the Indian territories of West Bengal and Assam.

**Official Seal**

**Regional Director/  
Excise Officer In-charge**

Instruction:

1. The original and duplicate copies of the permit shall be marked to the Bonded warehouse In-charge at the receiving side, who shall acknowledge the receipt of the consignment and return the duplicate copy to the Bonded Warehouse in-charge who dispatch the goods for record.

**Annexure: 4**

<b>SLNo</b>	<b>Bonded Warehouse</b>	<b>Region</b>	<b>Excise Duty Amount in Nu.</b>	<b>Distribution Permit Fee in Nu.</b>	<b>Exempted Excise Duty Amount in Nu.</b>	<b>Net payable</b>
			<b>(A)</b>	<b>(B)</b>	<b>(C)</b>	<b>D=(A+B)-(C)</b>
	Bonded warehouse, Samtse	Samtse				
	Bonded warehouse Gelephu	Gelephu				
	Bonded warehouse, S/Jongkhar	S/Jongkhar				
	Bonded Warehouse, Phuentsholing	P/ling				
	Bonded Warehouse, Trashigang	Mongar				
	Bonded warehouse, Thimphu	Thimphu				
<b>Total</b>						

**Statement of Net Excise Duty and Distribution Permit Fees Payable for the month of:**

**Sincerely,**

**Name and Signature:**

**Head Office,  
Army Welfare Project,  
Gelephu**

**Annexure: 5**

**PERMIT FOR MOVEMENT OF DUTY PAID DISTILLARY & BREVERY PRODUCTS**

Permit No... ..

Date:.....

The excise duty paid goods of which the description and quantity is given below are hereby permitted to be transported from the Warehouse at ..... to .....(location) by Mr/Mrs.....having his/her business premises located at.....in Bhutan or through Indian territories via ..... by vehicle no....., type of vehicle

**DESCRIPTION AND QUANTITY OF EXCISEABLE GOODS**

Sl No	Description of goods	size	quantity	Number of sealed bottles/cans in each cases	Degree proof

Note:

1. This permit is granted under the provisions of Section- 9 of Sales Tax, Customs & Excise Act, 2000 and shall be valid for ..... days from the date of issue.
2. The above consignment is permitted to be transported through the Indian territories of West Bengal and Assam.

**Official Seal**

**Regional Director/**

**Excise Officer In-charge**

Instruction:

1. The original and duplicate copies of the permit shall be marked to the In-charge, warehouse at the receiving side, who shall acknowledge the receipt of the consignment and return the duplicate copy to the Warehouse in-charge who dispatch the goods for record.

## PART III:

### 1.1 GREEN TAX

**1.1.1** Currently, the Green Tax is levied on the following products by the government.

**a). Vehicles:** Imported vehicles, both new and used, are subject to green tax. This includes passenger cars, commercial vehicles, etc. The green tax rate varies depending on the type and engine capacity of the vehicle.

**b). Fuel:** Petroleum products such as petrol (gasoline) and diesel are subject to green tax. The tax is aimed at encouraging the use of cleaner energy sources and reducing environmental pollution.

### 1.2 Process and Procedures for Assessing Green Tax:

- 1. Declaration of Goods:** The importer or their agent must submit a customs declaration with the relevant documents and information to complete the required customs formalities at the port of entry irrespective of the nature of the payment of taxes (i.e. point of sale or port of entry).
- 2. Verification of Goods:** Customs officials will inspect the documentation and may physically inspect the goods to verify that the declared information matches the actual goods.
- 3. Valuation of Goods:** Customs officials will determine the value of the goods based on Free on Board (FOB)/cost of the goods. The cost of the goods (FOB value) is taken as the basis for valuation, excluding insurance and freight costs in case of levying Green Tax.
- 4. Assessment of Green Tax:** The Green Tax is calculated as a percentage of the FOB value of the goods. The applicable Green Tax rates vary depending on the type of vehicle imported as specified in Bhutan's Trade Classification and for the fuel, its 5% at the moment.
- 5. Issuance of Receipt:** Upon payment, Revenue officials will issue a receipt for the Green Tax paid. This receipt must be kept as proof of payment.
- 6. Release of Goods:** After the Green Tax and any other duties and taxes are paid, Customs officials will clear the goods for release, allowing the importer to take possession of them.

## 1.3 ADMINISTRATION OF GREEN TAX

**1.3.1** The administration of the Green Tax involves specific responsibilities divided between two divisions as follows:

### **a). Sales Tax/Goods and Service Tax (GST) Division at the Point of Sale:**

**Inspection:** Sales Tax/GST is responsible for ensuring that businesses and sellers comply with the Green Tax regulations at the point of sale. This may involve on-site inspections to verify proper tax collection.

**Assessment:** Sales Tax/GST assesses the tax due on goods and services sold within the country. This includes determining the correct amount of Green Tax that should be applied based on the sale of products.

**Collection:** The Green Tax is collected at the port of entry by Customs officials.

**Refunds:** The Sales Tax Division process and handle the refund of Green Tax when applicable, such as in cases of returned goods or overpayment.

**Recovery and Anti-avoidance:** The Sales Tax/GST division undertakes measures to recover any unpaid Green Tax and addresses tax avoidance strategies by businesses and sellers to ensure full compliance with Green Tax regulations.

### **b). Customs and Excise Division/Section at the Port of Entry:**

**Inspection:** The Customs officials at the port of entry will examine goods entering the country to ensure they comply with customs formalities. This includes checking documentation and the goods to verify correct classification and assessment.

**Assessment:** Customs officials assesses the Green Tax due on imported goods at the port of entry. This involves determining the appropriate green tax rate and amount based on the type of goods and value of the goods being imported.

**Collection and Refunds:** Customs officials collect Green Tax on imported goods as goods enter the country. Customs officials at the regional office also manage refunds for overpayments or adjustments needed for goods that are returned.

**Recovery and Anti-avoidance:** Customs and Excise Division implements measures to recover unpaid Green Tax on imported goods and addresses any strategies used by importers to avoid paying the tax, ensuring compliance with Green Tax regulations.

## **1.4 Valuation of Green Tax**

**1.4.1** The value of imported goods for levying Green Tax (GT) being based on the price of the goods, without including the additional costs associated with transporting, insuring, or any other taxes and charges applied to the goods.

### **Detailed Explanation**

#### **Free On Board (FOB) Value**

**Definition:** FOB value refers to the price of the goods at the point of shipment (loading onto the vessel) and does not include transportation, insurance, or any additional costs incurred after the goods have been shipped.

**Implication for Green Tax:** When the Green Tax is based on the FOB value, it means the tax is calculated solely on the cost of the goods as listed by the seller, without considering any subsequent costs.

#### **Excluding Freight, Insurance, and Other Taxes & Levies:**

**Freight:** The cost of transporting the goods from the seller's location to the buyer's location.

**Insurance:** The cost to insure the goods during transportation.

**Other Taxes & Levies:** These could include customs duties, sales taxes, and any other fees and charges imposed by the importing country.

## **1.5 Documents required for the refund of Green Tax paid at the port of entry**

**1.5.1** The refund of Green Tax pertains to the reimbursement of the Green Tax that has been paid on specific goods.

**1.5.2** The refund claims must be supported by the following documents:

- a) duly completed refund application electronically (signed and sealed form) given in Annexure VII and refund clearance Annexure IX of Revenue Manual 2019 by an exempt organization or an exempt individual
- b) forwarding letter from an exempt organization or an exempt individual briefly describing the scope and basis for requesting a refund;
- c) copy of advance adjustment voucher, in case of revolving fund account holders;
- d) copy of invoices/cash memos;
- e) attested copy of tax clause of an agreement/MoU signed with the kingdom of Bhutan stating that the organization or individual is exempted from payment of Green Tax;

**f)** all refund documents must be endorsed by the project manager/authorized officials certifying that the goods have been received and utilized for the purpose of the exempted project for the donor assisted project; and

**g)** appeal decision or reassessment report: A copy of appeal decision or reassessment report for refund of Green Tax

## **1.6 Verification Process**

**1.6.1** On receipt of the refund application, the verifying official shall:

**a)** Ensure that the goods for which a refund is being claimed meet the eligibility criteria set by the department.

**b)** verify the eligibility of the refund claims as per the refund documents submitted and other relevant documents if required;

**c)** return the incomplete application immediately to the claimant while informing the reasons for the same;

**d)** verify the eligible refund amount against permissible quantity and value of goods imported or purchased;

**e)** state justification in case of any refund disallowed;

**f)** ensure that there are no outstanding taxes/duties/fees with the Department prior to the approval of the refund;

**h)** forward the documents submitted by the claimant to the relevant section for necessary verification and instruction, if not satisfied;

**i)** verify the relevant (re) assessment report or appeal decision, where applicable.