

BRIEF INTRODUCTORY NOTE

Over the years, air transportation has become an important mode of transport in the international trade of merchandise goods and movement of passengers. For the compliance of legal requirements under the Customs Act or other Acts, presently different sets of regulations, circulars, instructions such as Import Manifest (Aircraft) Regulations, 1976, Export Manifest (Aircraft) Regulations, 1976, Import goods (Condition of Transshipment) Regulation, 1995 etc. regulate different kinds of declaration, bonds, bank guarantees and other legal requirements. Although these regulations/instructions have been amended from time to time, a need has been felt to come up with integrated regulations which would enable simplification and automation and bring it in line with international practices.

2. The purpose of the draft regulations is to provide a comprehensive framework covering all the aspects of movement of cargo in line with the best international practices. It would provide a simplified and system-based platform for all the stakeholders to comply with domestic legal requirements. Further, it would provide a system of ensuring safe and secure transit of the import and export goods within the country by way of IT backed tracking mechanism. Furthermore, it would also provide a procedure for multimodal transshipment completely operational on IT system.

3. In the light of above, Draft Manifest and Transshipment Regulations (Aircraft), 2019 are being placed in public domain so as to invite valuable inputs and comments. The feedback/inputs/comments may be mailed to dircus@nic.in or piyush.bhardwaj@gov.in, till 31.03.19.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes and Customs)

Notification
No. / 2019-Customs (N.T.)

New Delhi, February 2019

G.S.R. (E). - In exercise of the powers conferred by section 157, read with sections 30, 30A, 41, 41A, 54 and sub-section (2) of section 158 of the Customs Act, 1962 (52 of 1962), and in supersession of Import Manifest (Aircraft) Regulations, 1976 and Export Manifest (Aircraft) Regulations, 1976, the Central Board of Indirect Taxes and Customs hereby makes the following regulations, namely: -

1. Short title and commencement. –

- (1) These regulations may be called the Manifest and Transhipment Regulations (Aircraft), 2019.
- (2) These regulations shall come into force from the date of its publication in the Official Gazette.

2. Definitions. –

- (1) In these regulations, unless the context otherwise requires,
 - (a) "Act" means the Customs Act, 1962 (52 of 1962);
 - (b) "Arrival manifest" means an integrated declaration required to be delivered by an authorised carrier before or on arrival, as the case may be, of an aircraft carrying imported goods, export goods or international passengers or a truck carrying imported goods or export goods ;
 - (c) "Authorised carrier" means an authorised air carrier, authorised courier, a custodian registered under regulation 3 or postal authorities;
 - (d) "Authorised air carrier" means the person-in-charge of the aircraft carrying imported goods or export goods or international passengers or his agent, or any other person specified by the Central Government under section 30 of the Act;

- (e) “Authorised Courier”, in relation to imported or export goods, means a person engaged in the international transportation of time-sensitive documents or goods on door-to-door delivery basis and is registered in this behalf by a Commissioner of Customs, as the case may be in charge of a Customs airport;
 - (f) “Custodian” means a person approved by the Commissioner of Customs for the purposes of section 45 of the Act;
 - (g) “Departure manifest” means an integrated declaration required to be delivered by an authorised carrier before departure of an aircraft carrying imported goods, export goods or international passengers or a truck carrying imported goods or export goods;
 - (h) “Final passenger manifest” means the passenger manifest to be delivered after the completion of check-in process;
 - (i) “Form” means a Form appended to these regulations;
 - (j) “Jurisdictional Commissioner of Customs” means the Commissioner of Customs who has granted registration under regulation 3;
 - (k) “Passenger manifest” includes pre-check-in passenger manifest and final passenger manifest;
 - (l) “Postal authorities” means an officer of the Post Office as defined in The Indian Post Office Act, 1898 and competent to transact the business under these regulations;
 - (m) “Pre-check-in passenger manifest” means the passenger manifest to be delivered before the flight is opened for check-in process;
 - (n) “Special Economic Zone (SEZ)” means special economic zone as per the Special Economic Zones Act, 2005 (28 of 2005);
 - (o) any reference to the Commissioner of Customs shall also include a reference to Principal Commissioner of Customs for purposes of these regulations.
- (2) The words and expressions used herein and not defined, but defined in the Act shall have the same meaning respectively assigned to them in the Act.

3. Registration.

- (1) Any person who is required to deliver arrival manifest and departure manifest shall apply to the jurisdictional Commissioner of Customs for registration in the **Form-I**:

Provided that the Postal Authorities shall not be required to apply for the registration in case the postal authorities intimate to the said Commissioner of Customs the intention to transact business under these regulations.

- (2) Where the jurisdictional Commissioner of Customs is satisfied with the information provided in the Form-I, he shall register such person for transacting business under these regulations for a period of three years from the date of issue of such registration:
- (3) An authorised carrier registered under these regulations at any customs airports, shall be deemed to be registered at other customs airports, international courier terminals, foreign post offices, land customs station also, for the purpose of transacting business under these regulations.
- (4) The jurisdictional Commissioner of Customs shall review the registration before the expiry of the initial period of registration of three years and may extend such registration to a further period of five years at a time and in case of an Authorised Economic Operator for a period of ten years.

4. Delivery of an Arrival Manifest. –

- (1) An authorised air carrier shall deliver the arrival manifest to the proper officer electronically:

Provided that where it is not possible to deliver the arrival manifest electronically then the manifest shall be submitted manually, in duplicate, with the approval of the Commissioner of Customs.

- (2) The arrival manifest shall consist of, -

- (A) General Declaration in Form-II;
- (B) Passenger manifest; and
- (C) Cargo manifest

- (3) The passenger manifest shall consist of:

- (A) passenger manifest, in Form-III;
 - (B) crew manifest, in Form-IV;
- (4) The Cargo Manifest shall consist of:
- (i) for an aircraft arriving at an Indian airport from a foreign airport in Form- VA or for an aircraft arriving at an Indian airport from another Indian airport in Form-VB;
 - (ii) Declaration under Regulation 6
 - (iii) any other declaration which, under the provisions of the Customs Act or any other Act for the time being in force is required to be delivered to the proper officer on arrival of aircraft;
- (5) The general declaration, pre-check-in passenger manifest shall be delivered twelve hours before the scheduled departure of the flight and the rest of the arrival manifest and final passenger manifest shall be delivered within fifteen minutes after departure of the flight from the originating airport.

5. Delivery of a Departure Manifest. –

- (1) An authorised air carrier shall deliver the departure manifest to the proper officer electronically:

Provided that where it is not possible to deliver the departure manifest electronically, then the manifest shall be delivered manually, in duplicate, with the approval of Commissioner of Customs before the departure of the aircraft.

- (2) The arrival manifest shall consist of, -
- (A) General Declaration in Form-II;
 - (B) Passenger manifest; and
 - (C) Cargo manifest
- (3) The passenger manifest shall consist of:
- (A) passenger manifest, in Form-III;
 - (B) crew manifest, in Form-IV
- (4) The Cargo Manifest shall consist of:

- (i) for an aircraft departing from an Indian airport to a foreign airport in Form-VIA or for an aircraft departing from one Indian airport to another Indian airport in Form-VIB;
- (ii) Declaration under Regulation 6;
- (iii) any other declaration which, under the provisions of the Customs Act or any other Act for the time being in force is required to be delivered to the proper officer on arrival of aircraft.

(5) The general declaration and pre-check-in departure manifest shall be delivered twelve hours before the departure of the aircraft and rest of the departure manifest shall be delivered before the departure of the aircraft.

6. Declaration in respect of specific cargo. –

(1) the cargo declaration in respect of -

- (a) arms;
- (b) ammunition;
- (c) explosives;
- (d) narcotics and psychotropic substances;
- (e) dangerous drugs;
- (f) gold;
- (g) silver;
- (h) radio-active material

for import, export, transshipment, or for being carried as same bottom cargo shall be delivered in Form VII.

(2) Where an aircraft does not carry any of the cargoes referred above, a nil declaration shall be delivered.

7. Amendments of Arrival or Departure Manifest. –

(1) Where the proper officer is satisfied that the arrival manifest or departure manifest is in any way incorrect or incomplete, and that there was no fraudulent intention towards incorrect or incomplete submission as regards the contents thereof, he may permit it to be amended or supplemented.

(2) Updation of different information particulars before entry inwards shall not be deemed as an amendment to the manifest.

8. Transhipment of imported goods or export goods between an Airport and Inland Container Depot (ICD) or Air Freight Station (AFS)/ Foreign Post office or Special Economic Zone (SEZ) etc. by land route –

An authorised carrier shall file a departure manifest at the time of departure of a truck carrying imported goods or export goods and an arrival manifest upon arrival of the truck carrying imported goods or export goods, as the case may be, in Form-VIII.

9. Terms and conditions governing transhipment of goods. – (1) The transhipment of goods mentioned in the arrival manifest or the departure manifest, as the case may be, for transhipment to any customs station or a foreign country under these regulations shall be allowed subject to the following conditions: –

(i) the goods are mentioned in the arrival manifest or departure manifest, as the case may be, for transhipment to any customs airports, international courier terminals, foreign post offices or Special Economic Zone or a foreign country;

(ii) such transhipment is by an aircraft or a truck;

(iii) the authorised carrier executes a bond in **Form-XI A** or **Form-XI B** or **Form-XI C** or **Form-XI D** as applicable, with or without bank guarantee or surety:

Provided that where the transhipment of the imported goods or export goods is by an aircraft, no bank Guarantee shall be furnished:

Provided further that where transhipment of the imported goods or export goods is to be done by postal authorities, no bond and bank guarantee shall be furnished.

(2) An authorised air carrier may transport domestic area goods in addition to imported goods or export good from one airport in India to another airport in India subject to the condition that the consignments of imported or export goods shall be kept in separate Unit Load Devices (ULDs) individually sealed so as to prevent the mixing of the said goods with the domestic goods:

Provided that where the volume of imported or export goods is not sufficient to form a Unit Load Device load, the airlines may transport the said goods in durable bags sealed with customs seals or such other seals as may be approved by customs authorities.

- (3) Where the imported goods or export goods arriving by an air route are intended for further transshipment through a land route or vice versa, then the said goods shall be transported either in a container or a containerised truck and that the customs officer nominated by the Commissioner of Customs shall seal the container or the truck, as the case may be, with the customs seal before permitting such transshipment.

10. Confidentiality of passenger information.-

The passenger information provided in the manifest by the Authorised air carrier under these regulations shall not be shared or disclosed, except to the government agencies and with the permission of the Commissioner of Customs.

11. General Responsibilities of the authorised carrier under these regulations. – (1) An authorised carrier shall –

- (a) transact business in the Customs station either personally or through an employee duly approved by the Deputy Commissioner or Assistant Commissioner of Customs, as the case may be;
- (b) keep a record of imported goods, export goods or goods brought for transshipment as the case may be, and produce such records to the proper officer as and when required;
- (c) bring about automation in cargo handling processes in keeping with international best practices to ensure expeditious clearance of cargo;
- (d) keep a record of movement or handling of imported goods, export goods or goods brought for transshipment;
- (e) make available track and trace facility for locating imported goods, export goods or goods brought for transshipment;
- (f) be responsible for the safety, security and delivery of imported or export goods under its custody;
- (g) be liable to pay duty on goods pilfered, lost during the transshipment thereof in the Customs area or enroute;
- (h) advise his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner or Assistant Commissioner of Customs, as the case may be;
- (i) not procure or attempt to procure directly or indirectly, information from the government records or other government sources of any kind to which access is not granted by the proper officer;
- (j) ensure electronic transmission of delivery orders on real time basis to the importer or the consignee and intimation of the same to the custodian and the proper officer;

- (k) publish and display at prominent places including website or webpage of the authorised carrier, the schedule of charges for the various services provided by him in relation to the imported goods or export goods in the customs area;
 - (l) not charge any rent or demurrage on the goods detained by customs for purpose of verifying the entries made under section 46 or section 50 of the Customs Act, if the entries are found to be correct;
 - (m) be responsible for re-export of hazardous goods where such goods are ordered to be exported back to the exporting country;
 - (n) abide by all the provisions of the Act and the rules, regulations, notifications and orders issued there under.
- (2) The authorised carrier shall not sublet or sub-contract or outsource functions permitted or required to be carried out by him to any other person, without intimation to the Jurisdictional Commissioner of Customs.
- (3) The obligations and the responsibilities under these regulations shall be in addition to the obligations and the responsibilities applicable to an authorised carrier under any other regulation issued by the Board.

12. Suspension of operations or revocation of registration of an authorised carrier. – (1) The jurisdictional Commissioner of Customs may revoke the registration of the authorised carrier for failure to comply with any of the provisions of these regulations.

(2) The Commissioner of Customs of any customs airports, international courier terminal, land customs station on a reasonable belief that activities of an authorised carrier are detrimental to the interests of the revenue, may suspend the operation of the said authorised carrier in his jurisdiction by an order stating therein the grounds of suspension.

(3) The Commissioner of Customs shall, within fifteen days from the date of such suspension order, give an opportunity of hearing to the authorised carrier and pass such order within fifteen days from the date of the said hearing, as he deems fit, either revoking the suspension or continuing it for a further period not exceeding ninety days from the date of suspension, as the case may be.

Provided that where the suspension against the authorised carrier has been continued, the Commissioner of Customs concerned shall intimate to the jurisdictional Commissioner of Customs, about the order within fifteen days from the date of issue of such order.

13. Procedure for revocation of registration. – (1) The jurisdictional Commissioner of Customs shall issue a notice in writing to the authorised carrier stating the grounds on which it is proposed to revoke the registration and require the said authorised carrier to submit within such time as may be specified in the notice not being less than thirty days, to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, nominated by him, a written statement of defence and also to specify in the said statement whether he desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(2) On receipt of the written statement from the authorised carrier, or where no such statement has been received within the time-limit specified in the notice, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, may inquire into the grounds of the revocation as stated in the notice.

(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, shall in the course of inquiry, consider such documentary evidence and take such oral evidence as required for inquiry and he may also put any question to any person tendering evidence, for or against the authorised carrier, for the purpose of ascertaining the correct position.

(4) The authorised carrier shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs, declines to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, shall prepare a report of the inquiry, recording his findings after the conclusion of the inquiry.

(6) The jurisdictional Commissioner of Customs shall provide to the authorised carrier a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, and shall require the authorised carrier to submit within the specified period not being less than thirty days, any submission against the findings of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(7) The jurisdictional Commissioner of Customs shall, after considering the report of the inquiry, and the submission thereon, if any, made by the authorised carrier, pass such orders as he deems fit.

14. Imposition of Penalty. -

An authorised carrier who contravenes any provision of these regulations shall be liable to a penalty which may extend to Rupees fifty thousand.

15. Appeal –

Any person aggrieved by any decision or order passed under this regulation, may appeal under section 129A of the Act to the Customs, Excise and Service Tax Appellate Tribunal, established under sub-section (1) of section 129 of the Act.

[F. No.450/18/2019- Cus IV]

(Zubair Riaz)
Director (Customs)