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Memorandum on Customs related challenges faced by trade and industry

The DGFT and the Central Board of Indirect Tax & Customs (CBIC) have taken various measures in recent years to bring about digitization, reduce paperwork and improve ease of compliance in customs procedures for exporters and importers. As part of its commitment under the WTO Trade Facilitation Agreement and also under the National Trade Facilitation Action Plan (NTFAP), the central government has been taking various initiatives to address bottlenecks in smooth flow of cargo across borders.

India, being a signatory to the WTO's Trade Facilitation Agreement, has committed to various procedural initiatives to reduce cargo release time and achieve the overall target of clearance within 48 hours for import cargo from Sea / ICD / ICP and within 24 hours for Air. Similarly, for the export cargo, Trade Facilitation Agreement aims to achieve release time of less than 24 hours for Sea / ICD / ICP and less than 12 hours for Air.

To achieve these targets, we recognize the initiatives taken for pre-arrival processing of import documents, electronic filing of documents, single window system, risk-based facilitation, deferred duty payment to facilitate importers and exporters. We also welcome the introduction of Anonymised Escalation Mechanism (AEM) and Turant Suvidha Kendra to help importers flag issues related to timely processing of their Bill of Entry.

As a result of these initiatives, the average physical release time for export cargo has declined from 191 hours in 2022 to 175 hours in 2023 for sea cargo, while for import sea cargo, the average release time has declined from 94 hours to 85 hours (as per National Time Release Survey 2023).

While we acknowledge the various initiatives taken by India to fulfill its commitment under WTO's Trade Facilitation Agreement, we wish to highlight the following challenges faced by importers and exporters and seek your timely action to address them. Specifically, we highlight the challenges faced by importers whose Bill of Entries are not processed within reasonable time frame despite various digitization initiatives and we request timely actions from CBIC to reduce cargo dwell time and avoid unnecessary demurrage charges.

This memorandum has been prepared by WTC Mumbai with inputs from the Brihanmumbai Customs Brokers Association (BCBA) and we are confident that timely redressal of these issues will facilitate India's vision of USD 1 trillion merchandise exports by 2030.

Challenges and Suggestions:

More effective AEO scheme: The government provides various customs facilitation incentives for accredited exporters and importers under the Authorized Economic Operator (AEO) program of World Customs Organisation (WCO). There is a need to create awareness about the benefits of this program among exporters and importers as uptake of this scheme is hardly 35% in 2023 (according to the National Time Release Survey 2023).

According to industry, **Exporters** primarily are reluctant to renew their AEO accreditation as unlike importers, they do not get any tangible benefit in their day-to-day shipments under the AEO programme. Therefore, the Customs department may provide equal importance to exports as given to imports to help achieve the USD 1 trillion export mark.

Accredited Exporters should be given priority in examination and this can be done by allocating special team of officers who will look into such AEO Clients. This will give a major boost to the AEO Programme.

Delay in Faceless Assessment

The government has introduced Anonymised Escalation Mechanism (AEM) to support importers whose Bill of Entry is not assessed within 24 hours under the Faceless Assessment system. Importers can also raise their grievances at the Turant Suvidha Kendra to expedite cargo clearance.

Despite these measures, importers complain about Bill of Entries not attended for assessment for 2-4 days. Even after escalation, Bill of Entries are not attended or assessed. In certain cases, Bill of Entry does not get allocated, which results in trade not being able to escalate in AEM. At times, escalation to Turant Suvidha Kendra is also not helping. This causes huge delay in cargo clearance and incurrance of detention charges.

Some importers complain that even after escalation, queries are raised and also stringent 100% examination orders are given.

We request the customs department to ensure statutory time bound clearances with the help of EDI system and reduce physical examination through Enhanced Risk Management using Data Analytics and Artificial Intelligence.

We also suggest the customs department to provide 100% examination order only in those cases that involve import of secondhand goods, re-import or cases where there is intelligence alert.

The customs may introduce an online mechanism for the industry to escalate grievances immediately upon submission of Bill of Entry

The government may also set up an urgent helpdesk at Air Cargo Complex to address delays in attendance or assessment of Bill of Entry under faceless assessment.

FACELESS REGIME in Non-Current work like ITR Assessment, IGST Refunds etc. is feasible, but for LIVE SHIPMENTS any delay leads to cost escalation which is contradicting the NATIONAL LOGISTICS POLICY objective in reducing the EXIM COSTS. Statistics should be taken up from the Trade regarding its effectiveness. More than the IMPORTERS or EXPORTERS, the mindset of the department especially at ground level should be drastically level-up if FACELESS REGIME is to be successfully implemented.

Simplification of amendment of advance filing of Bill of Entry: It is welcome that the government has mandated advance or timely filing of bills of entry vide amendment in section 46 of the Customs Act and through CBIC Circular 08/20216 dated March 29, 2021. The advance or timely filing of bill of entry was intended to reduce dwell time by completing substantial regulatory checks even before the arrival of the cargo.

Despite this initiative, the industry is facing genuine difficulty in amending advance Filings of import especially LCL Shipments. In view of this, we request your good office to simplify the amendment process of Advance Filings of import consignment.

Imports:

To fast-track import clearance:

There is a need for Commodity based specialized Assessment Centers

Integration of PGAs: The customs department has introduced Single Window Interface for Facilitating Trade (SWIFT) to enable parallel processing of documents by Participating Government Agencies (PGAs) such as Food Safety and Standards Authority of India (FSSAI), Plant Quarantine Information System (PQIS), Drug Controller General (CDRUG), Animal Quarantine and Certification Service (AQCS) and so on.

Even after the introduction of SWIFT, the average release times for bills of entry referred to PGAs (PGAs) are invariably longer than the average release times for the pertinent port category, according to the National Time Release Survey 2023.

The common reasons cited for longer average release times for bills of entry referred to the PGAs are: distance between the port and PGA laboratories, low frequency of sample collection, lack of adequate manpower, training and capacity building and requirement of certain documents to be submitted in hard copy.

Despite the policy emphasis on digitization, some of the approval process with PGAs involve manual paperwork and submission of hardcopies of documents, which needs to be reconsidered. Therefore, government may issue necessary instructions with statutory orders to Stakeholders such as PGAs Custodians, Shipping Lines, Airlines, Forwarders etc. to avoid duplicate paperwork since they are already linked to Customs and ICEGATE message exchange process.

There is also a need to expedite clearances with higher integration of all Participating Government Agencies such as FSSAI, ADC, PQ, AQ, BIS etc. The government may also set timelines for clearances of import and export consignments. For e.g. 12 hrs for Air Consignments and 24 hrs for Sea consignments.

If any document is pending for more than 12 HRS, then the same has to be automatically referred to the PAG or it may also be assessed under RMS after the lapse of mandatory 12 HRS or any timeline decided by the department.

Exports:

Delay in clearance of export consignments: There is delay in issuing Let Export Order (LEO) for export consignments for the last few weeks.

Ports may introduce fully automated gates in the Centralised Parking Plaza

The Factory stuffed containers are coming with different types of RFID seals of different manufacturers and it takes more time to read the RFID seals with different RFID readers, which delays the process of clearance

There is a need to introduce centralized redressal mechanism for exporters/Custom Brokers facing difficulties/ bottlenecks in exports with any stakeholders such as Customs, Port Authorities, Custodians, DGFT, Shipping lines, Airlines, Forwarders, Transporters etc.

Infrastructure development needs to be enhanced at airports / seaports, Inland Container Depots, container freight station across the country for vehicles bringing export cargo and corresponding increase in export examination area. Often, exporters/Custom Brokers face huge delays, as a result of which the export consignments miss out on the vessels. This is also increasing the detention cost.