



Immediate Issues

1. Time Bar for Customs penalties for shortlanding against manifested quantities. [Sec 116]

There is case-law to the effect that Customs powers should be exercised within a “reasonable period” [5 years]. Mumbai Customs, however, continue to raise Show Cause Notices and Demand Notices after the expiry of 10 to 12 years.

In effect, this requires the Ship Agent to maintain records for impossibly long periods of time, because Customs do not seem to keeping their records up-to-date. Customs should lead by example and observe the law.

Action : Mumbai Customs – observe the Time Bar of 5 years.

2. Guidelines for the levy of penalties by Customs.

There is case law to the effect that when a Shipping Line discharges an FCL container with the seals intact, the shortages [if any] from such containers shall not be the liability of the Shipping Line. Mumbai Customs, however, continue to impose penalties in such cases requiring the Ship Agent to file appeals and incur litigation costs.

Action : Mumbai Customs to issue instructions to officers to follow judgment of Court

When breakbulk cargo discharged, the quantity is tallied by Port Trust and cargo stored in Port custody. At times, when consignees come forward to take delivery after a lapse of time, there is a shortage. Mumbai Customs regard this as shortage against manifested quantity and penalise the Shipping Line/ Ship Agent even though cargo was discharged in full.

Action : Mumbai Customs to issue instructions to officers to go by Port Tally for shortlanding.

3. 24 x 7 Boarding of Vessels by Customs

JN Customs have recently implemented 24 x 7 boarding of vessels by Customs for grant of Inward Entry without requiring payment of overtime. This greatly facilitates the Industry. We request that Mumbai Customs also implement same policy.

Action : Mumbai Customs



3. Revenue Deposits with Customs

Ship Agents are required to deposit INR 3,000 with each Import Manifest as Revenue Deposit that could be encashed in event Ship Agent unable to pay penalties for short landing. Once cargo delivered in full, this deposit is refunded.

Agents of "Liner Services" [that operate regular services] , after one year, are not required to make such revenue deposits as their regularity has been established. They instead make a one time deposit of INR 15,000. Agents of Tramp vessels [that operate infrequently] , continue to make such revenue deposits.

This increases the number of transactions that Customs and Ship Agents are required to monitor. There are also long delays in Customs making refunds of revenue deposits.

Recommend : Customs do away with need for revenue deposit per manifest. Instead, Ship Agents [both Tramp and Liner] to make a one time deposit of INR 15,000. Refund of accumulated Revenue Deposits to be expedited. Action : Mumbai and JNP Customs.

4. Major and Minor Amendments to Import manifests

Major amendments subject to Adjudication proceedings. Indicative experience of last few months :

Average number of manifest amendments per month = about 20 per Ship Agent

Of which : Change of Consignee [Major]	= 45%
Change of Cargo quantity [Major]	= 14%
Change of B/L Date [Major]	= 2%
Minor Amendments	= 39%

Adjudication is taking between 3 and 5 days. Admittedly, the number of amendments will reduce over time, But until then, can Customs dedicate some manpower resources and some fixed timings each day to this process. The time taken for amendments can then reduce to 1-2 days.

Action : Mumbai Customs , JNP Customs



5. Major and Minor Amendments to Import manifests

Vessels periodically discharge sludge from their fuel tanks in Indian ports. This is in compliance with IMO Regulations. The discharge is executed after complying with Customs regulations – ascertain quantity, filing Import manifest amendment, filing of bills of entry by receiver, payment of duties etc.

This constitutes a Major amendment by the letter of the regulations. Therefore Ship Agents have attend a Hearing and pay a penalty for manifest amendment. This takes up Customs' as well as Ship Agents' resources.

Recommend : that Mumbai and JN Customs issue a Public Notice permitting discharge of sludge after Minor Manifest amendment. Action : Mumbai and JN Customs.

6. Slow Down in Process of Auctioning Long Dwell containers ?

In September 2004, faced with a backlog of 2,900 teu in Nhava CFS's dwelling beyond 60 days, JN Customs had accelerated the auction process. This appears to have slowed down.

As of July 7, 2005, there were 1,862 teu in 6 Nhava CFS's dwelling beyond 60 days.

Of this , 267 teu were under Customs/ SIIB and other Holds

Of the remaining 1,595 teu , 582 teu [36%] were awaiting the auction process – examination, valuation etc.

Action : JN Customs to review Auction process with CFS Operators.

7. Equipment Detention Charges on Customs detained containers.

Customs to either [a] adopt a cutoff period for completing investigations or [b] devan cargo and release equipment to Shipping Line or [c] pay equipment detention charges to Shipping Line.

Action : Mumbai and JN Customs.



8. Automation of Customs processes at ICD Dadri, Railheads Ballabgarh and Rewari and CFS Patparganj.

JN Customs have pro-actively waived the requirement to file and obtain Sub Manifest Transhipment Permit [SMTP] for ICD destination containers prior to loading on rail. This saves about 2 days' downtime in Nhava Sheva.

However, for several months, ICD TKD [Tughlakabad] Customs were unable download ICD manifest details from Gateway Ports from ICEGATE. This has only recently been resolved with ICD TKD Customs being able to transfer the IGM file from ICEGATE.

Effective July 01,2005, there will be shift of cargo from ICD TKD to ICD Dadri, Railheads Ballabgarh and Rewari. These ICD's are not yet automated. CFS Patparganj [handling about 600 – 800 teu imports per month] not yet automated. Shipments to all these locations will require SMTP Process to be followed :

- File IGM [with ICD details] with Gateway Port Customs
- Await Customs grant of Inward Entry in System for IGM to go " live"
- Cull ICD details from IGM and submit SMTP manifest to Customs
- Await SMTP approval in Customs system/ email of SMTP approval
- Print hardcopy SMTP approval and obtain signature of Customs official
- Courier hardcopy + softcopy in diskette to Ship Agents office in ICD

The whole process will take 2-3 days and cargo delivery at ICD will be delayed.

Recommend : Short Term : Courier Hardcopy of SMTP manifest to ICD Customs with signed SMTP approval to follow. Medium Term : Urgently automate CFS Patparganj, ICD Dadri, Railhead Ballabgarh and Rewari .

Action : Mumbai Customs, Delhi Customs, Systems Directorate



★ *Medium – Long Term Policy Issues*

9. Liabilities of Shipping Lines/ Ship Agents for shortages against manifested quantity on Imports.

Until 2003, only the Person in Charge of the Conveyance [Ship] was allowed to file Import Manifests with Customs. The Finance Bill of 2003 amended Section 30 of the Indian Customs Act relating to Import Manifest filing. After this amendment, “ Any Other Person” notified by Indian Customs and Registered with them is allowed to file Manifests directly with Customs. “ Any Other Person” refers to Freight Forwarders, NVOCC’s and Consolidators.

But while Section 30 permits “ Any Other Person” to file the Manifest, Section 116 continues to hold the Person In Charge of the Conveyance [Ship] liable for any shortfall against the manifested quantity. Thus while one Person is filing the manifest, another Person is bearing the liabilities.

Because of this anomaly, Shipping Lines/ Ship Agents are compelled to seek bank guarantees or similar indemnities from NVOCC’s and Forwarders who want to file their Import Manifests directly. Thus the Trade is not able realise the advantages of direct filing of manifests.

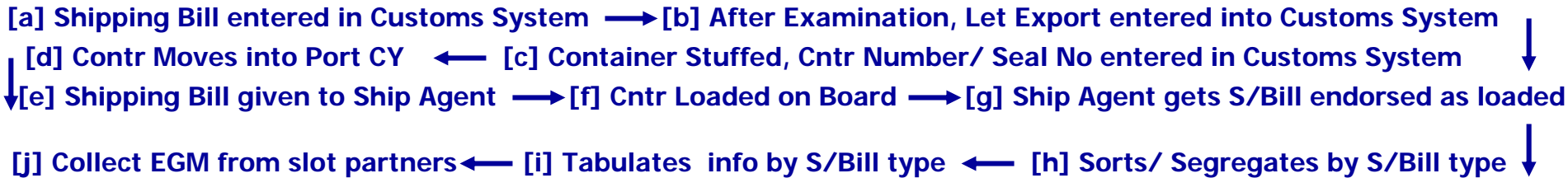
This is also contrary to international practice. Amendments to US Customs Law effective 2002 [Advance Cargo Declaration] allows NVOCC’s registered with US Customs to file Cargo Manifests directly with Customs. But the Act also holds such NVOCC’s liable for shortages, errors in Manifest.

Action : Amend Section 116 of the Indian Customs Act, holding the person filing the Import Manifest with Indian Customs liable for penalties for shortfalls against manifested quantities.



10. Advance Filing of Export General Manifests

Until 2004, Ship Agents could file their Export General Manifests 7 days after vessel departure. Section 41 of the Indian Customs Act [relating to EGM's] was amended in Finance Bill of 2004 requiring Ship Agents to file the Export Manifests prior to vessel departure. **But the process has not been amended.**



MANSA [and other Associations] had recommended to CBEC/ Systems Directorates in July 2004 that since all information resident in Customs Systems after stages [a], [b] and [c] , Stages [g], [h], [i] and [j] can be eliminated. Ship Agents will file the list of cntrs "Intended for Loading" as their EGM prior vessel departure. Cntrs that are shutout or mis- connect will be deleted as amendments to EGM.

Result : [i] Faster EGM Filing [ii] Faster finalisation of export incentives [iii] Reduction in paperwork and costs.
[iv] One all India uniform process

Recommendation accepted by the CBEC - Software amendments [reportedly] ready and tested. Despite multiple reminders, no action. Result : Each Customs Directorate following ad hoc processes to conform to letter of regulations – Provisional EGM's , Partial EGM's etc.

Action : CBEC , Systems Directorate to roll out amended , uniform EGM system on all India basis.



11. Classification of ICD and Other Indian Ports transit traffic as “ Transshipment”

Section 54 of Indian Customs Act requires that any cargo being discharged at a Customs Station and being “ transhipped” to another Customs Station [either a Port or ICD in India] needs a specific Approval to be given by Customs at Gateway Port. Thus Ship Agents have to prepare a separate manifest for ICD containers / containers being relayed to another Indian port – obtain Customs’ approval and then despatch.

- ICD Revenue Import traffic of 400,000 teu is 31% of total imports handled by Major Ports in 2003/04.
- Nhava Sheva port , in 2004/05, handled 200,000 teu of Transshipment cargo, much of it from/to other Indian ports [Kandla, Cochin, Tuticorin].
- ICD and Transshipment Traffic will only increase in future.
- All cargo details are already listed in the Import General Manifests.
- All Carriers to ICD’s [Concor, CWC] have Bonds with Indian Customs.
- All Carriers to Indian Ports [Feeder Operators] have Bonds with Indian Customs.

Due all above, we submit that Customs need to review the need for filing a “ Transshipment” Manifest and Obtaining a “ Transshipment Permit”. This seems to be a superfluous procedure.

Recommendation : The Sub Manifest Transshipment *Permit* to be eliminated and replaced with a Sub Manifest Transshipment *Declaration* ie the Import General Manifest.

Section 54 to be amended to require Transshipment Permit only when cargo is being Transhipped at an Indian Port to or from a Foreign Port.



12. Automation of Container Bond

Shipping Lines/ Ship Agents are required to file a Bond with Customs undertaking to re-export all containers Imported by them within 6 months of landing or by any extended period approved by Customs. Value per teu is INR 20,000. Thus if a Line/ Agent is maintaining an inventory [import loaded + empty] of 5,000 teu's, they have to file a Bond for INR 100 million.

- Each Customs Directorate follow their own policy. JN Customs accept a 2 year Bond ; Mumbai Customs a 1 Year Bond ; Some ports Customs require Bonds by vessel/ voyage ; some ports Customs require Bonds for each container transaction.
- The reconciliation of the containers coming in and going out[by container number] is being done manually by Ship Agents and Customs at each Port. Huge waste of resources.
- Even when Import containers remain long standing beyond 9 months [due Customs investigation, Holds by other government agencies] JN Customs refuse to extend the re-export period beyond 9 months and Ship Agents have to pay the penalty.

Recommend : [a] Incoming Container Number is in the Import General Manifest in Customs System; Outgoing Container Number is in the Export General Manifest in Customs System. Necessary software amendments could be made to Automatically reconcile import / export. Save Customs/ Ship Agents resources. One standard Process all over India. Action : Nhava – Mumbai Customs, Systems Directorate.

[b] Nhava Customs , on valid reasons, to extend re-export period for long standing containers. Action : Nhava Customs

[c] Reconciliation of cntrs imported through one port and exported through another port to be done by input of IGM number of incoming vessel and Incoming port code. Action : Nhava – Mumbai Customs, Systems Directorate



13. Amended Business Process for filing of Import General Manifests

Existing process requires :

- Ship Agent to file Vessel Related, Cargo Related and Container Related information together.
- Vessel Operating Agent [VOA] to co-ordinate with Slot Partner Lines for their IGM's and file the consolidated IGM with Customs.

Thus while one SPL or VOA may have their Import Manifest details ready much prior vessel arrival, they cannot file with Customs until the slowest SPL or VOA are ready with their manifest. Result : the whole import process [filing of bills of entry, assessment of bills of entry, examination and delivery] get delayed.

Recommend :

- Amend Business process to allow VOA to " initiate" the IGM by filing Vessel Related details 7 to 10 days prior vessel arrival. This " initiation" process to include the Customs Identity Codes of all the SPL's on the vessel/ voyage.
- Shipping Lines/ Ship Agents who are ready with their manifests in advance can then file independently ie no " consolidated" IGM. This process is being followed in foreign ports. The last filing will continue to be as per Customs regulations [48 hours or 10 hours].
- Result : Earlier filing of IGM's and commencement of import processing. Longer lead time to Customs for targeting purposes. Quickening of import delivery process. Reduction in pressure on Customs' System Network Resources.

Action : Nhava – Mumbai Customs , Systems Directorate to work with MANSA and other Ship Agents Associations for early implementation.



Mumbai And Nhava-Sheva Ship-Agents Association

14. Amend Format of Domestic Carrier Bond

Concor, CWC, Feeder Operators who carry containers from Gateway Port to ICD/ other Indian Ports, have to file a Bond with Indian Customs. The Bond Number has to be quoted on the Sub Manifest Transshipment.

The language of the Bond makes it a Fixed Bond of a certain value. Once the Bond value is exhausted, the Domestic Carrier has to file another Bond and is allotted another Bond number. The change in Bond number results in the Sub Manifest Transshipment being incorrect needing amendment.

Pending review of the whole Sub Manifest process [Point 10 of this presentation], recommend :

- Amend the language of the Bond to convert it to a Replenishable Bond. Once proof of delivery of cargo to ICD or another Indian Port submitted, the value of that transaction to be credited to the Bond, allowing its re-use.
- This would reduce paperwork and need to amend Sub Manifest Transshipment.

Action : Nhava – Mumbai Customs, CBEC

None of the issues raised in this presentation are new. MANSA and other Ship Agents Associations have made the same recommendations several times in the past.

All the recommendations would result in either speeding up of Customs processes, or reduction in paperwork or reduce resources [manpower, time, transaction costs] invested in Customs processes. Or all three.

We request an Action Plan from Customs. MANSA and other Associations will be glad to assist.

Thank you for your attention.



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