



**OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-III),
MUMBAI ZONE-II, JAWAHARLAL NEHRU CUSTOM HOUSE,
NHAVA SHEVA, TALUKA: URAN, DISTRICT: RAIGAD,
MAHARASHTRA-400707.**

F. No. S/22-Gen-402/2017-18 AM (I)

Dated 16.03.2018

PUBLIC NOTICE NO. 42/2018

Subject: Constitution of "Environment Protection Unit" At JNCH

Attention of the Importers, Exporters, Customs Brokers, Shipping Lines / Agents, Logistics Service Providers, CFS Custodians/Terminal Operators and all other stakeholders is invited to the provisions of:

- Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 [apply to the management of hazardous and other wastes as specified in the Schedules to these rules]
- E-Waste (Management) Rules, 2016 [apply to every manufacturer, producer, consumer, bulk consumer, collection centres, dealers, e-retailer, refurbisher, dismantler and recycler involved in manufacture, sale, transfer, purchase, collection, storage and processing of e-waste or electrical and electronic equipment listed in Schedule I, including their components, consumables, parts and spares which make the product operational]
- Batteries (Management and Handling) Rules, 2001 (apply in relation to used lead acid batteries)
- Atomic Energy Act, 1962 (33 of 1962) and rules made there under (apply in relation to radio-active wastes);
- Merchant Shipping Act, 1958 (44 of 1958) and the rules made thereunder and as amended from time to time [in relation to wastes arising out of the operation from ships beyond five kilometers of the relevant baseline];
- Bio-Medical Wastes (Management and Handling) Rules, 1998 made under the Act and as amended from time to time [in relation to bio-medical wastes];
- Municipal Solid Wastes (Management and Handling) Rules, 2000 made under the Act and as amended from time to time;
- Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) and the rules made thereunder.[in relation to waste-water and exhaust gases]
- Other Notifications and Circulars issued in relation of import or export of goods, which have potentially harmful effects on environment

- Various prohibitions and restrictions provided under Foreign Trade Policy, 2015-20 [notified by Central Government, in exercise of powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992)]
- Provisions in relation to transboundary movement of Ozone Depleting Substance (**ODS**), persistent organic pollutants (**POPs**) and chemical waste covered by the Montreal Protocol and the Basel and Stockholm Conventions
- Instruction dated 30.09.2016 [F.No. 401/26/2014-Cus.-III(Pt.)] issued by Board on the subject "Implementation of the Hazardous and Other Wastes (Management and Trans-boundary movement)) Rules, 2016".

2. Introduction of Environmental/ Offences:

2.1 Environmental crimes, in relation to import & export include:

- Illegal dumping of hazardous waste, electronic waste, including chemicals in India.
- Illegal import / export of plants and animal species;
- Smuggling of "Ozone Depleting Substances (ODSs)";
- Smuggling of any other environmental pollutant (any solid, liquid or gaseous substance present in such concentration, as may be, or tend to be, injurious to environment);

2.2 Environmental crime is now the fourth largest crime after drug smuggling, counterfeiting and human trafficking. Illegal trade in and dumping of hazardous waste in 2015 was estimated at US\$12-19 billion worldwide. In 2013, the UN Office on Drugs and Crime reported that illegal trade in e-waste to Southeast Asia and the Pacific alone was estimated at US\$3.75 billion annually. The illegal trade of goods such as wildlife and timber is a serious economic and environmental problem that can disrupt whole economies and ecosystems, undermine environmentally sustainable activities, and reduce future options for the use of resources. It has been observed that the drivers of illegal trade are primarily economic.

3. Nature of environmental offences/violations:

The following types of offences have been observed with regard to environmental laws applicable to the import and export of goods in India.

- There are cases where electronic waste, hazardous waste, other chemicals, subjected to licensing requirements, are attempted to be imported without

any valid license and in certain cases, after import, such hazardous goods are abandoned or not cleared.

- Sometimes prohibited goods such as municipal waste, electronic waste, old & used tyres etc. are imported by mis-declaration of description and other particulars and, after detection by Customs, are abandoned / not cleared;
- Illegal import / export of plants and animal species (in contravention of Wildlife Protection Act, 1972) through concealment & mis-declaration;
- Smuggling of "Ozone Depleting Substances (ODSs)" or any other environmental pollutant (any solid, liquid or gaseous substance present in such concentration, as may be, or tend to be, injurious to environment).

4. In this regard, attention is invited to Public Notice No. 46/2017 dated 31.03.2017 (as amended by Public Notice No 94/2017, dated 11.07.2017) on the subject 'Procedure for clearance of export cargo categorised as "Hazardous Goods" and Public Notice No. 126/2017 dated 04.10.2017 on the subject Compliance of provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 in the imports of used tyres" and other measures taken by JNCH from time to time. Attention is also invited to following legal position under Foreign Trade Policy, 2015-20:

Para 2.03 Compliance of Imports with Domestic Laws

(a) Domestic Laws/ Rules/ Orders/ Regulations / Technical specifications/ environmental/ safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.

Para 2.08 Export/Import of Restricted goods/Services

*Any goods /service, the export or import of which is 'Restricted' may be exported or imported **only** in accordance with an Authorisation / Permission or in accordance with the procedure prescribed in a Notification / Public Notice issued in this regard.*

Para 9.47: "Restricted" *is a term indicating the import or export policy of an item, which **can be imported into the country or exported outside, only after obtaining an authorization from the offices of DGFT.***

4.1 In case, importer fails to comply with provisions of any law by not submitting requisite certificate / authorization, such imported goods become prohibited goods in terms of definition of "prohibited goods" as provided under Section 2(33) of Customs Act, 1962 and such goods become liable for confiscation under Section 111(d) of Customs Act, 1962 as imported contrary to prohibition imposed under such law.

4.2 Similarly, on the export side, if any exporter fails to comply with provisions of any law by not submitting requisite certificate / authorization, such export goods become prohibited goods in terms of definition of "prohibited goods" as provided

under Section 2(33) of Customs Act, 1962 and such goods become liable for confiscation under Section 113(d) of Customs Act, 1962 as export contrary to prohibition imposed under such law.

5. Worldwide, it has been recognized that Customs play a very important role in entire "compliance and enforcement chain". Therefore, it has been decided to constitute an "Environment Protection Unit (EPU)" at JNCH to further enhance and harmonize the efforts for effective action and better results in aforesaid direction as well as to develop expertise and specialisation in this area. It aims to augment the efforts towards prohibiting export or import of prohibited goods and to supplement the effort of other authorities or department dealing with implementation of Environment Protection Act.

5.1 Environment Protection Unit (EPU) will function in Nhava Sheva-III Commissionerate as part of SIIB-Imports and will co-ordinate with other Commissionerates of JNCH.

6. The objective and charter of function of Environment Protection Unit (EPU) will be as under:

Objective: To develop expertise and specialization in environmental laws and their effective enforcement in JNCH focus on "Green Customs"

Charter of Functions:

- To collate a comprehensive data base on all environmental laws to be enforced by Customs and International conventions on the subject.
- To clearly identify the role of Customs officers in their implementation.
- To develop expertise in enforcement through techniques ranging from risk-profiling, scanning and examination of goods to detect violations of these laws.
- To engage in inter agency coordination for enhanced interdiction.
- To compile a data base on the nature of offences detected and the modus operandi used.
- To develop Standard Operating Procedures for dealing with violations, including the right to return the goods to the exporting country.
- To compile comprehensive offence database for better risk management and enforcement and sharing the same with other related agencies.

7. Any relevant issues or representations or suggestions may be brought to the notice of Additional Commissioner in charge of NS-III [SIIB (Import)] or Deputy / Assistant Commissioner in charge of NS-III [SIIB (Import)] by email (email address: siibimportjnch@gmail.com) and phone no. 022-27244986, 022-27244881.

8. Difficulties, if any, in functioning of EPU shall be brought to notice of Deputy / Assistant Commissioner in charge of Appraising Main (Import) through email /

phones (email address: appraisingmain.jnch@gov.in , Phone No : 022-27244959, 022-27244979).

9. Action to be taken in terms of decisions taken in this Public Notice should be considered as standing order for the purpose of officers and staff.

Sd/-
(SUBHASH AGRAWAL)
COMMISSIONER OF CUSTOMS (NS-III)

To:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH for information.
2. The Commissioner of Customs, NS-G/ NS-I / NS-II / NS-III/ NS-IV / NS-V, JNCH
3. All Additional / Joint Commissioner of Customs, JNCH, Nhava Sheva
4. All Deputy / Assistant Commissioner of Customs, JNCH, Nhava Sheva
5. All Sections / Groups of NS-G, NS-I, NS-II / NS-III/ NS-IV / NS-V, JNCH
6. AC/DC, EDI for uploading on JNCH website immediately.
7. Terminal Operators [JNPCT, GTI, NSICT / NSIGT, BMCT]
8. Representative of CSLA, CFSAI, BCBA, FIEO for information and circulation among their members and other importers for information.