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**THE PROSPECTS FOR OFFICIALLY SANCTIONED  
PRIVATE SECTOR PARTICIPATION IN PAK-AFGHAN  
FERTILIZER AND MACHINERY TRADE AND TRANSPORT**

prepared under

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EDC (Pvt.) Limited  
Enterprise & Development Consulting

40-A Kaghan Road, F-8/4 (P.O. Box 2389) Islamabad, Pakistan  
Tel: (92-51) 852863; Fax: (92-51) 822313; Tlx: 5811 NAIBA PK

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#### **ANNEXURES**

1. Responses to Questions Raised by  
Mr Rick Gilmore, ASSP Consultant
2. General Terms of References for the Study
3. Correspondence between EDC and CBR

#### **SEPARATELY BOUND ATTACHMENT:**

Relevant Extracts from The Export Policy Order, 1990, and Customs Act, 1969, the latter including the chapter Declaration of Ports, Airports, Land Customs Stations, Warehousing; Trans-shipment; and Transit Trade.

## List of Abbreviations

ASSP	Afghanistan Agricultural Sector Support Project
CBR	Central Board of Revenue
CCI&E	Chief Controller Imports and Exports
CIF	Cost, Insurance and Freight
DAP	Di-Ammonium Phosphate Fertilizer
FID	Fertilizer Imports Department
FOB	Free on Board
GOP	Government of Pakistan
IRC	International Red Cross
KMC	Karachi Municipal Corporation
L/C	Letter of Credit
MTL	Millat Tractors Limited
NLC	National Logistics Cell
SRO	Statutory Revenue Order
TRP	Temporary Registration - Peshawer
TORs	Terms of Reference
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund

## Background to the Assignment

Development Alternatives Inc. requested EDC on September 11, 1990 to provide the Afghan ASSP with an update on the Government of Pakistan's (GOP) regulatory framework regarding imports and transit trade. EDC's Tariq Rahim Anwar visited the project office in Peshawar on September 26 and discussed the scope of work with Mr David Garner and Mr Denny Freed.

As requested by Mr Garner, EDC submitted the draft TORs for the study on October 2, 1991 to DAI. (Annex 2). On October 4, Mr Garner informed the consultant that the TORs were generally suitable and appropriate, and that there might be some adjustments/amendments down the line.

Initial work on this assignment started on October 9 when Tariq Rahim Anwar visited Karachi to join Messrs. Dennis Freed and John Soden who were there to meet with representatives of the Afghan consortium planning to import 10,000 metric tons of fertilizer. The consultant also met with the managing partners of International Forwarding Agency to discuss the clearing and transportation of fertilizer from Karachi to the border towns of Chaman and Peshawar.

On returning to Islamabad, the consultant met with the Member (Customs) of the Central Board of Revenue (CBR), who asked the consultant to see him after the October 1990 general elections. On October 31 the consultant met Member (Customs) and submitted an application to obtain the required information (Annex 3). The application was marked to Ms Adeela Rehman, Second Secretary Customs, dealing with bonded warehouses. During the first week of November, the consultant met with different Second Secretaries at the CBR, each dealing with law and procedures, bonded warehouses, budget, tariffs, customs exemptions and transit trade. However, they all declined to give the information verbally unless the file was marked to them.

In the third week of November, Mr Richard Gilmore of GIC, an ASSP consultant, sent a number of questions to augment the TORs. The consultant's responses to his questions are included in this report at Annex 1. Mr Gilmore particularly emphasized the importance of his questions on fertilizer issues.

During the period December 1990 to March 1991, CBR did not respond to the consultant's request for information despite several visits to that office. On the other hand, officials at the Ministry of Commerce asked the consultant to obtain the required information from CBR.

In March 1991 a new Second Secretary was posted in the warehousing section of CBR who asked for some time before he could

respond to our request. However, in April 1991 he informed the consultant to look for the required information in the Customs Regulations given in the Statutory Revenue Orders (SROs) which are issued by the Federal Government from time to time, and the Customs Act of 1969. Similarly, the Chief Controller Imports and Exports (CCI&E) asked the consultant to refer to the GOP's standard import/export policies.

The experience of this assignment is that Government officials will not provide policy-related answers to the kind of questions in which ASSP is most interested. Experience and discussions strongly suggest that responses from the Government should be elicited on specific requests for action or 'special case exemptions' required for the implementation of various ASSP initiatives.

The information and recommendations provided in this report are based on informal opinions of GOP officials, discussions with knowledgeable private sector parties, and publications on GOP laws and regulations. Following the TORs, "two short but comprehensive reports" are contained in this volume, one each on fertilizer and agricultural machinery. The contents of the two reports follow the specific TORs for each subject, although additional information is also provided. A separately bound attachment to this report reproduces relevant extracts from The Export Policy Order, 1990, and the Customs Act, 1969, the latter including the chapters on Declaration of Ports, Airports, Land Customs Stations, . Etc.; Warehousing; Trans-shipment; and Transit Trade.

**Report No. 1**

**On  
Fertilizer  
Imports**

## **1.1 The "Standard" Policy**

The GOP imports fertilizer (including DAP) through the Pakistani indentors of international fertilizer companies. According to our discussions with importers and indentors of fertilizers and officials of FID, the current GOP policy to route fertilizer imports through the FID has the following rationale:

1. There are no import duties or other surcharges on fertilizer imports; and,
2. Fertilizer sale prices are subsidized by GOP.

Given the importance of fertilizer to Pakistan's agriculture, GOP wants to have exclusive control over its imports rather than letting the private sector determine its supply, demand or prices. In addition, it should be noted that fertilizer is not available, under the current regulations, for re-export to any country.

The GOP invites sealed tenders from the indentors for the import of a specific quantity of fertilizer. The prices have to be quoted on fob basis (in metric tons); in addition, the tenders have to specify the country of origin and the shipping charges. This is important because all fertilizer imports are made under various barter agreements with different countries. Most of the DAP is imported either from Jordan or the U.S.A. The tenders are opened at a specified date at the Ministry of Agriculture (FID), and then the best and final prices are negotiated with prospective importers. The FID awards the tender to the most competitive firm (in some cases contracts for part shipments are awarded to more than one indenting firm).

Once the fertilizer arrives at Karachi port, the GOP arranges for its clearance/transportation to various destinations in the four provinces. The various steps for clearance and transportation are described in the following sections:

## **1.2 Steps Involved in the Standard Procedure**

According to CBR officials, the following steps will be required for import of DAP:

1. Invitation for bids by the FID of the Ministry of Food, Agriculture and Co-operatives for a specified quantity (quotations on fob and CIF basis). This is explained above in Section 1.1.
2. Submission, evaluation and award of contract for



importing the fertilizer to the lowest bidding private sector firm. Sometimes, different firms are awarded the contract for part-shipment.

3. Opening of an L/C by the winning firm(s) within a period specified in the Public Notice issued by the CCI&E.<sup>1</sup> An irrevocable L/C has to be opened with a scheduled bank in Pakistan. The bank is, it may be noted, empowered to extend or revalidate the established L/C within its validity period.
4. Import/shipment of fertilizer from the country of origin. As noted earlier, most of the DAP currently originates from Jordan or the U.S.A.
5. Filing of bill of entry for warehousing. This shall be required if the shipment has to be placed in a warehouse as explained in Section 1.6.
6. Clearance at port and transportation to the various fertilizer depots. The fertilizer is stored in depots all over the country owned by the National Fertilizer Corporation (NFC) and other private sector producers of urea fertilizer including Exxon and Dawood Hercules.
7. An export-cum-import permit for re-export to Afghanistan which is issued by the Chief Controller Imports and Exports<sup>2</sup>.

### **1.3 General Issues and Problem Areas for ASSP**

As indicated by the above steps, the general issues and problem areas for the Afghanistan ASSP exist because of the absence of any provision in the GOP regulations for DAP imports/re-export by the private sector. In summary, the following major problems have been identified after discussions with GOP and indentors, and a review of various CCI&E and CBR regulations:

- i) An exemption from the CBR would be needed to seek permission to import and re-export DAP fertilizer. According to CBR officials, unless there is an intervention at a high level on

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<sup>1</sup> This is in case of imports under barter only; for licenses against cash, loans or credits, the L/C has to be opened within a period of one hundred and eighty days.

<sup>2</sup> According to CBR officials, this permit will be required if the fertilizer is to be re-exported to Afghanistan.

behalf of ASSP, exemption will not be granted under normal circumstances because:

1. The GOP does not want to formalize any trade with Afghanistan (a foreign policy issue); and,
  2. The ASSP plans to store the fertilizer in depots at the borders for an unspecified period of time. As a result, and in case of an increase in the international prices of fertilizer, the GOP fears that the DAP may actually be dumped in the Pakistani market instead of going to Afghanistan.
- ii) A question was raised whether or not ASSP intends to have a subsidy on the fertilizer. If it does not, an exemption would be required from the CBR. However, if a subsidy is sought from the GOP, then the shipment may not be available for re-export under the current regulations.
- iii) The timely availability of Railway wagons for transportation of DAP from Karachi port to the border depots is very doubtful.

#### **1.4 Formalities Required for Clearance of Shipment at the Karachi Port**

Once the shipment has arrived at the Karachi Port, a Bill of Entry will be made. This will indicate all the relevant information regarding the imported goods including a Certificate of Origin, price list and packing size.

A Pro-forma Invoice will be made indicating the C&F value and the quantity of imported goods.

A Quarantine Certificate will be required before the goods are removed from the port area.

With all the documentation taken care of, the goods may be either removed from the vessel and stored temporarily, or loaded directly on the transport for up-country movement.

#### **1.5 Octroi and Other Taxes Payable During Transportation from Karachi to the Borders**

Generally, all goods (including fertilizer) are exempt from payment of all octroi and other taxes payable during transportation. However, ASSP will need to pay the following taxes

in case the fertilizer is transported by road to the border destinations:

1. Karachi Dock Labor Board Cess, payable before the shipment is removed from the port, at the rate of Rs 5.20 per metric ton. No exemption is allowed on this Cess.
2. Octroi needs to be paid to Karachi Municipal Corporation. In case the goods in question are meant for a place other than the KMC limits, KMC may issue an Exemption Certificate, only if it is satisfied that the final destination of the goods is outside the KMC limits.

## 1.6 Requirements for Bonded Warehouses

### General Policy and SROs

Bonded warehouses are governed by sections 84 to 119 of the Customs Act, 1969 and related Customs SROs (cited below). In general the use of bonded warehouses is applicable only when dutiable goods have entered the country and assessed under section 80 of the Customs Act.

The facility of bonded warehouses, according to the Customs Act, is provided for the following users:

1. Importers of raw material etc. (who can have a bonded warehouse at their factory premises) who do not wish to pay the entire import duties on the shipment at Karachi;
2. Operators of commercial bonded warehouses who store the goods for the consumption/purchase of the diplomatic community including the privileged foreign nationals who have been exempted from payment of customs duties by the CBR; and,
3. Goods intended for transit, and placed in designated 'customs areas'.

Following are the relevant SROs issued by GOP to govern the use of bonded warehouses:

- o SRO 263(I)/70, dated 29th October, 1970. This SRO prescribes the procedure for filing an application for leave to deposit goods in a warehouse.
- o SRO 131(I)/71, dated 20th April, 1971. A pro forma for the warehousing bond is prescribed under this SRO.

- o SRO 1247(I)/82, dated 16th November, 1982. The prevailing rates of warehouse storage fees per week are specified under this SRO.

### Procedural Steps

Generally, the following steps are involved in the opening and operation of bonded warehouses:

1. The permission to open a warehouse is granted by the collector of customs in case the application is in line with current SROs and no exemptions are required from the CBR;
2. A secured and covered godown/store is provided by the applicant, which has to meet the standard CBR requirements;
3. The salary and other living costs of a godown keeper appointed by the customs department are to be borne by the operator of the warehouse, and an undertaking to meet such expenses is needed;
4. The goods imported are kept in the warehouse under the customs seal, and only the customs godown keeper is authorized to open the warehouse; and,
5. The required quantity may only be taken out from the warehouse after payment of all customs duties and taxes.

### Issues and Problem Areas

It appears that the issue of bonded warehouses requires decisions and actions according to the following options:

1. In case ASSP requests a subsidy on imported fertilizer, GOP will insist on bonding the shipment at the border depots. According to various SRO notifications, such warehouses can be opened in Chaman and Peshawar Districts.
2. In case no subsidy is requested by ASSP, the shipment will have to be placed in a designated 'customs area'<sup>3</sup> which is in Peshawar District. As such, the question of

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<sup>3</sup> All goods in transit and meant for re-export have to be kept in the designated customs areas of the GOP, as stipulated in various SROs.

having depots at the border areas (tribal areas) will have to be put to the CBR in the form of an application for a specific exemption.

**1.7 Existing Transit Facilities  
Provided by GOP to the Afghan Government**

**Articles of the Pak-Afghan Treaty**

Since the end of 1979 GOP has suspended all transit trade facilities to the Afghan Government. For purposes of reference, however, and in view of the questions raised in the original and supplementary TORs, the main articles of the treaty between the Pakistan and Afghan Governments are given below.<sup>4</sup>

**Article I:**

The Contracting Parties undertake in accordance with the provisions of this Agreement to grant and guarantee to each other the freedom of transit to and from their territories.

No distinction shall be made which is based on the flag of the vessels, the place of origin, departure, entry, exit or destination or any other circumstances relating to the ownership of goods, of vessels or of other means of transport.

**Article II:**

Goods including baggage, and vessels and other means of transport shall be deemed to be in transit across the territory of Contracting Party, when the passage across such territory with or without transshipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the Contracting Party across whose territory the traffic passes. Traffic of this nature is termed in this Agreement "Traffic in Transit".

**Article III:**

The transit routes shall be:

1. Peshawar - Torkham and vice versa.
2. Chaman - Spin Boldak and vice versa.

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<sup>4</sup> Annexures to the treaty are reproduced in a separately bound attachment to this report, under Chapter XIII 'Transit Trade' from the Customs Act, 1969.

Additional routes may be agreed between the Contracting Parties from time to time. Goods moving via these routes shall be entered at the proper Customs Post prescribed by each Party. Adequate transit and other facilities shall be provided by the contracting Party concerned at these posts.

**Article IV:**

No custom duties, taxes, dues, or charges of any kind whether national, provincial or municipal regardless of their names and purposes, shall be levied on traffic in transit except charge for transportation of those commensurate with the administrative expenses entailed by traffic in transit or with the cost of services rendered.

With a view to achieving simplification of existing Customs practices and procedures, the Contracting Parties agree to adopt at points of entry and exit the procedures laid down in the Annex to this Agreement.

**Article V:**

Without prejudice to the generality of the provisions contained in Article III, the Government of the Islamic Republic of Pakistan shall earmark sheds and open spaces in Karachi Port Area, to be known as Afghan Transit Area, for the goods in transit to and from Afghanistan. For hazardous and awkward goods separate arrangements for storage will be made as indicated in the Annex.

**Article VI:**

The Two Contracting Parties, recognizing the importance of the Kabul-Torkham-Peshawar transit route, have decided to examine all matters pertinent to the development of this route, including further consideration of the extension of the railway from Landi-Khana to Torkham.

**Article VII:**

The Government of the Islamic Republic of Pakistan undertake to meet in full the requirement of wagons for transit traffic on both Karachi-Spin Boldak and Peshawar-Karachi routes.

**Article VIII:**

Each Contracting Party shall appoint Liaison Officers to look into the working of this Agreement, and to refer, for expeditious solution, to the appropriate authorities of their own country and to Liaison Officer of the other country, any question arising from the operation of this Agreement. The Liaison officers will meet as often as necessary and in any case not less than once in six

months and the Contracting Parties shall provide them with the necessary facilities.

**Article IX:**

The Contracting Parties agree that railway freight, port and other dues shall be subject to the most sympathetic consideration and shall be no less favorable than those imposed by either Party on goods owned by its own nationals.

**Article X:**

Nothing in this Agreement shall be construed to prevent the adoption and enforcement by either Party of measures necessary to protect public morals, human, animal or plant life or health and for the security of its own territory.

**Article XI:**

The Contracting Parties shall meet and consult each other once a year to review the working of this Agreement.

**Article XII:**

The Contracting Parties agree to resolve any difference relating to the interpretation of this Agreement by negotiation, and in the event of failure to reach a settlement, to refer the matter to an arbitrator acceptable to both Parties, whose decision shall be binding.

**Article XIII:**

Nothing in this Agreement or its Annexes will affect in any way the political stand of the two countries or the political difference existing between them, and the Contracting Parties fully reserve their rights with regard to these subjects.

**Article XIV:**

This Agreement shall be ratified and the instruments of Ratification shall be exchanged at Rawalpindi. The Agreement shall come into force from the date of the exchange of the Instruments of Ratification and shall remain in force for five years from the date it comes into force. Unless notice or termination is given in writing by either Contracting Party to the other six months before expiration of the five years' period the Agreement shall be automatically renewed for a further period of five years. It can therefore be terminated by either Party at any time provided six months notice of termination is given by either Party.

## Other GOP Transit Trade Regulations

Other transit trade regulations of the GOP are covered under sections 126 to 138 of the Customs Act, 1969. In addition, relevant SROs relating to transit trade are as follows:

i) SRO 1332(I)/73, dated 17th September, 1973.

This SRO specifies the rules for transshipment of goods by the Pakistan railways or another means of conveyance approved by the CBR. Besides other procedural matters, the SRO addresses the issues of sealing and security of transport units and documentation required.

ii) SRO 185(I)/74, dated 14th February, 1974.

This SRO is titled Customs Export Transit Rules, 1974, and deals with all related procedural issues.

iii) SRO 125(I)/83, dated 12th February, 1983.

This SRO specifies the restricted goods which cannot be transshipped across the Pakistan borders (the list of restricted items does not include fertilizer or agriculture machinery).

### 1.8 Recommendations

Based on a review of available literature and discussions with GOP officials, fertilizer importers and transporters, it is recommended that DAI/ASSP:

i) Review the CBR's exemption granted to UNICEF, UNHCR and IRC for goods supplied to Afghan refugees under SRO No. SRO 951(I)/87, dated 8th December, 1987. The consultants were informally informed by CBR that ASSP can obtain an exemption for the proposed import of DAP on similar lines, provided that the matter is taken up at a very high level in the GOP;

ii) Apply for an exemption to the CBR to include containerized trucks (being operated by the NLC and private transporters) in the definition of 'carrier' of the Customs Act, which presently includes Pakistan Railways only. This is important because the availability of railway wagons in Karachi is a very acute problem, and a delay in transportation may result in incurring exorbitant demurrage charges at the Karachi port; and,

iii) Import the fertilizer in bulk (instead of importing bagged fertilizer) in order to benefit from the cost difference. Under the current rules, bags for fertilizer may be imported free of any



duties with the fertilizer shipment. The fertilizer shipment can be put in bags at Karachi conveniently since the port has the necessary suction machinery required for 'bagging' the bulk fertilizer.

**Report No. 2**

**On  
Agricultural  
Machinery  
and  
Equipment**

## 2.1 Overall Regulatory Environment

In the context of ASSP, the proposed program involving agricultural machinery and implements can be categorized as follows:

1. Tractors - imported or locally manufactured;
2. Agricultural implements - locally manufactured; and,
3. Sprayers and similar imported machinery.

A brief discussion of the regulatory environment for each of these categories is given below.

### Tractors

According to the Marketing Manager of Millat Tractors Ltd (a Public Sector organization manufacturing Massey Ferguson tractors), the proposed DAI plan seems to be workable, provided that the project can formalize exports to Afghanistan. The main issue, according to him, shall be the currency of payment. As long as the payment is not made in foreign currency by the Afghans, the GOP shall not formalize the exports. In other words, with rupee payments only the existing informal channels may be used by the ASSP.

The tractor manufacturers meeting AID's source eligibility requirements are in the public sector - Millat and Al-Ghazi. The other private sector organizations, namely, Associated Engineering and Fecto Belarus, assemble Yugoslav and Russian tractors respectively.<sup>1</sup> The makers of Ford tractors, Allied Engineering, have discontinued service.

In case the project decides on importing the tractors, exemptions from GOP will be needed for import and re-export by the project. As in the case of fertilizer, there are no duties on import of tractors (of categories not manufactured/assembled in Pakistan) in 'completely knocked down' condition.

### Agricultural Implements

The manufacturer of agricultural implements is largely in the private sector. It is interesting to note that a number of private

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<sup>1</sup> Al-Ghazi has been offered to the private sector for sale recently.

sector manufacturers are generally involved in informal trade with Afghanistan. Initial discussions with them revealed that they are generally interested in the project provided due incentives (such as those listed in Section 2.5.) are offered to them.

The relevant SRO granting exemption from all customs duties on agricultural equipment is SRO 505(I)/88, dated 26th June, 1988.

### Sprayers

The sprayers will have to be imported, and exemptions from CBR will be required.

## 2.2 General Issues and Problem Areas for ASSP

The general issues are quite similar to the problems identified in Report No. 1. In other words, several specific exemptions from the CBR would be required to:

1. Seek import cum-export permits for specific items;
2. Obtain permission to bond the machinery in warehouses at the borders;
3. Seek permission from the Ministry of Finance and the State Bank of Pakistan to accept local currency in exchange for the machinery/equipment exported to Afghanistan;
4. The manufacturers (especially in the private sector) are only interested in the program if advance cash payments are made to them; and,
5. Leasing or rentals do not seem to be practical under the current circumstances.

## 2.3 Financial Mechanisms Available for Purchasing the Equipment

According to some manufacturers, either of the following three mechanisms are acceptable to them:

1. Leasing;
2. Rental; and,
3. Cash sale.

For the first two options, however, the manufacturers would require absolute bank guarantees from a scheduled bank on behalf of the project, since the machinery/implements would be shipped across the border.

Generally, leasing and rentals arrangements seem not to be practical because of the prevailing uncertain circumstances in Afghanistan. Even otherwise, it does not seem practical unless bank guarantees are provided to the manufacturers since the equipment will be across the border and re-possession by the owners in case of default will be impossible.<sup>2</sup>

#### 2.4 Description of L/Cs and the Steps Involved in Opening an L/C

##### Steps for Opening L/Cs

A general introduction to leasing and different types of L/Cs is given in Tariq Husain's consultancy report prepared for ASSP under the DAI/EDC subcontract Work Order Number 1. The steps and documentation required for opening Import L/C and Inland L/C are given below.

##### Opening an Import L/C:

1. Opening of account with the Bank, and an L/C application;
2. Obtaining the Category Passbook from the Chief Controller Import and Exports (CCI&E);
3. Obtaining Import License from CCI&E;
4. Submission of a duly attested pro forma invoice; and,
5. Having a valid insurance policy for the goods.

##### Opening an Inland L/C:

1. Submission of L/C application to the bank; and,
2. Submission of a duly attested proforma invoice, or order of consignment or indent.

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<sup>2</sup> One way around this would be for ASSP to guarantee repayment.

### Collateral Requirements

The collateral requirements are generally based on the approved facility from the bank, and vary from bank to bank. In addition, customer track record and the risks associated are also considered before collateral is specified. However, in general terms, the following collateral is required by the banks:

1. Mortgage on immovable property in favor of the bank;
2. Hypothecation of property and goods; and,
3. The collateral is fully secured by cash or equivalent (government securities etc.).

### 2.5 Dealership Networks Extending into Afghanistan

The private sector manufacturers are generally not interested in having a dealership network spread across the border. However, MTL is willing to appoint agent(s)/dealer(s) in Afghanistan, provided that ASSP offers certain guarantees mentioned in Section 3.2. In addition, MTL has also expressed willingness to train the Afghani technical and sales personnel in Pakistan at a suitable location near the borders.

### 2.6 Incentives Required to Stimulate Manufacturers

Discussions with MTL and private sector manufacturers in Faisalabad and Lahore revealed that the Pakistani manufacturers will be interested in the ASSP program if at least the following three incentives are offered to them:

1. Formal purchase orders issued (at least in the initial stages) by the ASSP;
2. Advance payment in cash along with the purchase order; and,
3. The program involves a high volume of tractors and implements trading across the border. It may be noted that the domestic market has a very high demand for agricultural machinery including tractors, and Pakistani manufacturers will be interested only if the ASSP program offers them promising prospects for Afghanistan.

## **2.7 Warehousing Arrangements**

There are no specific Customs laws or SROs guiding warehouse requirements in case of formal exports. The private sector manufacturers did not show any particular interest in warehouse facilities near the borders. MTL, however, proposed the following arrangements:

1. Stock the tractor/implements in the border area or anywhere near the border through a MTL agent/dealer, provided full payment is paid to the company at least in the initial stages of the program;
2. Facility of provision of a full range of tractors and implements at a short notice from MTL, Lahore;
3. After-sales service in Afghanistan through the Afghani agent or near the border through a local MTL agent/dealer, including a guarantee to provide spare parts; and
4. All arrangements from booking to delivery at the warehouse in Pakistan will be taken care of by MTL.

It should be noted that the current production capacity of MTL is 60 tractors per day, and therefore, the time lag between the booking and delivery time is a maximum of 30 days.

## **2.8 Insurance Types and Mechanisms Aimed at Lowering the Risk of Pakistani Manufacturers**

There are insurance policies providing full coverage against fire, accident, theft, etc. available for transportation from Karachi to the borders. Similarly, while the goods/equipment are kept in bonded warehouses at the border, insurance coverage is mandatory. However, currently there is no formal insurance available for goods transported across the border to Afghanistan.

## **2.9 Recommendations**

Based on the above observations and discussion, it is recommended that ASSP:

- i) Obtain specific exemptions from the CBR before proceeding with the program, in particular regarding:

1. Permission to import machinery and equipment for re-export;
  2. Transit facilities at the borders. The Afghan buyers cannot visit the customs warehouses in order to see/inspect the equipment. Therefore, an alternative arrangement shall have to be made with the CBR/GOP in case the sales depots are provided in Pakistan.
  3. Resolve the issue of the currency of payments with the State Bank of Pakistan.
- ii) Provide the private sector manufacturers the desired incentives, because the program cannot depend solely on MTL.



## **Annexures**

**Responses to Questions Raised  
by Mr Rick Gilmore, ASSP Consultant**

1. Identify the GOP export duty regulations, to include a list of those products that are assessed duties and their rate schedules; also a list of those products banned from export.

Answer:

The export duty regulations are governed by the trade policy of the GOP which is revised on an annual basis. These rates are prescribed in the First Schedule and the Second Schedule under section 18 of the Customs Act, 1969, and amended annually by the Federal Government. The Customs Tariffs provides the following information:

- o Customs imports tariff with sales tax on imports and local manufacture;
  - o Customs exports tariff; and,
  - o Export rebates.
2. Identify the GOP import requirements, i.e., customs duties, taxes etc. List import options and their respective regulations, requirements covering such items such as transit trade and counter-trade.

Answer:

The general import requirements are given as following:

- a. Obtaining of the Import License from the CCI&E; and,
  - b. Opening of an irrevocable L/C.
3. Is there a law on the books which exempts imports from any origin into Pakistan from any import or export duty provided the item is a re-export from Pakistan and that there has been a minimum of 10% value added to the item within Pakistan?

Answer:

- i) Exemptions can be given by the CBR on a case by case basis.
  - ii) Some traders have reported that they have extensively used the "10% value added" rule for importing goods into Pakistan, and then re-exporting them to Afghanistan.
  - iii) Since the promulgation of the Customs Act, 1969, several SROs have been issued by the CBR granting exemption of customs duties and sales tax on goods imported with a view to subsequent exportation, or on export of certain goods. SROs relating to agricultural products and chemicals are listed below:
    - o SRO 576(I)/74, dated 10th May, 1974.
    - o SRO 674(I)/80, dated 26th June, 1980.
    - o SRO 881(I)/80, dated 23rd August, 1980.
    - o SRO 461(I)/88, dated 26th June, 1988.
    - o SRO 818(I)/89, dated 9th August, 1989.
    - o SRO 576(I)/74, dated 10th May, 1974.
    - o SRO 640(I)/83, dated 18th June, 1983.
    - o SRO 481(I)/88, dated 26th June, 1988.
4. Also include an examination of government to government agreements that exist or changes contemplated between the GOP and both the USA and Afghanistan. How do these affect the private sector relative to transportation and trade?

Answer:

To the extent that we are aware of the Pak-Afghan trade and transit treaty, we already know the answer to this question. Attempts to elicit general policy statements from GOP are not likely to be successful (as indicated by experience to date).

Relevant SROs are cited below:

- o SRO 491(I)/88, dated 26th June, 1988.
- o SRO 492(I)/88, dated 26th June, 1988.

The relevant articles of the agreement<sup>3</sup> between the GOP and the Afghan Government for regulation of traffic in transit are given in Section 1.7 of the main report.

5. Is there a special regulation concerning the jurisdiction of foreign national (Afghan) versus Pakistani truckers? Are Afghan loaders legally allowed to load or off-load at Chaman or goods must be delivered/received by Afghan truckers within Afghanistan?

Answer:

Under the trade and transit treaty between Pakistan and Afghanistan, both Pakistani and Afghan truckers are allowed to load/off-load at Afghan and Pakistani border towns respectively. Presently, Afghan vehicles with Temporary Registration Numbers (TRP) given by the GOP can operate freely both in Pakistan and Afghanistan.

6. Provide information on the establishment and use of bonded warehouses.

Answer:

The bonded warehouses are governed by sections 84 to 119 of the Customs Act, 1969 and the related Customs SROs. In general the use of bonded warehouses is applicable only when dutiable goods have entered the country and assessed under section 80 of the Customs Act. Such warehouses can be opened in Chaman and Peshawar districts.

Other SROs issued by the GOP to govern the use of bonded warehouses are given as following:

- o SRO 263(I)/70, dated 29th October, 1970.
- o SRO 131(I)/71, dated 20th April, 1971.
- o SRO 1247(I)/82, dated 16th November, 1982.

Other details are provided in Section 1.6 of the main report.

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<sup>3</sup> This agreement is suspended currently

7. **Assess the impact of the recent hike in oil prices on prices of DAP fertilizer.**

Answer:

There has not been any major impact of the oil price increase on prices of DAP fertilizer. The August-September, 1990 (fob) prices of DAP in the international market were \$185.00 per metric ton. However, the price jumped to approximately \$200-205 per metric ton in January 1991. Rather than the hike in oil prices, the two most notable factors for the increase in DAP are:

- i) DAP production of Jordan (one of the biggest producers of DAP) was not available for exports (through the port of Aqaba) because of the situation in the Gulf. As such, this curtailment in supply led to a higher market price; and,
- ii) About one million tons of fertilizer were reportedly bought by Iran, China and India during this period. Therefore, a higher demand coupled with the above factor resulted in an increase in DAP prices.

However, the C&F prices of DAP in Pakistan increased by approximately \$2 per metric ton because of the oil prices hike and limited cargo availability in this region.

The following are the recent price trends of DAP:

<u>Period</u>	<u>Price, \$/metric ton</u>
December 1989	190-191
September 1990	185
February-March 1991	204-205

8. **Would the Pakistani Banking Council allow its member banks to accept letters of credit (L/C) issued by Afghani banks?**

Answer:

The Pakistan Banking Council does not allow its member banks to accept L/Cs issued by Afghani Banks, since all trade between the two countries is officially closed.

9. **If the answer to the above is negative, then what major international banks are correspondent banks of (i.e. have relations with) Kabul banks?**

Answer:

None of the international banks operating in Pakistan are correspondent banks of the Afghani banks. Therefore, the Pakistani banking channels cannot be used for trade with Afghanistan under the current circumstances.<sup>4</sup>

<sup>4</sup>Source: Discussions with Bank of America officials.

General Terms of Reference for the Study

The Afghan ASSP is arranging for off-shore fertilizer imports through a consortium of Afghan Traders; it also plans to facilitate trade of agricultural equipment and machinery. The general purpose of this short term assignment is to provide ASSP with a detailed account of the regulatory environment of the GOP and the provincial governments pertaining to (a) fertilizer imports, transit facilities, custom regulations, and warehousing at the Afghan border; and (b) the potentials for Pakistani agricultural equipment and machinery utilization by Afghans across the border.

The consultant will work with Mr John Soden and Mr Denny Freed for a period of one month or more to compile information under the following categories:

- i) Detailed information that would be needed by ASSP in terms of identification of the fertilizer import process, import regulations, octroi taxes, and bonded warehouse requirements, and identification of major road blocks at each stage.
- ii) Detailed information on agricultural equipment and machinery that is needed in terms of letters of credit, manufacturer incentives, dealership networks, insurance types, etc.
- iii) Provide recommendations to streamline the systems described in i) and ii).
- iv) Assist ASSP senior staff in identifying government offices and officers with whom high level contacts need to be made to overcome existing and anticipated road blocks.

The consultant will not be expected to negotiate with or recommend specific banks or equipment manufacturers, but he will provide sufficiently detailed information for selection and negotiation by ASSP.

Timing and Duration

The consultant is expected to spend at least one month on this assignment, starting o/a October 07, 1990. If, at the end of that month, ASSP requires additional information on the subject of this assignment (or related subjects), it may renew the assignment for another month or part thereof.

### Review of Documents

The consultant is expected to review the following documents at the time of commencing his assignment:

- i) Consultancy report by Tariq Husain.
- ii) Strategy and Plan of Work of ASSP.
- iii) Consultancy report by Roger Poulin.
- iv) TDY report by Denny Freed.
- v) Any other reports and papers recommended by the Chief of Party of ASSP or his designee.

### Meetings and Visits

The consultant will meet with:

- i) All project staff indicated by the COP or designee, including but not limited to Mr David Garner, Mr John Soden and Mr Denny Freed.
- ii) Concerned GOP officials in FDFI and CBR in Islamabad and Karachi.
- iii) Bankers dealing in stand-by LCs in Lahore, Rawalpindi and Peshawar.
- iv) Management of selected few equipment manufacturers.

### Reports

It is expected that the consultant will, at a minimum, prepare two short but comprehensive reports, providing information on fertilizers and agricultural equipment and machinery. The contents of the reports will include the following items:

#### On Fertilizer Imports

- i) List all the steps involved in the import of fertilizers to Pakistan.



- ii) Required formalities for clearance of shipment at the Karachi Port.
- iii) Information on the octroi and other taxes needed to be paid during transportation from Karachi to the borders.
- iv) Information on the requirements for bonded warehouses.
- v) Existing transit facilities provided by the GOP for the Afghan Government.
- vi) Recommendations.
- vii) Any other information requested by the COP.

On Agricultural Machinery and Equipment

- i) Overall regulatory environment.
- ii) Possible financial mechanisms available for purchasing the equipment.
- iii) Description of the variety of available LCs and the steps involved in opening an LC.
- iv) Possible dealership networks extending into Afghanistan.
- v) Incentives required to stimulate manufacturers.
- vi) Warehousing arrangements.
- vii) Insurance types and mechanisms aimed to lower the risk of Pakistani manufacturers.
- viii) Recommendations.
- ix) Any other information requested by the COP.

Correspondence between EDC and CBR

GOVERNMENT OF PAKISTAN  
CENTRAL BOARD OF REVENUE

C.No.783-TR/90. Islamabad the 22nd November, 1990.

From: Ms. Adila Rehman,  
Second Secretary.

To ✓ /s. Development Research and Management Services,  
40-A, Reghan Road, F-8/4,  
P.O.Box No.2389,  
Islamabad.

SUB: USAID/REF'S AFGHANISTAN AGRICULTURE SECTOR SUPPORT PROJECT.

Kindly refer to your letter No. nil dated 31.10.1990.  
You are requested to appear personally in connection with  
certain clarifications required regarding the subject project.

*Adila Rehman*

( Adila Rehman )  
Second Secretary.

# DRMS (Pvt.) Limited

Development Research and Management Services

D.A. Kaghan Road, F 8/4, P.O. Box 2389, Islamabad, Pakistan.

tel: (92-51) 852863 Fax: (92-51) 822313 Telex: 58811 NAIBA PK and 5945 CTOIB PK

October 31, 1990

The Member Customs  
Central Board of Revenue  
Islamabad

Subject: USAID/Rep's Afghanistan Agriculture Sector Support Project

Sir,

The United States Agency for International Development's Representative Office for Afghanistan (AID/Rep) plans to initiate various steps to facilitate trade between Afghanistan and Pakistan under the above mentioned project. To begin with, the following two major activities are proposed:

1. Import of approximately 22,000 to 25,000 metric tonnes of DAP fertilizer funded by the project and a consortium of Afghan traders into Pakistan; storage in warehouses at the Pakistan - Afghanistan borders in Baluchistan and N.W.F.P; and, subsequently marketed (sold) in Afghanistan through dealers across the borders.
2. Facilitation of export of agricultural farm machinery and tractors manufactured/assembled in Pakistan to Afghanistan. The proposed arrangement is to have the products (tractors and other machinery) for display in various border sales depots, from where they will be marketed into Afghanistan through Afghan dealership networks.

We, as consultants to the main contractor of the project, would be grateful if you can very kindly provide us the regulations of the Government of Pakistan governing the above issues, and highlight the rules (if there are any) which would prohibit such transactions.

We greatly appreciate your cooperation in this regard.

Thanking you, I remain,

Yours faithfully,

*Tariq Rahim Anwar*  
Tariq Rahim Anwar  
Programme Manager

# LEGAL ANNEX

## RELEVANT EXTRACTS

from  
THE CUSTOMS ACT, 1969

by  
NAJIB A. CHOUDHRY

CHAPTER III:	DECLARATION OF PORTS, AIRPORTS, LAND CUSTOMS-STATIONS, ETC.
CHAPTER XI:	WAREHOUSING
CHAPTER XII:	TRANSHIPMENT
CHAPTER XIII:	TRANSIT TRADE

## CHAPTER III

### DECLARATION OF PORTS, AIR- PORTS, LAND CUSTOMS- STATIONS, ETC.

**9** Declaration of customs-ports, customs-airports, etc.--The Board may, by notification in the official Gazette, declare--

- (a) the places which alone shall be customs-ports or customs-airports for the clearance of goods of any class of goods imported or to be exported;
- (b) the places which alone shall be land customs stations for the clearance of goods or any class of goods imported or to be exported by land or inland waterways;
- (c) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland waterways into or out of Pakistan or to or from any land customs station or to or from any land frontier;
- (d) the places which alone shall be ports for the carrying on of coastal trade with any specific customs-ports in Pakistan; and
- (e) what shall for the purposes of this Act be deemed to be a customs-house and the limits thereof.

#### Legal Reference

Substituted for the original clause (a) by the Finance Act, 1973. The original clause (a) was as under:--

- (a) The ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and loading of goods for export or any class of such goods;

PTCL 1987 St. 204 or see page 612 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication.

Specification of limits of Customs Air Port, Lahore.—See Notification No. S.R.O. 1135(I)/86, dated 30th December, 1986, reported as PTCL 1987 St. 205(i).

**(11)** Power to declare warehousing stations.—The Board may, by notification in the official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

#### NOTES

This section corresponds to Section 14 of the Sea Customs Act. This section now permits establishment of warehouses in the interior and at Land Customs-station, thus extending warehousing facilities in the interior and also in respect of the goods imported by land.

Warehousing Stations.—The Central Board of Revenue under Notification No. S.R.O 111(I)/83, dated 12th February, 1983 as amended from time to time has declared the following places to be warehousing stations at which alone public or private warehouses can be appointed or licensed, as the case may be—

S. No.	Place
1	2
A	1. Karachi Division.
	2. Gaddani (District Lasbella).
	3. Port Muhammad Bin Qasim.
B.	1. Hyderabad City (Municipal Limits and Hyderabad Cantonment).
	2. Kotri Taluka (District Dadu).
	3. District Sukkar
	4. District Thatta.
	5. District Dadu.
	6. District Badin.
	Moro District Nawabshah.

1	
8.	Tando Ad
9.	District Sh
10	District Jac
11	District Th
C.	1. Quotta C Cantonmen
	2. Village Bar
	3. Gwadur Ci
	4. Chamman.
	5. Moza Path
	6. Moza Pirka
	7. Moza Sakri
	8. Samdak Di
D.	1. Peshawar E
	2. Sakhkot (f
	3. District No
	4. Bannu, Ci Cantonmen
	5. Mardan C Cantonmen
	6. Gilgit.
	6. District Kol
	7. Haripur Tel
E.	1. Rawalpindi Cantonmen
	2. Islamabad (
	3. Mandra To
	4. Kala Village
	5. Taxila (Dist

	1	2
	8.	Tando Adam (District Sanghar).
	9.	District Shikarpur.
	10.	District Jacobabad.
	11.	District Tharparker.
C.	1.	Quetta City (Municipal Limits and Quetta Cantonment).
	2.	Village Baroot (District Lasbella).
	3.	Gwadur City (District Mckran).
	4.	Chamman.
	5.	Moza Pathera District Lasbella.
	6.	Moza Pirkas District Lasbella.
	7.	Moza Sakrah District Lasbella.
	8.	Samdak District Chagai.
D.	1.	Peshawar District.
	2.	Sakhakot (Malakand Agency).
	3.	District Nowshera.
	4.	Bannu City (Municipal Limits and Bannu Cantonment).
	5.	Mardan City (Municipal Limits and Mardan Cantonment).
	6.	Gilgit.
	6-A	District Kohat.
	7.	Haripur Tehsil of District Abbotabad.
E.	1.	Rawalpindi City (Municipal Limits and Rawalpindi Cantonment).
	2.	Islamabad Capital Territory.
	3.	Mandra Town (District Rawalpindi).
	4.	Kala Village (District Jhelum).
	5.	Taxila (District Rawalpindi).

and Notifications,

Port, Lahore.—See  
1986, reported as

The Board may,  
are places to be  
warehouses may be  
used.

Customs Act. This  
Interior and at Land  
the interior and also  
of Revenue, under  
1983 as amended  
to be warehousing  
can be appointed or

Limits, and Hyderabad

# CHAPTER XI WAREHOUSING

**84 Application to warehouse.**--When any dutiable goods have been entered for warehousing and assessed under section 80, the owner of such goods may apply for leave to deposit the same in any warehouse appointed or licensed under this Act [:

Provided that the Collector of Customs, for reasons to be recorded in writing, may disallow the warehousing of goods or any class of goods or goods belonging to a particular importer.]

### Legal Reference

Substituted for the full stop and thereafter the proviso added by the Finance Act, 1990, with effect from 1st July, 1990.

### NOTES

**General.**--But for the substitution of the corresponding section, this section is verbatim reproduction of Section 90 of the Sea Customs Act, 1878. The proviso is added by the Finance Act, 1990. It empowers the Collector to disallow the warehousing of goods or any class of goods belonging to a particular importer. The order of disallowing must be recorded in writing after stating the reasons for disallowing such warehousing.

**Warehousing Scheme.**--In England in 1803 what is in effect the existing warehousing scheme was introduced. It was said of it that besides meeting the *axiom* that a tax, as far as possible, ought to be levied at the time and in the manner most convenient for its payment--it obviated forced sale of imported goods, broke down monopolies and augmented the carrying trade of the country.

A warehousing system also--

- (1) allows an importer to avoid--
  - (a) a lock up of capital (in the shape of duty) until he wants the goods for home market, and
  - (b) paying duty at all on goods for which he finds an export market;
- (2) permits greater stocks of goods to be carried in the country because the duty has not to be paid immediately, with a

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resultant steadying effect on supplies and prices, and the creation of reserve stocks for use in times of scarcity or national emergency;

- (3) tends to foster an entrepot trade by reason of these reserve stocks and freedom to trade on a duty-free basis;
- (4) through allowances for natural waste on certain goods subject to loss storage, avoids the loss in duty which otherwise would occur;
- (5) permits of operations in warehouse on goods and preparation for the export market without loss of duty on losses in operation;
- (6) gives importers the double security of a public warehousekeeper and the State as interested parties in the storage of goods on his behalf--the former for the rent, the later for the duty; and
- (7) avoids the more costly system of 'drawback' for goods which undergo no process of manufacture in the country.

In a reference to the warehousing system in their second Annual Report (1858) the British Board of Customs said:

"The Department has left to the trade itself the task of providing, subject to approval, suitable accommodation for the storing of bonded goods, and has contended itself with the security afforded by a careful system of accounts, by the penalty-bond of the occupier of the approved premises and by the second (Crown) set of locks, the keys of which are retained in the hands of its own officers".

**Warehousing under the Customs Act.**--Previously the law governing all transactions in connection with the placing of goods in a bonded warehouse and clearance therefrom, was laid down in Sections 90 to 126 of Chapter XI of the Sea Customs Act. Under the present Act it is found in Sections 84 to 119 of Chapter XI. Under this Chapter imported goods, after being entered and assessed under Section 80, can be placed in a bonded warehouse without payment of duty and allowed to remain there until they are cleared for home consumption on payment of duty, or exported therefrom to a foreign country or to another warehouse free of duty. The maximum period for which goods can be allowed to remain in a bonded warehouse, is six months which can be extended or reduced in special circumstances, by the Collector of Customs. The power of the Collector in extending the period is six months and this period can be extended further by the Central Board of Revenue. (*Further see Section 98*).

Warehousing facilities under the present Act, are available at warehousing-stations which are declared by the Central Board of Revenue as warehousing stations under Section 11. Under the old law warehousing was allowed at ports which were declared as warehousing ports under Section 14 of the Sea Customs Act. Under the new Act it is permissible to establish of warehouses in the interior of the country and at land Customs Stations thus extending warehousing facilities in the interior and also in respect of the goods imported by land or air. For warehousing stations see Notes under Section 11.

**Classes of warehouses.**--Warehouses are of two kinds, namely public warehouses and private warehouses.

**Warehousing stations.**--See Notes under Section 11.

**To entitle to the protection, procedure has to be followed.**--Sections 90 to 96 of the Sea Customs Act (*now Sections 84 to 90*) prescribe the procedure for warehousing of goods. The object of the Legislature in providing for the licensed warehouses was to give protection to the owner in certain cases and to entitle himself to this protection, the owner has to follow the procedure laid down for the purpose. The owner has to make an application under Section 90 (*now the present section*) for storage in a licensed warehouse after goods have been assessed to customs duty (51) *J.L.R. (1951) 1 Cal. 443*.

**Rules for bonding at warehousing stations of un-manufactured foreign Tobacco imported and intended to home consumption for the manufacture of Cigarettes, Cigars and manufactured Tobacco.**--See Notification No. S.R.O. 123 (1)/83, dated 12th February, 1983 reported as *PTCL 1983 St. 343 or page 408 of the Customs Rules and Notifications, 1970-89* by *Najib A. Choudhry - An allied publication*.

**85 Form of application.**--Every such application shall be in writing signed by the applicant, and shall be in such form as may be prescribed by the Board.

#### NOTES

**General.**--This section is a reproduction of Section 91 of the Sea Customs Act, 1878.

**Form of application for leave to deposit goods in a warehouse.**--For Form. (*See Notification No. S.R.O. 263(1)/70, dated 29th October, 1970 reproduced at page 36 of the Customs Rules and Notifications, 1970-89* by *Najib A. Choudhry - An allied publication*).

**86 Warehousing bond.**—(1) When any such application has been made in respect of any goods, the owner of the goods to which it relates shall execute a bond, binding himself in a penalty of twice the amount of the duty assessed under Section 80 or Section 81 or reassessed under Section 109 on such goods,—

- (a) to observe all the provisions of this Act and the rules in respect of such goods;
- (b) to pay on or before a date specified in a notice of demand all duties, rent and charges payable in respect of such goods together with <sup>1</sup>[surcharge] on the same from the date so specified at the rate of <sup>2</sup>[two percent per month] or such other rate as is for the time being fixed by the Board; and
- (c) to discharge all penalties incurred for violation of the provisions of this Act and the rules in respect of such goods.

(2) Every such bond shall be in such form as is from time to time prescribed by the Board, and shall relate to the goods or portion of the goods of one conveyance only.

(3) Notwithstanding anything in sub-section (2), for the purposes of sub-section (1), the Collector of Customs may permit any importer to enter into a general bond in such amount and subject to such conditions, limitations or restrictions as the Collector of Customs may determine in respect of the warehousing of goods to be imported by such importer within a specified period.

(4) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse or

warehousing station:

Provided that, where the whole of the goods or any part thereof are transferred to another person, the appropriate officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be deemed to be discharged to the extent to which the fresh bond has been executed by the transferee.

#### Legal References

1. Substituted for the word "interest" by the Finance Act, 1990 with effect from 1st July, 1990
2. Substituted for the words "eight percent per annum" by the Finance Ordinance, 1981 with effect from 25th June, 1981.

#### NOTES

**General.**--This section corresponds to Sections 92 and 109 of the Sea Customs Act with the following amendments:--

- (i) Provisions have been made to obtain bond equal to twice the amount of duty as assessed or reassessed provisionally.
- (ii) The rate of interest (*now surcharge*) has been increased to eight percent from six percent per annum. (*Now the rate of interest is 2% per month with effect from 25th June, 1981*).
- (iii) It will apply to all conveyances.
- (iv) Penalties will also be covered by the bond.
- (v) Under the old law there was no provision for permitting the warehousing of goods imported by land. Under the new provision goods imported by land will also be allowed to be warehoused.
- (vi) Sub-section (3) is new provision which will enable an importer to enter into a general bond for the warehousing of goods to be imported by him within a specified future period.
- (vii) It has been specifically provided that even if the goods are transferred to another person, the bond executed by the importer shall remain in force, but if the transferee executes a fresh bond in respect of the goods purchased by him, the bond executed by the transferor shall be deemed to be

discharged to the extent to which the fresh bond is executed by the transferee.

- (viii) The rate of eight percent further changed to 2% per month by the Finance Ordinance, 1981.

**Appropriate Officer.**--The Assistant Collector of Customs has been assigned the functions of the "appropriate officer" to act under this section. (See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984 reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Course of import when ends.**--The customs frontier is only a notional barrier. When once the goods have been landed at a customs port and have been subjected to tax in the sense that levy of tax has been made thereon even though the goods might not have been cleared for home consumption, it can be said that the goods might not have ceased to be part of the import stream and have notionally crossed the customs frontier. There is, therefore, no objection to the goods being brought into the country and mere fact that the importer for the purpose of his own convenience warehouses the goods and thereby postpones the payment of the duty levied on the goods cannot be taken to indicate that the goods are still beyond the customs frontier (*AIR 1962 Mad. 298*).

**Procedure on failure to pay duty.**--See Section 112 of the Customs Act.

**Place of execution of bond.**--Under Rule 1 of S.R.O. 69(1)/70, dated the 17th April, 1970, the importer is required to execute a bond to clear the raw material without payment of duty and the Board has prescribed a bond form *vide* S.R.O. 131(1)/71, dated the 20th April, 1971. A doubt has arisen about the place where the bond is to be filed and the officer by whom the same is to be accepted.

2. Board's ruling contained in letter C.No.4 (IMP) L&P/71, dated 11th April, 1972 is reproduced below:--

"The Collector of Customs at the port of entry of the goods should accept the bond as he would be the first officer to entertain as into Bond Bill of Entry. He should, however, send an attested copy of the bond accepted by him to the Collector of Customs in whose jurisdiction the goods are actually to be stored in a bonded warehouse and, therefore, both the Collectors should keep on informing each other about the clearances of the goods from time to time so that the entire process remains under constant watch of both". (*Customs General Order No. 13 of 1973 issued by C.B.R.*).

For Notifications referred to in the General Order see pages 12 and 63 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication.

Form of bond.--For Form see Notification No. S.R.O. 131(1)/71, dated the 20th April, 1971 reproduced at page 63 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication.

Rules for the manufacture of Cigarettes or Tobacco in bond from manufactured foreign Tobacco imported and warehoused.--See Notification No. S.R.O. 124(1)/83, dated 12th February, 1983 (reported as PTCL 1983 St. 346 or page 412 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**87. Forwarding of goods to warehouse.--**(1) When the provisions of Sections 85 and 86 have been complied with in respect of any goods, such goods shall be forwarded in charge of an officer of customs to the warehouse in which they are to be deposited.

(2) A pass shall be sent with the goods specifying the name of the bonder and the name or number of the importing conveyance, the marks, numbers and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited.

#### NOTES

General.--This section corresponds to Section 93 of the Sea Customs Act with slight modifications such as dividing the section into two subsections and specifying the name or number of the importing conveyance.

Offences and penalties.--See clause (49) of Section 156 (1) of the Act.

**88 Receipt of goods at warehouse.--**(1) On receipt of the goods, the pass shall be examined by the warehouse-keeper, and shall be returned to the appropriate officer.

(2) No package, butt, cask or other container shall be admitted into any warehouse unless it bears the marks and

numbers specified in, and otherwise corresponds with, the pass for its admission.

(3) If the goods be found to correspond with the pass, the warehouse-keeper shall certify to that effect on the pass, and the warehousing of such goods shall be deemed to have been completed.

(4) If the goods do not so corresponds, the fact shall be reported by the warehouse-keeper for the orders of the appropriate officer, and the goods shall either be returned to the custom-house in charge of an officer of customs or kept in deposit pending such orders as the warehouse-keeper deems most convenient.

(5) If the quantity or value of any goods has been incorrectly stated in the bill of entry, due to inadvertence or *bona fide* error, the error may be rectified at any time before the warehousing of the goods is completed, and not subsequently.

#### NOTES

**General.**--The corresponding section of the Sea Customs Act is 94. This section has been divided into 5 sub-sections. Sub-section (5) specifically provides for the rectification of the quantity or value of any goods incorrectly stated in the bill of entry only due to inadvertence or *bona fide* error.

**Amendment of the receipt of goods not permissible.**--Also see Section 205 of the Act. However rectification is allowable.

**Appropriate Officer.**--The Central Board of Revenue has assigned the functions of the "appropriate officer" under this section to the following officers of customs, namely--

- (i) Inspector/Preventive Officer/Examiner for the purpose of sub-section (1); and
- (ii) Deputy Superintendent/Inspector, Preventive Service/ Appraiser for the purpose of sub-section (4).

(See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

Offences and penalties.--See clause (50) of Section 156(1) of the Act.

**89 Goods how warehoused.**--Except as provided in section 94, all goods shall be warehoused in the packages, butts, casks or other containers in which they have been imported.

#### NOTES

**General.**--This section is reproduction of Section 95 of the Sea Customs Act.

**Owner's powers to deal with goods to be warehoused.**--See Section 94 *infra*.

**90 Warrant to be given when goods are warehoused.**--(1) Whenever any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper shall deliver a warrant signed by him as such to the person lodging the goods.

(2) Such warrant shall be in such form as the Board may from time to time prescribe, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

(3) The Board may, by notification in the official Gazette, exempt any class of goods from the operation of this section.

#### NOTES

**General.**--This section replaces Section 96 of the Sea Customs Act. The section has been divided into three sub-sections. Sub-section (3) empowers the Central Board of Revenue to exempt any class of goods from the operation of this section. Under the old law the provisions were only for salt and salted fish.



**91 Access of customs officer to private warehouse.--**The appropriate officer shall have access to any private warehouse licensed under this Act.

### NOTES

**General.--**This section embodies the same provisions as existed in Section 97 of the Sea Customs Act. It provides to the Customs Officer access to any private warehouse licensed under the Act.

**Search warrant.--**No warrant is needed for such access.

**Appropriate Officer.--**The Central Board of Revenue has assigned the functions of the "appropriate officer" under this section to Inspector/Preventive Officer/Examiner of Customs. (See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Entrustment of the functions of the officers of Customs to the Officers of the Valuation.--**The Central Board of Revenue has appointed in relation to the area of their posting the Valuation Officers, Appraisers, Principal Appraisers, Assistant Controllers, Deputy Controller and Controller, of Customs Valuation with said designation and has entrusted to them, subject to the Rules made under the Customs Act, the functions of an officer of Customs under Section 91 of the Customs Act, 1969. (See Notification No. S.R.O. 199(1)/82, reproduced at page 332 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Entrustment of functions of the Officers of Customs to the Officers of the Directorate of Inspection.--**The Central Board of Revenue has authorised the Director, Deputy Director, Assistant Directors, Principal Survey Officer and Survey Officer of the Directorate of Inspection (Customs and Central Excise) to exercise the powers and discharge the duties of the officers of Customs under Section 91 of the Customs Act, 1969. (See Notification No. S.R.O. 723(1)/84 = PTCL 1985 St. 19 or page 517 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Power of the Officers of the Directorate of Intelligence and Investigation (Customs and Excise).--**The Intelligence Officers, Senior Intelligence Officers, Principal Appraisers, Appraisers, Superintendents, Assistant Directors, Deputy, Directors, Director, Director General of the Directorate of Intelligence and Investigation (Customs and Excise) have been authorised to exercise powers and discharge duties of the Officers of Custom

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under the provisions of Section 91 of the Customs Act within their respective jurisdiction. (See Notification No. S.R.O. 388(1)/82, reproduced at page 339 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

Offences and penalties.--See clause (52) of Section 156(1) of the Act.

**92 Power to cause packages lodged in warehouse to be opened and examined.--**(1) The appropriate officer may at any time by order in writing direct that any goods or packages lodged in any warehouse shall be opened, weighed or otherwise examined; and, after any goods have been so opened, weighed or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

(2) When any goods have been so sealed and marked after examination, they shall not be again opened without the permission of the appropriate officer; and, when any such goods have been opened with such permission, the packages shall, if he thinks fit, be again sealed or marked.

#### NOTES

**General.--**This section corresponds to Section 98 of the Sea Customs Act.

**Appropriate Officer.--**The Central Board of Revenue has assigned the function of the "appropriate officer" under this section to Inspector/ Preventive Officer/Examiner of Customs. (See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Entrustment of the functions of the officers of Customs to the Officers of the Valuation.--**The Central Board of Revenue has appointed in relation to the area of their posting the Valuation Officers, Appraisers, Principal Appraisers, Assistant Controllers, Deputy Controller and Controller of Customs Valuation with said designation and has entrusted to them, subject to the Rules made under the Customs Act, the functions of an officer of Customs under Section 92 of the Customs Act, 1969. (See Notification No. S.R.O. 199(1)/82, reproduced at page 332 of the Customs

*Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).*

**Entrustment of functions of the Officers of Customs to the Officers of the Directorate of Inspection.**--The Central Board of Revenue has authorised the Director, Deputy Director, Assistant Directors, Principal Survey Officer and Survey Officer of the Directorate of Inspection (Customs and Central Excise) to exercise the powers and discharge the duties of the officers of Customs under Section 92 of the Customs Act, 1969. (See *Notification No. S.R.O. 723(1)/84 = PTCL 1985 St. 19 or page 517 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).*

**Powers of the Officers of the Directorate of Intelligence and Investigation (Customs and Excise).**--The Intelligence Officers, Senior Intelligence Officers, Principal Appraisers, Appraisers, Superintendents, Assistant Directors, Deputy, Directors, Director, Director General of the Directorate of Intelligence and Investigation (Customs and Excise) have been authorised to exercise powers and discharge duties of the Officers of Customs under the provisions of Section 92 of the Customs Act within their respective jurisdiction. (See *Notification No. S.R.O. 388(1)/82, reproduced at page 339 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).*

**Offences and penalties.**--See clause (55) of Section 156 (1) of the Act.

**93 Access of owners to warehoused goods.**--(1) Any owner of goods lodged in a warehouse shall, at any time within the hours of business, have access to his goods in the presence of an officer of customs, and an officer of customs shall, upon application for the purpose being made in writing to the appropriate officer, be deputed to accompany such owner.

(2) When an officer of customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall, subject to rules, be paid by such owner to the appropriate officer, and such sum shall, if the appropriate officer so directs, be paid in advance.

## NOTES

**General.**--This section substantially embodies the provisions of Section 99 of the Sea Customs Act.

**Appropriate Officer.**--The Deputy Superintendent/Inspector, Preventive Service/Appraiser of Customs has assigned the functions of the "appropriate officer" under this section. (See Notification No. S.R.O. 886(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 809 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication.

**Offences and penalties.**--See clause (54) of Section 156(1) of the Act.

**94 Owners' power to deal with warehoused goods.--(1)** With the sanction of the appropriate officer and on payment of such fees as may be prescribed by rules, the owner of any goods may, either before or after warehousing the same,--

- (a) separate damaged or deteriorated goods from the rest;
- (b) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;
- (c) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- (d) show the goods for sale; or
- (e) take such samples of goods as may be allowed by the appropriate officer with or without entry for home-consumption, and with or without payment of duty, except such as may eventually become payable on a deficiency of the original quantity.

(2) After any such goods have been so separated and repacked in proper or approved packages, the appropriate officer may, at the request of the owner of such goods, cause or

permit any refuse, damaged or surplus goods remaining after such separation or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

#### NOTES

**General.**--This section corresponds to Section 100 of the *Sel Customs Act*. Clause (d) in sub-section (1) is a new provision which permits the bonder to show his goods for sale to buyers.

**Goods how warehoused.**--See Section 89 *supra*.

**Further processes of the goods in a warehouse.**--See Section 92 *infra*.

**Appropriate Officer.**--The Central Board of Revenue has assigned the functions of the "appropriate officer" to the following officers of customs namely--

- (i) Superintendent/Principal Appraiser of Customs for the purpose of sub-section (1); and
- (ii) Assistant Collector of Customs for the purpose of sub-section (2).

(See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984 reported as PTCL 1985 St. 25 or page 909 of the *Customs Rules and Notifications, 1970-89* by Najib A. Choudhry - An allied publication).

**Offences and penalties.**--See clause (55) of Section 156(1) of the Act

**95 Manufacture and other operations in relation to goods in a warehouse.**--(1) Subject to rules, the owner of any warehoused goods may, with the permission in writing of the Collector of Customs, carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) Where in the course of any such operation or process there is any waste or refuse the following provisions shall apply, namely:--

- (a) If the whole or any part of the goods produced by such operation or process are exported, no

duty shall be charged on the quantity of the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into Pakistan in that form.

- (b) If the whole or any part of the goods produced by such operation or process are cleared from the warehouse for home-consumption, duty shall be charged on the quantity of the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on or in relation to the goods cleared for home consumption.

#### NOTES

**General.--**It is a new provision. It permits manufacturing processes and other operations to be carried on in a bonded warehouse. It also provides for the waiver of duty in respect of such portion of the goods as are converted into refuse or waste in the course of manufacture or processing, if final products are exported. If however, such products are cleared for home-consumption, duty shall not be waived. This has been provided because refuse in manufacture is not a loss to the manufacturer. While calculating the cost of production, he adds the cost of wasted materials. And if the product is consumed in Pakistan, there is no reason why duty should not be paid on the wasted products.

**96 Payment of rent and warehouse dues.--**(1) If goods be lodged in public warehouse, the owner shall <sup>1</sup>{unless exempted by an order of the Collector or an officer not below the rank of Assistant Collector authorised by him} pay monthly rent and warehouse-dues at such rates as the Collector of Customs may

(2) A table of the rates of rent and warehouse-dues so fixed shall be placed in a conspicuous part of such warehouse.

(3) If any demand for such rent or dues is not discharged within ten days of its presentation, the appropriate officer may, in the discharge of such demand (any transfer or assignment of the goods notwithstanding) cause to be sold, after due notice in the official Gazette, such sufficient portion of the goods as he may select.

(4) The proceeds of such sale shall be adjusted in accordance with section 201.

### Legal Reference

Inserted by the Finance Act, 1973

### NOTES

**General.**--This section corresponds to Section 101 of the Sea Customs Act. The provision regarding the adjustment of the sale proceeds of goods has been omitted from this section as it has been incorporated in Section 201 of the present Act.

**Appropriate Officer.**--The Assistant Collector of Customs has been assigned the functions of the "appropriate officer":--

- (i) to act under this section; and
- (ii) to extend the time for discharging demand of rent or dues under sub-section (3).

(See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984 reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Goods not stored in warehouse.**--Where the goods were not stored in any warehouse but were kept in the District Treasury and then in the Divisional office of the Customs Department for safe custody, charges for storage and up keeps of the same could not have been levied on the person from whose premises they were seized (1980 CR. LJ 54 (Indian case)).

**Rates of warehouse storage fee at Lahore.**--See Notifications Nos. S.R.O. 1247(1)/82 and 1248(1)/82, (reported as PTCL 1983 St. 292 and PTCL 1983 St. 293 respectively or pages 353 and 354 of the Customs Rules and

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**Storage fee for goods for depositing in the State Warehouse of Rawalpindi Collectorate of Customs.**--For see Notification No. S.R.O. 1079(1)/86, dated 24th November, 1986 (reported as PTCL 1987 St. 158 or page 608 of the *Customs Rules and Notifications, 1970-89 by Najib A. Choudhry--An allied publication*).

**Storage Fee for goods for depositing in certain units in the Customs Collectorate of Rawalpindi.**--See Notification No. S.R.O. 1080(1)/86 dated 24th November, 1986 reported as PTCL 1987 St. 159(i) or page 609 of the *Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication*.

**97 Goods not to be taken out of warehouse except as provided by this Act.**--No warehoused goods shall be taken out of any warehouse, except on clearance for home-consumption or export, or for removal to another warehouse, or as otherwise provided in this Act.

#### NOTES

**General.**--This section substantially embodies the provisions of Section 102 of the Sea Customs Act.

**Removal of Cinematograph from a warehouse films for test.**--The Government has authorised, as an experimental measure, the arrangement under which cinema films may be removed from a warehouse to a studio for test subject to the following precautions:

- (i) The risk of loss and damage in transit and at the time of examination is covered by the bond under Section 86;
- (ii) The films are removed and brought back under customs escort and at the bonder's expense; and
- (iii) The examination should be held under customs supervision.

*(See page 195 of General Manual of Orders : Edition 1964).*

**98 Period for which goods may remain warehoused.**--(1) Warehoused goods, other than consumer goods notified by the Central Board of Revenue, may remain in the warehouse for a period of six months following the date of their admission into the warehouse and consumer goods so notified may remain in the warehouse for a period of three months following the said date:



Provided that the said period may, in case of non-perishable goods, be extended, on sufficient cause being shown by the owner of the warehoused goods and subject to the condition that he pays in advance surcharge on the duty and taxes involved at two per cent per month for the extended period,--

- (a) by the Collector of Customs, for a period not exceeding six months; and
- (b) by the Federal Government or the Board, for such period as it may deem fit.

(2) The Federal Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification in the official Gazette, remit the whole or a part of the surcharge in case of any goods or category of goods and the Board, in circumstances of exceptional nature, may, subject to such conditions, limitations or restrictions, if any, as it may think fit to impose, by a special order in each case recording such circumstances, remit the whole or a part of the surcharge.

(3) Notwithstanding anything contained in sub-section (1), the Federal Government may, by notification in the official Gazette, limit the period for which any consumer goods or class of consumer goods may remain in the warehouse:

Provided that such period shall not be less than one month.

(4) When the licence of any warehouse is cancelled, the owner of any goods warehoused therein shall, within ten days of the date on which notice of such cancellation is given, or within such extended period as the appropriate officer may allow, remove the goods from that warehouse to another warehouse or clear them for home-consumption or exportation.]

### Legal References

Section 98 substituted by the Finance Act, 1990 Section 98 at the time of substitution was as under:--

<sup>1-a</sup> 98 Period for which goods may remain warehoused.--Any warehoused goods may remain in the warehouse for a total period of one year following the date of the execution of the bond under Section 86 in respect of them:

Provided that--

<sup>1-b</sup> (i) the said period may, in case of non-perishable goods, be extended, on sufficient cause being shown by the owner of the warehoused goods and subject to the condition that he pays in advance interest on the duty involved at two percent per month for the extended period,--

(a) by the Collector of Customs--for a period not exceeding one year; and

(b) by the Board--for such period as it may deem fit:

Provided further that in circumstances of exceptional nature, the Board may, subject to such conditions, limitations or restrictions, if any, as it may think fit to impose, by a special order in each case recording such circumstances, remit the whole or a part of the interest;]

(ii) when the licence of any private warehouse is cancelled, the owner of any goods warehoused therein shall, within ten days of the date on which notice of such cancellation is given or within such extended period as the appropriate officer may allow, remove the goods from that warehouse to another warehouse or clear them for home-consumption or exportation.]

Section 98 substituted by the Finance Ordinance, 1979. Prior to the substitution Section 98 runs as under:

<sup>98</sup> 98 Period for which goods may remain warehoused.--Any warehoused goods may remain in the warehouses for a total period of three years following the date of the execution of the bond under Section 86 in respect of them:

Provided that--

(i) in the case of any goods which are likely to deteriorate, the said period of three years may be reduced by the Collector of Customs to such reasonable period as he deems fit in each case;

(ii) in the case of any goods which are not likely to deteriorate, the period of three years may, on sufficient cause being shown, be extended by the Collector of Customs by a period not exceeding one year and by the bond by such further period as it may deem fit;

(iii) When the licence of any private warehouse is cancelled, the owner of any goods warehoused therein shall within ten days of the date on which notice of such cancellation is given or within such extended period as the appropriate officer may allow, remove the goods from that warehouse to another warehouse

or clear them for home-consumption or exportation \*

1-b. Clause (i) substituted by the Finance Ordinance, 1982. Previously the clause (i) was as under:--

\*(i) the said period may, on sufficient cause being shown, be extended by the Board by such period as it may deem fit ; and

NOTES

General.--This section corresponds to Section 103 of the Sea Customs Act with the following amendments:--

- (i) Proviso (i) permits the Collector of Customs to reduce the normal warehousing period of three years where the goods are likely to deteriorate. This change has been made to safeguard revenue.
- (ii) Proviso (ii) permits the extension of warehousing period of one year by the Collector of Customs and for further period by the Central Board of Revenue.
- (iii) Proviso (iii) provides a period of ten days or extended for removal of the goods, from the date on which notice is given. Under the old law the period was only seven days.
- (iv) Proviso regarding salt warehoused in a public or private warehouse has been omitted.

Appropriate Officer.--The Deputy Collector of Customs has been assigned the function of the "appropriate officer" to act under this section. (See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

DEPARTMENTAL INSTRUCTION

Time limit of Section 32 also applicable to charge.--Provisions of sub-section 32(2) and (3) regarding limitation are also applicable to charge leviable under Section 111 read with Section 98 (PTCL 1989 CL. 60).

Amendment in Section 98 curtailing the time limit is prospective.- Amendment in Section 98 has prospective effect and not retrospective effect. The amount of surcharge under Section 98 for the period prior to the commencement of the amendment curtailing warehousing period cannot be charged (PTCL 1989 CL 60).

Consumer goods for which warehousing period is 30 days.--The Federal Government has fixed the warehousing period of 30 days for certain

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items falling under heading No. 1507, by Notification No. 176(1)/87. (For Original Notification see Customs Rules and Notifications, 1970-89, page No. 618).

**Consumer goods for which warehousing period is 3 months.**--The Federal Government has fixed the warehousing period for sugar falling under sub-headings 1701.1100, 1701.1200, 1701.9100 and 1701.9900 of the Customs Tariff as three months vide Notification No. 520(1)/88, dated 26th June, 1988. (For Original Notification see Customs Rules and Notifications, 1970-89 page, No. 761).

**Consumer goods for which warehousing period is Three months.**--The Federal Government has issued Notification No. S.R.O. 495(1)/88, dated 26th June, 1988. (For Original Notification see Customs Rules and Notifications, 1970-89 at page, No. 726).

**Conditions for the grant of extension of the bonding period.**--(1) Every bond delivered under the provisions of Section 92 of the Act (Now Section 86) should be executed for full period of three years which goods may remain in a warehouse subject to the provisions of Section 103 of the Act. Extensions beyond this period will only be allowed in special cases with the previous approval of the Central Board of Revenue subject to the following conditions:--

- (a) Good and sufficient cause to be required before an extension is granted.
- (b) Any extension to be limited to the shortest period reasonably practicable.
- (c) Application to be filed in time to permit of examination of the goods before expiry of the current period of the bond.
- (d) A new bond to be executed for the duty still due.
- (e) Duty to be calculated on the state of the goods as found at re-examination, provided that the regulation allowance for wastage be not executed.

(Boards letter D. Dis. No. 1034-Cus/25, dated 13th October, 1925-S.O. 125/25).

(2) In recommending any extension of the period of a bond information regarding (1) original date of the bond and (2) the date on which the last extension granted expires, should be furnished to the Board. (Board's letter C. No. 8-Cus. 11/33, dated 22nd February, 1933).

Note.--Any extension bond that covered the goods for more than one

vessel would violate the provision of Section 92 (Now Section 86) of the Sea Customs Act, and could not be enforced in a Court of Law. Hence, when extensions of the warehousing period are allowed, a separate bond should be taken for goods imported by each vessel. (*Board's letter R.Dis. No.66-Cus. 11/28, dated 10th August, 1928-S.O.157 of 1928. Also see page 190 of the General Manual of Orders relating to Customs and Tariff Laws (Edition 1964).*)

**99 Power to remove goods from one warehouse to another in the same customs station.--**(1) Any owner of goods warehoused under this Act may, within the period of their warehousing under section 98, and with the permission of the Collector of Customs, on such conditions and after giving such security, if any, as the Collector directs, remove goods from one warehouse to another warehouse in the same warehousing station.

(2) When any owner desires to remove any goods, he shall apply for permission to do so in such form as the Board may prescribe.

#### NOTES

**General.--** This section corresponds to Section 104 of the Sea Customs Act. The provisions apply to removal of goods from one warehouse to another in the same customs-station whereas under the Sea Customs Act it was restricted to the same port.

**Delegation of Collector's power to the Assistant Collector.--**The Central Board of Revenue has empowered the Assistant Collector of the Oil Station Kmari Karachi to exercise the powers of the Collector of Customs as specified in sub-section (1) of Section 99 of the Act subject to the condition that he satisfies himself that this does not involve any loss of Revenue. (*See Notification No. S.R.O. 819(1)/88, dated 17th September, 1988, reported as PTCL 1989 St. 262 (ii) or page 771 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication.*)

**Proforma of the application for the removal of bonded goods.--**For Form (*See Notification No. S.R.O. 812(1)/72, dated 30th September, 1972, reproduced at page 111 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication.*)

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stations whether at port or in the interior of the country.

**103 Goods on arrival at customs-station of destination to be subject to same laws as goods on first importation.**--Upon the arrival of warehoused goods at the customs-station of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules are applicable, which regulate the entry and warehousing of such last mentioned goods.

#### NOTES

**General.**--This section is the verbatim reproduction of Section 108 of the Sea Customs Act, 1878.

**104 Clearance of bonded goods for home-consumption.**--Any owner of warehoused goods may, at any time within the period of their warehousing under section 98, clear such goods for home-consumption by paying--

- (a) the duty assessed on such goods under the provisions of this Act; and
- (b) all rent, penalties, <sup>1</sup>[surcharge] and other charges payable in respect of such goods.

#### Legal Reference

- <sup>1</sup> Substituted for the word "interest" by the Finance Act, 1985 with effect from 1st July, 1985.

#### NOTES

**General.**--This section corresponds to Section 110 of the Sea Customs Act. The time within three years has been omitted from the section. It has provided the time within the period of their warehousing i.e. one year which can be reduced or extended under Section 98 of the present Act. Further the payment of duty covers the duty assessed on such goods under the provisions of this Act. Under the old law it was the duty assessed on such goods under Section 87 of the Sea Customs Act or the duty altered under certain provisions of the Sea Customs Act.

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**Duty on goods cleared after or without bonding them.**--Duty in respect of goods cleared without bonding them is charged at the rate when Bill of Entry is made whereas in respect of bonded goods the duty is charged at rate prevailing on the date of actual removal of goods from warehouse for home consumption (*PTCL 1990 CL 217*).

**Rules for clearance of goods for Indus Basin Project.**--For Rules see Notification No. S.R.O. 1208(K)/71, dated 25th October, 1971, reproduced at page 71 of the *Customs Rules and Notifications, 1970-89* by *Najib A. Choudhry - An allied publication*.

**105 Clearance of warehoused goods for export.**--Any owner of warehoused goods may, at any time within the period of their warehousing under section 98, clear such goods for export out of Pakistan on payment of all rent, penalties, <sup>1</sup>[surcharge] and other charges payable as aforesaid but without paying any import duty thereon:

Provided that, if the <sup>2</sup>[Federal Government] is of the opinion that warehoused goods of any specified description are likely to be smuggled back into Pakistan, it may, by Notification in the official Gazette, direct that such goods shall not be exported to any place outside Pakistan without payment of duty or allow them to be exported subject to such restrictions and conditions as may be specified in the Notification.

### Legal References

1. Substituted for the word "interest" by the Finance Act, 1985 with effect from 1st July, 1985.
2. Substituted for the words "Central Government" by the Finance Ordinance, 1971 with effect from 17th June, 1972.

### NOTES

**General.**--This section corresponds to Section 111 of the Sea Customs Act with the following changes:--

- (i) the time within three years have been omitted. The period of three years can be reduced or extended under Section 98
- (ii) the provisions have been made to prohibit the export of

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such warehoused goods, without payment of duty, as are likely to be smuggled back into Pakistan or allow them to be exported without payment of duty subject to such restrictions and conditions as imposed by the Federal Government by Notification.

**Rules for the clearance of goods from factory warehouse for manufacture of export goods.**--For Rules see page 21 of Part I--Customs Rules and Notifications, 1970.

**106 Clearance of warehoused goods for export as provisions, on a conveyance proceeding to foreign destination.**--Any warehoused provisions and stores may be exported within the period of their warehousing under section 98 without payment of import duty for use on board any conveyance proceeding to a foreign territory.

#### NOTES

**General.**--This section corresponds to Section 112 of the Sea Customs Act. The provisions have been extended to all conveyance including vessels.

**Stores shipped from bond on a vessel proceeding to a foreign port via one or more customs-ports.**--The Government have decided that free shipment from bond under Section 112 of the Sea Customs Act (corresponding to Section 106 of the present Act), should be allowed on stores shipped on a vessel proceeding to a foreign port via one or more customs-ports provided the vessel is engaged in foreign trade.

According to G.I.I. and C. Department's letter No. 3275, dated 28th September, 1881, to the Government of Bengal, a vessel should be regarded as engaged in foreign trade if it is going to another customs port to take in cargo for a foreign port or when it is going to a foreign port but carries some cargo for a customs-port at which it is to touch en route. No duty should be recovered on such stores if consumed in reasonable quantities in Pakistan waters (Am. O. Gl. 5/46, printed at p. 198 of the General Manual of Orders relating to Customs and Tariff Laws, 1964).

**Offences and penalties.**--See clause (56) of Section 156(1) of the Act.



**107. Application for clearance of goods:--**(1) An application to clear goods from any warehouse for home-consumption or for export shall be made in such form as the Board may prescribe.

(2) Such application shall ordinarily be made to the appropriate officer at least twenty-four hours before it is intended to clear such goods.

### NOTES

**General.--**The present section contains same provisions as existed in Section 113 of the Sea Customs Act.

**Appropriate Officer.--**The Superintendent/Principal Appraiser of Customs has been assigned the functions of the "appropriate officer":--

- (i) to act under this section; and
- (ii) to extend the time for submission of application for clearance of warehoused goods.

(See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

Also see Notes under Section 224.

**Form of applications.--**Bill of Entry and Shipping Bill should be regarded as application under this section as the goods are entered for clearance from warehouse for home consumption or for exportation as merchandise or stores. (see page 199 of the General Manual of Orders--Edition 1964).

**108 Re-assessment of warehoused goods when damaged or deteriorated.--**If any goods upon which duties are levied *ad valorem* <sup>1</sup>[or otherwise] are damaged or deteriorated due to an unavoidable accident or cause after they have been entered for warehousing and assessed under section 80 and before they are cleared for home-consumption, their value in the damaged or deteriorated state may be appraised, <sup>2</sup>[according to either of the methods provided in sub-section (2) of section 27] if the owner so desires, by an officer of customs and the duty leviable

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thereon shall be diminished in proportion to the diminution of their value and a new bond for twice the amount of the diminished duty may, at the option of the owner, be executed by him to replace the bond originally executed.

### Legal References

These words were inserted by the Finance Act, 1986 with effect from 1st July, 1986.

These words were inserted by the Finance Act, 1986 with effect from 1st July, 1986.

### NOTES

**General.**--This section corresponds to Section 114 of the Sea Customs Act. Provision has also been made for the re-assessment of deteriorated goods. This provision has been so modified as to secure that the reassessed duty will abate in the same ratio as the value of the damaged or deteriorated goods. This is in conformity with the principle contained in Section 27.

**Unavoidable accident.**--The words "unavoidable accident" appearing in Section 114 of the Sea Customs Act, 1878 (corresponding to Section 108 of this Act), should not be considered to cover the case of goods which have deteriorated or become worthless owing to the effects of ordinary climatic conditions, (S.O. 128 of 1925, reproduced at p. 199 of the General Manual of Orders relating to Customs and Tariff Laws, 1964).

**Goods subject to specific duties.**--This section applies only to goods upon which *ad valorem* duties are payable. It does not apply to goods on which specific duties are payable. In the case of any damage to such goods while they are warehoused, the owner may have them destroyed and obtain remission of duty under Section 94(2).

**109 Re-assessment on alteration of duty.**--If any goods have been entered for warehousing and assessed under section 80 but the duty leviable thereon is subsequently altered, such goods shall be re-assessed on the basis of the altered duty and a new bond shall be executed by the owner in accordance with the provisions of section 86 to replace the bond originally executed by him.

### NOTES

**General.**--This section corresponds to Section 115 of the Sea Customs Act. Provision has been made for execution of fresh bond on the

basis of altered duty to replace the original bond if that fell short to cover the altered duty.

**110 Allowance in case of volatile goods.**--When any warehoused goods of such class or description as the Board having regard to the volatility of such goods and the manner of their storage may, by Notification in the official Gazette, specify are, at the time of delivery from a warehouse, found to be deficient in quantity and the Collector of Customs is satisfied that such deficiency is on account of natural loss, no duty shall be charged on such deficiency.

#### NOTES

**General.**--This is virtually a new provisions which replaces Sections 116 and 117 in the following manners:--

- (i) The concession which was given under the Sea Customs Act in respect of wine, spirit and beer in casks and salt will now be admissible in respect of such volatile goods which the Federal Government may notify. The concession in respect of natural loss of wine, spirit and beer has been extended to other volatile goods.
- (ii) The provisions laying down the maximum percentage of deficiency and giving discretion to the Board to charge the limits generally and to the Collector of Customs to modify the limit in individual cases, have been omitted. Henceforth duty will be remitted by the Collector of Customs on the quantity genuinely found deficient due to natural loss, without fixing any statutory maximum limit.

**Change of duty in excess of admissible wastage.**--In exercise of the powers conferred by Section 9 of the Sea Customs Act, 1878 (VIII of 1878) and in supersession of the Government of Bombay Notification No.3301, dated the 23rd May, 1888, the Central Board of Revenue is pleased to declare that at warehousing ports in Karachi and Chittagong liquors in wood which are removed from a bonded warehouse for shipment to a foreign port shall before shipment be gauged, and import duty shall be charged on any deficiency in excess of such allowance as would be made under Sections 116 and 117 of the Sea Customs Act, if such liquors were cleared for home-consumption.

**111** Duty on goods improperly removed from warehouse or allowed to remain beyond fixed time or lost or destroyed or taken as sample.--In respect of goods specified hereunder the appropriate officer may demand and upon such demand the owner of such goods shall forthwith pay the full amount of duty chargeable on such goods together with all rent, penalties, [surcharge] and other charges payable in respect of them, namely:--

- (a) Warehoused goods which are removed in contravention of section 97.
- (b) Goods which have not been removed from the warehouse within the time allowed for such removal under section 98.
- (c) Goods in respect of which a bond has been executed under section 86 and which have not been cleared for home-consumption or export or removed in accordance with the provisions of this Act and are lost or destroyed otherwise than as provided in sections 94 and 95 or as mentioned in section 115, or are not accounted for to the satisfaction of the appropriate officer.
- (d) Goods which have been taken under section 94 as samples without payment of duty.

#### Legal Reference

1985.

#### NOTES

**General.**--This section corresponds to Section 118 of the Sea Customs Act. Substantially it is the same provision though mode of expression has been changed.

**Appropriate Officer.**--The Assistant Collector of Customs has been assigned the function of the "appropriate officer" to act under this section. (See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984 reported at PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-

89 by *Najib A. Choudhry - An allied publication*).

**Duty and penalty on goods improperly removed.**--Duty and Penalty on the goods improperly removed from warehouse can be levied and imposed under Section 111. Simply mention of wrong section in the order does not invalidate it (*PTCL 1990 CL 217*).

**Application of time limits of Section 32.**--Provisions of sub-section 32(2) and (3) regarding limitation are also applicable to charge leviable under Section 111 read with Section 98 (*PTCL 1989 CL 60*).

**112 Procedure on failure to pay duty, etc.**--(1) If any owner fails to pay any sum demanded under section 111, the appropriate officer may either proceed upon the bond executed under section 86; or cause such portion of the owner's goods in the warehouse to be detained as he may consider adequate to recover the demand, and a notice in writing of such detention shall immediately be given to the owner.

(2) In case the demand is not discharged within fifteen days of the date of such notice, the goods so detained may be sold.

(3) The net proceeds of any such sale shall be entered upon and adjusted against the bond and the surplus if any remaining after full satisfaction of the bonds shall be disposed of in the manner provided in section 201.

(4) No transfer or assignment of the goods shall prevent the appropriate officer from proceeding against such goods in the manner above provided, for any amount due thereon.

### NOTES

**General.**--This section corresponds to Section 119 of the Sea Customs Act with the following changes:--

- (i) It permits the appropriate officer to detain and sell any warehoused goods belonging to the person concerned instead of only the goods on account of which any duty is due.

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- (ii) The period to discharge the demand on notice has been extended to fifteen days from ten days.
- (iii) The period of one year for making application for refund of the surplus sale proceeds has been reduced to six months. Now the application is to be made within six months of the sale of the goods and thereafter on showing sufficient cause for not doing so.

**Appropriate Officer.**--The Assistant Collector of Customs has been assigned the function of the "appropriate officer"--

- (i) to act under this section; and
- (ii) to extend the time for payment of duty under sub-section (2).

*(See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984 reported as PTCL 1985 St. 25 on page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).*

Also See "Notes" under Section 224.

**Procedure for sale of goods and application of sale proceeds.**--See Section 201 of the Act.

**Expenses of carriage, packing, etc., to be borne by owner.**--See section 119 of the Act.

**Meaning of words "detain" and "detention".**--The expression "detention" or "detain" cannot be construed as "seizure". These words have not been defined in the Act and as such dictionary meanings would be taken in construing the provisions of this section (*PTCL 1986 CL. 253*). Now the words "detain" and "seizure" have been defined in the Act. For definition see clauses (kk) and (rr) of Section 2 of the Customs Act, 1969.

**113 Noting removal of goods.**-(1) When any warehoused goods are taken out of any warehouse, the appropriate officer shall cause the fact to be noted on the back of the bond.

(2) Every note so made shall specify the quantity and description of such goods, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the bill of export under which they have been taken away, if removed for

exportation, or of the bill of entry, if removed for home consumption and the amount of duty paid, if any.

NOTES

General.--This section corresponds to Section 120 of the Customs Act. Substantially there is no change.

Appropriate Officer.--The Central Board of Revenue has assigned the functions of the "appropriate officer" under this section to Inspector, Preventive Officer/Examiner of Customs. (See Notification No. S.R.O 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry. An allied publication).

Particulars to be noted.--This section requires that when any goods are removed from a warehouse the appropriate officer shall note on the back of the warehousing bond entered into by the owner of the goods under Section 86--

- (1) the quantity and description of the goods removed;
- (2) the purposes for which they have been removed;
- (3) the date of removal;
- (4) the name of the person removing them;
- (5) if the goods have been removed for exportation, the number and date of the export bill under which they have been taken away;
- (6) if the goods have been removed for home-consumption, the number and date of the bill of entry; and
- (7) the amount of duty paid (if any).

The appropriate officer is also required to enter the above particulars in the register of bonds kept under Section 114.

Register of bonds and cancellation and return of bonds.--Section 114.

114 Register of bonds.--(1) A register shall be kept of all bonds entered into for customs-duties on warehoused goods, and entry shall be made in such register of all particulars required by section 113 to be specified.

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(2) When such register shows that the whole of the goods covered by any bond have been cleared for home-consumption or export, or otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the appropriate officer shall cancel such bond as discharged in full, and shall on demand deliver the cancelled bond to the person who executed it or who is entitled to receive it.

#### NOTES

**General.**--This section corresponds to Section 121 of the Sea Customs Act. There is no change.

**Appropriate Officer.**--The Central Board of Revenue has assigned the functions of the "appropriate officer" under this section to Superintendent/Principal Appraiser of Customs. (See Notification No. S.R.O. 806(1)/84, dated 23rd September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**115 Power to remit duties on warehoused goods lost or destroyed.**--If any warehoused goods in respect of which a bond has been executed under section 86 and which have not been cleared for home-consumption are lost or destroyed by unavoidable accident or cause, the Collector of Customs may in his discretion remit the duties due thereon:

Provided that, if any such goods be so lost or destroyed in a [ \* \* \* ] warehouse, notice thereof be given to the appropriate officer within forty-eight hours after the discovery of such loss or destruction.

#### Legal Reference

The word "private" omitted by the Finance Act, 1990 with effect from 1st July, 1990.

#### NOTES

**General.**--This section substantially embodies the provisions of Section 122 of the Sea Customs Act.

**Appropriate Officer.**--The Assistant Collector of Customs has been



assigned the functions of the "appropriate officer" to act under this section. (See Notification No. S:R.O. 806(1)/84, dated 20th September, 1984, reported as P.T.C.I. 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Naju 4. Choudhry - An allied publication).

**Unavoidable accident.**--Black's Law Dictionary defines the expression thus:

"An inevitable accident; one which could not have been fore-seen and prevented by using ordinary diligence, and resulting without fault. Not necessarily an accident which it was physically impossible, in the nature of things, for the person to have prevented, but one not occasioned in any degree, either remotely or directly, by the want of such care or skill as the law holds every man bound to exercise. An accident which could not be prevented by the exercise of ordinary care and prudence. A casualty which occurs without negligence of either party and when all means which common prudence suggests have been used to prevent it".

**Unavoidable cause.**--In Black's Law Dictionary the expression has been defined thus:

"A cause which reasonably prudent and careful men under like circumstances do not and would not ordinarily anticipate, and whose effects, under similar circumstances, they do not and would not ordinarily avoid".

Lord Alverstone C.J., while considering the question whether a child had been prevented from attending school by any "unavoidable cause" for the purposes of the bye-laws made under the Elementary Education Act, 1870, observed:

"If a parent sends a child in such a condition that the child will be refused admission, the fact that the child is refused admission does not amount to the child's being prevented from attending school by an unavoidable cause." (*Walker vs. Cummings* (1912) 107 L.T. 304, 305).

**116 Responsibility of warehouse-keeper.**--The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee in respect of goods lodged in a private warehouse, shall be responsible for their due receipt therein and delivery therefrom, and their safe custody while deposited therein, according to the quantity, weight or gauge reported by the

officer of customs who has assessed such goods, allowance being made, if necessary, for deficiency in quantity on account of natural loss as provided in Section 110:

Provided that no owner of goods shall be entitled to claim from the appropriate officer or from any keeper of a public warehouse, compensation for any loss or damage occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or damage was occasioned by the wilful act or neglect of the warehouse keeper or of an officer of customs.

### NOTES

**General.**--This section corresponds to Section 123 of the Sea Customs Act. A proviso has been added which protects the warehouse-keeper and appropriate officer against the compensation for any loss or damage occurring to the goods while they are being passed into or out of the warehouse, or while they remain therein unless it be proved that the loss or damage was occasioned by wilful act or neglect of the warehouse-keeper or of an officer of Customs.

This section defines the liability of the owner of the warehouse in respect of the goods deposited in the warehouse (51) *I.L.R. (1951) 1 Cal. (41)*.

**Appropriate Officer.**--The Collector of Customs has been assigned the functions of the "appropriate officer" to act under this section. (See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as FTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Goods lost from K.P.T. Warehouses.**--The Customs Department in their letter, N.O.C. 445, dated 18th February, 1932, have taken the following view in regard to goods lost from such warehouses:--

"Under the provisions of Section 123, Sea Customs Act, (now Section 116 of the Customs Act) the Karachi Port Trust as employers of the warehouse-keeper, are responsible for the duty on goods warehoused in their public warehouses and lost from their custody. Goods deposited in the so-called private compartments cannot be treated differently from those in other portions of the Port Trust licensed warehouses. The Karachi Port Trust are the licensees of the

warehouses, they receive the rent therefrom and must be held responsible for the security of such warehouses". (*General Manual of Orders, 1964, p. 205*).

Offences and penalties.--See clauses (57) and (58) of Section 156(1).

**117 Locking of warehouses.**--(1) Every public warehouse shall be under the lock and key of both the warehouse-keeper appointed by the Collector of Customs, and the appropriate officer.

(2) Every private warehouse shall be under the lock and key of both the licensee and the appropriate officer.

#### NOTES

**General.**--This section corresponds to Section 124 of the Sea Customs Act. Provision has been made for the joint custody of private warehouse *i.e.*, of the licensee and the appropriate officer of the Customs Department.

**Appropriate Officer.**--The Central Board of Revenue has assigned the functions of the "appropriate officer" under this section to Inspector/Preventive Officer/Examiner of Customs. (*See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication*).

**118 Power to decide where goods may be deposited in public warehouse, and on what terms.**--The Collector of Customs may from time to time determine in what division of any public warehouse [or a private warehouse], and in what manner, and on what terms, any goods may be deposited, and what sort of goods may be deposited in any such warehouse.

#### Legal Reference

These words were inserted by the Finance Ordinance, 1984 with effect from 14th June, 1984.

#### NOTES

**General.**--This section reproduces the provisions of Section 125 of

the Sea Customs Act, 1878.

**119 Expenses of carriage, packing, etc., to be borne by owner.**--The expenses of carriage, packing and storage of goods on their receipt into or removal from a public warehouse shall, if paid by the appropriate officer or by the warehouse-keeper, be chargeable on the goods and be defrayed by, and recoverable from, the owner, in the manner provided in section 112.

#### NOTES

**General.**--This section is the same as Section 126 of the Sea Customs Act, 1878.

**Appropriate Officer.**--The Inspector/Preventive Officer/Examiner are assigned the functions of the appropriate officers under this section. (*see Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as P.T.C.L. 1985 St. 25. or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication*).

**Procedure on failure to pay expenses.**--For procedure see Section 112 of the Customs Act, which is applicable for recovery of the expenses under this section.

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# CHAPTER XII

## TRANSHIPMENT

**1120** Chapter not to apply to postal articles.--The provisions of this Chapter shall not apply to goods imported by post.]

### Legal Reference

Section 120 substituted by the Finance Ordinance, 1979 with effect from June, 1979. Prior to substitution Section 120 was as under --

\*120. Chapter not to apply to baggage or postal articles.--The provision of this Chapter shall not apply to (a) baggage or (b) goods imported by post."

### NOTES

**General.**--This section is new. It provides that the provisions of Chapter XII which is about transhipment will not apply to articles and goods imported by Post, for the transhipment of which, separate provisions are contained in Chapter XV.

**Transhipment--meanings.**--Transhipment is the taking of the cargo out of one vessel and loading it in another vessel. The word is also used to denote the placing of goods from one railway line to another line or from one railway system to another system for the purpose of carrying them from the place of consignment to the place of destination. In Black's Law Dictionary, "transhipment" has been defined as: "In maritime law the act of taking the cargo out of one ship and loading it on another." In the Customs Act, 1969, "transhipment" is used in the sense of removal of imported goods at a customs-station from one conveyance (vessel, aircraft, vehicle or animal) to another for being taken to another customs-station or a foreign destination.

**121** Transhipment of goods without payment of duty.--Subject to the provisions of section 15 and the rules, the appropriate officer may, on application by the owner of any goods imported at any customs-station and specially and distinctly manifested at the time of importation as for transhipment to some other customs-station or foreign destination, grant leave to tranship the same without payment of duty, if any, chargeable on such goods at the customs-station of transhipment and, in the case of goods to be transhipped to

4. Explosives, as defined in the Explosives Act, 1884 (IV of 1884).
5. Arms and ammunition and parts thereof, as defined in the <sup>2</sup>[Arms Act, 1878 (XI of 1878)].

(For Notification see PTCL 1983 St. 352)

**Transhipment permit.**--A transhipment permit issued under Section 128 of the Sea Customs Act, 1878, does not, like a bill of lading represent the goods mentioned in it, or give any lien or control over them (*I. LRC Bom. 477*).

**Rules regarding the transhipment of goods other than postal articles at the port of Karachi.**--See Notification S.R.O. No. 698(1) 73, dated 10th May, 1973. (*Reproduced at page 127 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication*).

**The Customs Transhipment of Goods to Customs Port Rules, 1973.**--See Notification No. S.R.O. 1332(1)/73, dated 17th September, 1973. (*Reproduced at page 130 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication*).

**Offences and penalties.**--See clause (63) of Section 156(1) of the Act.

**Prohibited goods.**--See Section 15 of the Act.

**122 Superintendence of transhipment.**--An officer of customs shall, in every case, be deputed free of charge to superintend the removal of transhipped goods from one conveyance to another.

#### NOTES

**General.**--This section embodies the provisions of Section 129 of the Sea Customs Act. It has been extended so as to apply to all conveyances.

**Goods lying on wharf under Customs supervision.**--In the case of goods lying on the wharf or in cargo boats pending transhipment, unless the goods are secured in closed sheds on the wharf, a special customs peon should be posted for supervision at the expense of the party concerned till the goods are actually transhipped on board the on-carrying vessel. (*S.O. 58 of*

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<sup>1</sup> The Arms Act, 1878, has been repealed in its application to the areas comprised in the former Province of West Pakistan except the provisions relating to manufacture (including conversion), export or import of arms, ammunitions and military stores by the West Pakistan Arms Ordinance, 1965 (W.P. Ord. XX of 1965)

1933, see page 208 of the *General Manual of Orders relating to Customs and Tariff Laws, 1964*).

**123 Entry, etc., of transhipped goods.**--All goods transhipped under section 121 to any customs-station shall, on their arrival at such customs-station, be entered in the same manner as goods on their first importation and shall be dealt with likewise.

#### NOTES

**General.**--This section too exactly embodies the provisions of Section 131 of the Sea Customs Act. These provisions are applicable at all customs stations.

**Date for determination of value and rate of duty in case goods are transhipped to another place.**--See Notes under Sections 30, 31 and 31-A.

**Transshipment permit.**--A transshipment permit issued under Section 128 of the Sea Customs Act, 1878, does not, like a bill of lading represent the goods mentioned in it, or give any lien or control over them (*J. IRC Bom 477*). (*PTCL 1989 CL. 312*).

**Relevant date for determining the value of and rate of duty applicable to transhipped goods.**--Certain goods which were to be transhipped to Dry Port Lahore arrived at Karachi customs port and were manifested prior to 5th June, 1976. The bills of entry in respect of these goods were presented before their arrival at Karachi. The goods on arrival at Karachi were transhipped to Lahore where they arrived after 5th June, 1976, when by the Finance Act, 1976, the import duty on the said goods was raised by 10%. The customs authorities accordingly demanded duty on the said goods at the enhanced rate which demand was resisted by the owner of the goods who filed a Constitutional petition in the Lahore High Court to contest the claim. A learned Single Judge allowed the petition on the ground that as the bills of entry in respect of the goods had been presented before 5th June, 1976, and their importation was completed before the said date, they were not liable to duty at the enhanced rate. It was observed that Sections 121-123 in Chapter XII of the Customs Act, 1969, which pertain to transshipment, "ordinarily have no relevance to the date of determination of value or rate of duty", that the said date is to be determined by the date of presentation of the bill of entry and that the "entry of the goods at the second place may be meant only to verify the goods as far as their quantity is concerned but their importation is already complete". (*PLD 1980 Lah. 469*).

**124** Transshipment of provisions and stores from one conveyance to another of the same owner without payment of duty.--Any provisions and stores in use or being carried for use on board a conveyance may, at the discretion of the appropriate officer be transhipped to another conveyance belonging wholly or partly to the same owner and present simultaneously at the same customs-station, without payment of duty.

#### NOTES

**General.**--This section corresponds to Section 132 of the Sea Customs Act. Its provisions have been extended so as to apply to all conveyances.

**"Appropriate Officer".**--The Superintendent/Principal Appraiser of Customs have been assigned the functions of the "appropriate officer" to act under this section (*See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication*).

**125** Levy of transshipment fees.--Subject to the rules, a transshipment fee on any goods or class of goods transhipped under this Act may be levied at such rates, according to weight, measurement, quantity, number, bale, package or container, as the Board may, by Notification in the official Gazette, prescribe for any customs-station or class of customs-stations.

#### NOTES

**General.**--This section corresponds to Section 133 of the Sea Customs Act. The powers of the Board to make rules for transshipment and prohibition and regulation restriction of transshipment of goods without payment of duty; powers of officers of Customs in that behalf; and the fees for transshipment, are contained in rule 219 read with item (12) of the Third Schedule to the Act.

**Rates for transshipment fees.**--The Central Board of Revenue under Notification No. S.R.O. 116(1)/83, dated 12th February, 1983 has prescribed the following rates of transshipment fees to be levied for each transshipment to



any goods at any Customs port, namely:-

Rs. 2.00 per package/bale.

With a minimum of Rs. 20.00  
and maximum of Rs. 1,000.00  
per consignment:

Provided that in calculating the fee in the case of wrought iron, such as bars, rods, plates, sheets, hoop, old pig, pipes and tubes and tin plates; of other loose metal and of oil; timber; salt and other articles in bulk, each metric ton or portion of a metric ton shall be taken as representing one package:

Provided further that no transhipment fee shall be charged for the transshipment of goods from a customs port to an inland customs-station or warehousing station. (*For Notification No. S.R.O. 116(1)/83, see PTCL 1983 St. 335(i) or page 400 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication*).

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# CHAPTER XIII

## TRANSIT TRADE

**126** Chapter not to apply to baggage and postal articles.-- The provisions of this Chapter shall not apply to (a) baggage, and (b) goods imported by post.

### NOTES

**General.**--This section is new. It mentions specifically that the provisions of Chapter XIII shall not apply to baggage and goods imported by post, for which separate provisions have been made in Chapter XV.

**Transit.**--Goods are deemed to be in course of transit from the time when they are delivered to a carrier by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer, or his agent in that behalf, takes delivery of them from such carrier or other bailee. (*34 Halsbury's Laws of England (3rd Edn.) 128*).

The Customs Act, 1969, however deals with transit of goods (including provisions and stores) from one customs-station in Pakistan to another customs-station or to a destination outside Pakistan, either in the same conveyance or in another conveyance.

**127** Transit of goods in the same conveyance.--(1) Subject to the provisions of section 15 and the rules any goods imported in a conveyance and mentioned in the import manifest as for transit in the same conveyance to a customs-station in Pakistan or to any destination outside Pakistan may be allowed to be so transitted without payment of duty, if any, leviable on such goods at the customs-station of transit.

(2) Any stores and provisions imported on board a conveyance which is in transit through Pakistan to a destination outside Pakistan may, subject to rules, be allowed to be consumed on board that conveyance without payment of the duties which would otherwise be chargeable on them.

### NOTES

**General.**--It is a new provision which provides that goods mentioned

in an import manifest as for transit in the same conveyance to customs-station in Pakistan or to any destination outside Pakistan may be allowed to be so transitted without payment of duty. The section also makes it clear that the prohibitions on the bringing or taking of goods, as specified in Section 15 or any rule, into or out of Pakistan, shall apply to such goods. Such prohibitions may, however, be relaxed in suitable cases by the Federal Government by an order under Section 15 of the Act itself.

Sub-section (2) provides for the consumption of any stores and provisions by conveyances otherwise chargeable to duty, free of duty subject to rules made for that purpose.

**Exemption from the provision of Section 15 of the Act**--All goods in transit through Pakistan to any destination outside Pakistan under this section have been exempted from the provisions of Section 15 of the Act. (*Notification No. S.R.O. 1(1)/70, dated 1st January, 1970*). For Notification see page 3 of the *Customs Rules and Notifications, 1970-89* by Najib A. Choudhry - An allied publication).

**Rules for regulating consumption of stores and provisions on board a conveyance which is in transit through Pakistan to a destination outside Pakistan**--See Notification No. S.R.O. 425(1)/73, dated 24th March, 1973. (*Reproduced at page 119 of the Customs Rules and Notifications, 1970-89* by Najib A. Choudhry - An allied publication).

**128 Transport of certain classes of goods subject to prescribed conditions**--Any goods may be transported from one part of Pakistan to another through any foreign territory, subject to such conditions as to their due arrival at the destination as may be prescribed by rules.

#### NOTES

**General**--It is also a new provision which provides transport of goods from one part of Pakistan to another through any foreign territory. Due arrival of goods at the destination will be ensured by making necessary provisions in the rules.

**Rules**--No rules under this section appear to have been framed. India, however, has framed the Transportation of Goods (Through Foreign Territory) Regulations, 1969.

**Offences and penalties**--See clause (64) of Section 156(1) of the Act

**129 Transit of goods across Pakistan to a foreign territory.--** Where any goods are entered for transit across Pakistan to a destination outside Pakistan, the appropriate officer may, subject to the provisions of the rules, allow the goods to be so transitted without payment of the duties which would otherwise be chargeable on such goods.

### NOTES

**General.--**It is a new provision which provides that goods may be transitted across Pakistan to a foreign territory with the permission of the appropriate officer subject to such conditions and restrictions as may be provided in the rules.

**Appropriate Officer.--**The Superintendent/Principal Appraiser has been assigned the functions of the appropriate officer for the purpose of provisions of Section 129 of the Customs Act, 1969. (See Notification No. S.R.O. 806(1)/84, dated 20th September, 1984, reported as PTCL 1985 St. 25 or page 909 of the Customs Rules and Notifications, 1970-89 by Najib A. Choudhry - An allied publication).

**Phrase "subject to the provisions of the Rules".--**meanings of.--The words "Subject to the provisions of the Rules" used in Section 129 of the Customs Act, 1969 mean that appropriate officer is to give permission in accordance with the provisions of the rule if any, and that if the rules are silent as to the giving of permission that would not mean that no permission would be required (PTCL 1986 CL 147).

**Permission of appropriate officer is necessary.--**Even in the absence of any specific provision regarding permission in the rules, the permission of appropriate officer is necessary. (PTCL 1986 CL 146).

**Rules.--**Although this section itself, the notes on the clauses and the penalty clause (section 150 (1), clause (4)), all make reference to rules for regulating transit trade, no rules under this section have so far been framed. However, Afghan transit trade is being carried on and is governed by the terms of the Afghan Transit Trade Agreement, 1965, which agreement is reproduced hereinafter:--

### THE AFGHAN TRANSIT TRADE AGREEMENT, 1965

[Kabul, the 2nd March, 1965]

#### AGREEMENT

BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF  
PAKISTAN AND THE GOVERNMENT OF THE KINGDOM OF

AFGHANISTAN FOR REGULATION OF  
TRAFFIC IN TRANSIT

The Government of the Islamic Republic of Pakistan and the Government of the Kingdom of Afghanistan being desirous of strengthening the economic ties between their two countries on a mutually advantageous basis, improving the difficulties in the movement of goods through the two countries, and having taken into consideration the present volume and future development of transit trade, have decided to conclude an agreement and to this end have appointed their plenipotentiaries as under:-

The Government of the Islamic Republic of Pakistan,  
Wahiduzzaman, Minister for Commerce

The Government of the Kingdom of Afghanistan, Mohammad  
Sarwar Omar, Minister for Commerce

who have exchanged their full powers, found in good and due form, have agreed to the following articles:-

**Article-I**

The Contracting Parties undertake in accordance with the provisions of this Agreement to grant and guarantee to each other the freedom of transit to and from their territories.

No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination or any other circumstances relating to the ownership of goods, of vessels or of other means of transport.

**Article-II**

Goods including baggage, and vessels and other means of transport shall be deemed to be in transit across the territory of a Contracting Party, when the passage across such territory with or without transshipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the Contracting Party across whose territory the traffic passes--Traffic of this nature is termed in this Agreement "Traffic in Transit".

**Article-III**

The transit routes shall be:

- (1) *Peshawar--Torkham and vice versa.*
- (2) *Chaman--Spin Baldak and vice versa.*

Additional routes may be agreed between the Contracting Parties

from time to time. Goods moving *via* these routes shall be entered at the proper Customs post prescribed by each Party. Adequate transit and other facilities shall be provided by the Contracting Party concerned at these posts.

#### Article--IV

No Customs duties, taxes, dues, or charges of any kind whether national, provincial or municipal regardless of their name and purposes, shall be levied on traffic in transit except charges for transportation or those commensurate with the administrative expenses entailed by traffic in transit or with the cost of services rendered.

With a view to achieving simplification of existing Customs Practices and Procedures, the Contracting Parties agree to adopt at points of entry and exit the procedures laid down in the Annex to this Agreement.

#### Article--V

Without prejudice to the generality of the provisions contained in Article III, the Government of the Islamic Republic of Pakistan shall earmark sheds and open spaces in the Karachi Port Area, to be known as Afghan Transit Area, for the goods in transit to and from Afghanistan. For Hazardous and awkward goods separate arrangements for storage will be made as indicated in the Annex.

#### Article--VI

The two Contracting Parties, recognising the importance of the 'Kabul-Torkham-Peshawar transit route, have decided to examine all matters pertinent to the development of this route, including further consideration of the extension of the railway from Landi Khana to Torkham.

#### Article--VII

The Government of the Islamic Republic of Pakistan undertake to meet in full, the requirement of wagons for transit traffic on both Karachi-Spin Baldak and Peshawar-Karachi routes.

#### Article--VIII

Each Contracting Party shall appoint Liaison Officers to look into the working of this Agreement, and to refer, for expeditious solution, to the appropriate authorities of their own country and to the Liaison Officer of the other country, any question arising from the operation of this Agreement. The Liaison Officers will meet as often as necessary and in any case not less than once in six months and the contracting Parties shall provide them with the necessary facilities.

**Article--IX**

The Contracting Parties agree that railway freight, port and other dues shall be subject to the most sympathetic consideration and shall be no less favourable than those imposed by either Party on goods owned by its own nationals.

**Article--X**

Nothing in this Agreement shall be construed to prevent the adoption and enforcement by either Party of measures necessary to protect public morals, human, animal or plant life or health and for the security of its own territory.

**Article XI**

The Contracting Parties shall meet and consult each other once a year to review the working of this Agreement.

**Article--XII**

The Contracting Parties agree to resolve any difference relating to the interpretation of this Agreement by negotiation, and in the event of failure to reach a settlement, to refer the matter to an arbitrator acceptable to both Parties, whose decision shall be binding.

**Article--XIII**

Nothing in this agreement or its Annexes will affect in any way the political stand of the two countries or the political difference existing between them, and the contracting Parties fully reserve their rights with regard to these subjects.

**Article --XIV**

This Agreement shall be ratified and the Instruments of Ratification shall be exchanged at Rawalpindi. The Agreement shall come into force from the date of the exchange of the Instruments of Ratification and shall remain in force for five years from the date it comes into force. Unless notice of termination is given in writing by either Contracting Party to the other six months before the expiration of the five years period, the Agreement shall be automatically renewed for a further period of five years. It can thereafter be terminated by either Party at any time provided six months notice of termination is given by either party.

**Article--XV**

The present Agreement is drawn in duplicate in English and *Dari* Languages, both texts being equally valid.

IN WITNESS THEREFORE, the undersigned, being duly authorised by their respective Governments, have signed, the present Agreement.

Done in duplicate in English and *Dari* at Kabul on 2nd March, 1965.

For the Government of the Islamic  
Republic of Pakistan.

For the Government of the  
Kingdom of Afghanistan.

Sd/-

Sd/-

WAHIDUZZAMAN,  
MINISTER FOR COMMERCE.

MOHAMMAD SARWAR OMAR,  
MINISTER FOR COMMERCE.

PROTOCOL ANNEXED TO TRANSIT AGREEMENT SIGNED  
BETWEEN THE GOVERNMENT OF THE ISLAMIC  
REPUBLIC OF PAKISTAN AND THE GOVERN-  
MENT OF THE KINGDOM OF AFGHANISTAN  
DATED MARCH 2, 1965

In accordance with the provisions of the Agreement signed in Kabul between the authorised representatives of the Contracting Parties on March 2, 1965, regulating Traffic in Transit to and from Afghanistan, the signatories, in order to regulate the transport of goods by lorries from Peshawar to Kabul, and from Chaman to Kandahar and *vice versa* until such time as extension of rail and road is completed, have agreed as follows:

Article--1

The two Governments agree that there shall be open competition for all transporters for carriage of all category of goods to and from Afghanistan irrespective of ownership of goods.

Article --2

The two Governments agree to accord to transporters and clearing and forwarding agents from either country national treatment.

Article --3

Determination of freight rates shall be left to market conditions for goods of all descriptions and denominations. No discrimination shall be made by the authorities of either Government in the matter of allocation of freight as between the transporters of either country.

Article--4

Each Government agrees that no taxes shall be levied by it on



transport vehicles registered in the territory of the other country except by prior consultation and on basis of equality.

**Article --5**

The two Governments agree that

- (a) Route permits shall be issued by the country in which the vehicles are registered;
- (b) Driving Licences and certificates of fitness in respect of transport vehicles covered by this Protocol issued in one country shall be valid in the other country also. Vehicles carrying petroleum and petroleum products shall continue to be governed by existing practice regarding certificates of fitness; and
- (c) The period for which vehicles of one country may stay in the other on each trip shall be fixed on uniform reciprocal basis.

**Article-6**

The two Governments agree to grant to transporters multiple entry visas valid for a period of six months at a time.

**Article --7**

The two Governments agree to grant to transport vehicles road permits valid for a period of six months at a time.

**Article --8**

The two Governments shall consult each other with a view to adopting necessary measures to facilitate the flow of traffic between the two countries and shall seek all possible means within their power to remove any factors which may damage the normal accomplishment of the operation foreseen in this Protocol.

**Article--9**

This Protocol shall come into force simultaneously with the Agreement on Traffic in Transit signed on 2nd March, 1965.

Done in duplicate in English and *Dari* both, texts being equally authentic, in Kabul on the 2nd March, 1965.

Signed on behalf of the Government  
of the Islamic Republic of Pakistan.

Signed on behalf of the Government  
of the Kingdom of Afghanistan.

WAHIDUZZAMAN,  
MINISTER FOR COMMERCE.

MOHAMMAD SARWAR OMAR,  
MINISTER FOR COMMERCE.

ANNEX ON THE CUSTOMS AND OTHER PROCEDURES TO THE  
AGREEMENT SIGNED ON THE 2ND MARCH, 1965 BETWEEN  
THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF  
PAKISTAN AND THE ROYAL AFGHAN  
GOVERNMENT FOR REGULATING  
TRAFFIC IN TRANSIT

I. CUSTOMS AND OTHER PROCEDURES IN RESPECT OF  
GOODS AND PASSENGER'S UNACCOMPANIED BAGGAGE  
ENTERING PAKISTAN FOR TRANSIT TO AFGHANISTAN.

1. On arrival of the goods the owner or his agent shall at the time of entering them at the Custom House.

- (a) Declare that the goods are intended for such transit;
- (b) Furnish in quadruplicate an invoice of the goods so declared in the prescribed form specifying therein by which of the two authorised routes the goods are intended to be transported viz.
  - (i) *Peshawar--Torkham.*
  - (ii) *Chaman--Spin Baldak.*
- (c) On compliance with the above provisions the documents will be completed on the basis of exemption from duty, Sales-tax and import trade control regulations after such inspection as may be considered necessary.

2. The further procedure in respect of goods arriving through Karachi will be as follows:--

The goods will be sealed with Customs seal and removed from the Karachi Port Trust transit sheds, under Customs supervision, to the Afghan transit sheds specially set apart for the purpose under Customs physical control. Heavy goods such as machinery and iron or steel, etc. will be removed from the Karachi Port Trust transit areas under customs supervision and stored in enclosed open spaces, specially provided for the purpose, under Customs control. Explosives and hazardous goods and heavy cargo exceeding 5 tons in weight for which special storage arrangements have been provided by the Karachi Port Trust will not be removed to the transit shed or open space set apart for Afghan Transit goods.

3. The goods will be loaded under Customs supervision into railway wagons, exclusively provided for transit goods, which will be sealed by the Railway. In the case of open wagons loading heavy articles such as cars, trucks, machinery, iron and steel, etc., sealing may be dispensed with. The

original copy of the invoice duly checked and completed by the Customs will be handed over to the owner or his agent. At the same time the duplicate and triplicate copies of the invoice will be despatched by the Custom House to the Afghan Customs at Spin Baldak.

4. On receipt of the invoice from the Pakistan Customs, the Afghan Customs at Spin Baldak will retain the duplicate and return the triplicate copy to the Custom House of despatch in Pakistan with appropriate endorsement certifying the arrival of the goods.

5. The procedure in respect of goods despatched by the Peshawar-Torkham route from Karachi will be the same as detailed up to and including paragraph 3 above in respect of Spin Baldak. The procedure thereafter will be that the Custom House will despatch the duplicate and triplicate copies of the invoices to the Customs Officer at Peshawar. On receipt of the invoice from the Karachi Customs, the Customs Officer at Peshawar shall retain the duplicate and forward the triplicate copy to the Customs Officer at Torkham. On arrival at Peshawar such goods will be carried to a transit shed or area under Customs control or transferred directly to a road-transport under Customs supervision. Road transports in which the goods are carried forward to Afghanistan will, where possible, be sealed with Customs Seal.

6. Goods which require re-packing after arrival at Peshawar will be allowed re-packing facilities at the Transit shed or area under Customs control. The Customs Officer at Peshawar will check the goods with the original copy of the invoice and compare the latter with the duplicate copy received from the port of entry. If the seals are intact and the goods correspond with the description in the invoice, the Customs Officer shall allow the goods to be re-packed and resealed under his supervision, shall endorse on each copy of the invoice details of any change in the number or description of the packages involved by such re-packing, shall where possible seal the road transport in which the goods are loaded for final transport to Afghanistan return the original copy of the invoice so endorsed to the owner or his agent and forward the duplicate copy to Customs Officer at Torkham. On arrival at Torkham, the goods must be presented to the Customs Officer along with the duplicate copy of the invoice for inspection and final clearance. The Customs Officer shall note the re-packing particulars, if any, on the reverse of the triplicate copy and return the duplicate to the Customs Officer at Peshawar.

7. In the case of goods entering Pakistan at Lahore the procedure will be the same as detailed above in respect of Karachi except the provisions of paragraph 2 above.

8. The procedure in respect of goods moving into Spin Baldak will be enforced only when the railway line has been extended up to that point.

Until then the formalities provided for in respect of Peshawar-Torkham route will apply *mutatis mutandis* to Chaman and to the Customs Post opposite Vesh.

9. Afghan goods or passengers' unaccompanied baggage arriving in transit by sea at Karachi if moving by air to Afghanistan from Karachi airport, will be transported under Customs seal to Karachi Airport and placed on board the on-carrying aircraft under Customs supervision. The documentation in respect of such goods will be similar to that for goods despatched by rail with appropriate modifications.

II. PROCEDURE IN RESPECT OF GOODS AND PASSENGERS, UNACCOMPANIED BAGGAGE MOVING IN TRANSIT FROM AFGHANISTAN TO FOREIGN COUNTRIES THROUGH PAKISTAN.

1. On entry of the goods at the land Customs stations at Torkham/Peshawar or at Chaman until such time as the railway line is extended upto Spin Baldak and Torkham, the Afghan exporter or his agent shall declare that the goods are in transit to a third country or overseas and furnish in quadruplicate an invoice in the prescribed form.

2. The Government of Pakistan may require certain specified goods despatched in transit from Afghanistan to foreign countries to be sealed by the Afghan Customs before their despatch out of Afghanistan. A list of such goods will be furnished to the Government of Afghanistan from time to time.

3. On compliance with the above provisions the seals on the goods will be checked and the goods removed under Customs Supervision to the transit shed or area at the Pakistan railhead at Peshawar or Chaman under Customs control. Re-packing facilities will be allowed at these transit sheds or areas as well as at the transit shed in the Karachi Port area.

4. The goods will be loaded under Customs supervision into railway wagons exclusively provided for in transit goods which will be sealed by the Railway. The original copy of the invoice duly checked and completed by the Customs will be handed over to the owner or his agent. At the same time, the duplicate and triplicate copies of the invoice will be forwarded by the Frontier Customs Officer at the Pakistan railhead to the Collector of Customs, Karachi if the goods are to be exported by sea or to the Land Customs Officer at the Land Customs Station through which the goods are to be exported by land to India. The quadruplicate copy will be retained by the Frontier Land Customs Officer for his record. The Customs Officer, who supervises the loading of goods into the railway wagons, will record on all copies of the invoice the numbers of the wagons in which the goods have been despatched.

5. (a) In the case of goods to be exported by sea from the Port of Karachi, the goods will, on arrival at Karachi railway station be unloaded from the wagons under Customs supervision after verifying that the seals are intact. They will then be carried under Customs supervision to the Afghan transit shed specially set apart for the purpose in the port area, under Customs control. The goods will remain in Customs control until they are duly exported on filing of an export shipping bill. The goods will be inspected, and examined if necessary, before shipment is allowed under Customs supervision.

*NOTE:* Goods of hazardous nature such as cotton which are in transit from Afghanistan to foreign countries cannot be stored in the transit shed along with other goods and the present arrangements of storing such goods will continue.

(b) In the case of goods to be exported by Land to India, the wagons will, on arrival at the Land Customs Station, be inspected by the Customs. Detailed examination of the goods will be dispensed with if the seals on the wagons are intact. The Customs Officer will satisfy himself that the seals are intact and that the numbers of the wagons correspond with those entered in the invoice. If the duplicate and triplicate copies of the invoice have not been received from the Frontier Customs Officer he will not detain the goods but will pass them after entering the verified particulars of the wagons and if necessary of the goods owner or his agent. On receipt of the duplicate and triplicate copies of the invoice, he will make the necessary endorsement on the basis of the particulars recorded in his register.

6. After the goods have been duly shipped for export by sea or handed over to the railway authorities for onward transmission by land, the Customs Officer will certify on each copy of the invoice that the goods have been duly shipped or exported. The original copy of the invoice will be returned to the owner or his agent, the duplicate copy will be sent to the Frontier Customs Officer at Peshawar or Chaman, as the case may be, and the triplicate copy will be retained for record by the Custom House, Karachi, or the Land Customs Station of export, as the case may be.

7. As soon as the Railway line is extended to Spin Baldak and Torkham the documentation and sealing of packages in respect of such goods will be the responsibility of the Afghan Customs, the sealing of wagons being done by the Railway, the detailed procedures respecting which will be drawn up by mutual consultation by representatives of the two Governments.

Offences and penalties.--See clause (64) of section 156(1) of the Act.

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**RELEVANT EXTRACTS**  
**from**  
**THE EXPORT POLICY ORDER, 1990**  
**GOVERNMENT OF PAKISTAN**

The  
**EXPORT POLICY ORDER**  
**1990**

Notification No. S.R.O. 697(I)/90, dated 1st July, 1990, in exercise of the powers conferred by sub-section (1) of section 3 of the Imports and Exports (Control) Act, 1950 (XXXIX of 1950), and in supersession of the Ministry of Commerce Notification No. S.R.O. 550(I)/87, dated the 29th June, 1987 and all subsequent amendments made thereunder, the Federal Government is pleased to prohibit the export to any place outside Pakistan,

- (A) of any goods of the description specified in Schedule I; and
- (B) of any goods of the description specified in Schedules II to VI, otherwise than in accordance with the conditions and restrictions specified in those Schedules, except--
- (a) any goods covered by an export licence issued by or under the orders of the Ministry of Commerce, Chief Controller, Controller, Deputy Controller or Assistant Controller of Imports and Exports: Provided that in the case of goods falling under entry No. 1 in Schedule I such export licence shall be accompanied by health certificate issued by a veterinary officer authorised by the Federal Government in this behalf;
  - (b) any goods constituting the stores or equipment of any outgoing vessel or conveyance or the *bona fide* baggage of the crew or of the passengers in such vessel or conveyance;
  - (c) any goods transhipped at a port in Pakistan after having been manifested for such transhipment at the time of despatch from a port outside Pakistan;
  - (d) any goods consigned under a procedure prescribed for regulating transit traffic;
  - (e) any goods except jute seed, artemisia seeds and fissionable materials forming contents of a *bona fide* sample: Provided that when such seeds and materials are sent by post those shall be subject to

1. It should be V as the policy contains only Five Schedules namely Schedules I, II, III, IV and V.

the postal regulations regarding limits of maximum weight for different countries for the time being in force;

- (f) any goods exported under a procedure prescribed for regulating trade between border areas of Pakistan and those of the adjacent territories;
- (g) wheat and wheat products from Pakistan to Azad Kashmir territory;
- (h) any stores or equipment when sold abroad on Government to Government basis and exported under an export licence issued by the Director of Pakistan (Army) or by any other officer authorised by the Ministry of Defence;
- (i) *bona fide* samples or articles exported as such by an exporter in Pakistan provided that--
  - (a) the *f.o.b.* value of each consignment of sample does not exceed US \$ 1000; Provided that leather garment manufacturers are entitled to export fifty samples in a calendar year irrespective of monetary ceiling;
  - (b) the samples are supplied free of charge;
  - (c) the consigner is registered exporter under the Registration (Importers and Exporters) Order, 1952, or has been exempted from registration thereunder; and
  - (d) all gift parcels of the value not exceeding Rs. 500 each.

2. All exporters, other than organizations in public sector, when applying for export registration or renewal of existing export registration shall, among other things, produce a certificate of membership of any of the trade organizations licensed or recognised by the Federal Government under the Trade Ordinance, 1961 (XLV of 1961), to be--

- (i) on All-Pakistan Association of Trade or Industry or both, representing the specific trade or industry of the exporters; Provided that if the exporter is engaged in more than one trade or industry and becomes a member of an All-Pakistan



Association representing any such trade or industry it shall not be compulsory for such exporter to become a member of any other such Association representing other trade or industry; or

- (ii) a Chamber of Commerce and Industry of the area in which head office of the exporter is located and which is affiliated to the Federation of Pakistan, Chambers of Commerce and Industry: Provided that in case the exporter is removed by such Chamber from its membership, such exporter may become a member of any other Chamber so affiliated and produce a membership certificate from the latter Chamber:

Provided further that the certificate shall be issued only after verification of the *bona fide* of the exporter, and that if any exporter in whose favour a membership certificate has been issued by a trade organization found by the licensing authority to be not genuine or non-existent, the certification by such trade organization shall not be acted upon:

Provided further that in case an existing exporter fails to register himself with a trade organization licensed or recognised by the Federal Government, his export registration shall be cancelled:

Provided also that an exporter, who is, at the same time, registered as an importer shall be exempt from the above condition.

3. Provisions of this Order shall come into force on the first day of July, 1990, and shall remain in force until the 30th day of the June, 1991, without prejudice to the powers of the Federal Government to amend this order in the larger economic and national interest.

#### SCHEDULE I

#### ESSENTIAL COMMODITIES

S. No.	Description	Exceptions
1	2	3
		(i) Breeding buffaloes, cows, goats and camels, as may be specified subject to the provisions of Schedule IV.
		(ii) Such horses as are registered with Jockey Club of Pakistan.
		(iii) Fillies/mares, subject to the provisions of Part (B) of Schedule II.

1	2	3
		(iv) Poultry, live or dressed including day old chicks.
		(v) Fish, shrimps, lobsters, crabs and frogs.
		(vi) Wild boar.
2.	Beef and mutton.	(i) Cooked and canned beef and mutton.
		(ii) 50% of the total production of commercial feed lot units, livestock farms and bilateral joint ventures.
3.	Animal fat.	
4.	Milk and milk products.	(i) Infant formula food, infant weaning foods and foods for invalids.
		(ii) Cheese.
		(iii) UHTT milk (upto 50% of production of each unit).
		(iv) Ice Cream.
		(v) Yoghurt.
		Maize and barley (subject to quota).
		Crushed/powdered black pepper in packets.
5.	Grains, all sorts.	
6.	Pepper.	
7.	Pulses and beans, all sorts.	
8.	Blood-meals, meat meals, corn gluten meals, corn gluten feed and sesame oil cakes.	
9.	Bran and fodder, all sorts.	Oil cakes, rice bran, wheat bran (subject to quota and special procedure).
10.	Sann hemp and artemisia seeds.	
11.	Edible oils, all sorts, including butter oil and vegetable ghee and oil-seeds.	Castor seeds, poppy seeds, kapok seeds and sesame seeds.
12.	Gur, Khandsari and jaggery powder.	
13.	Intoxicants and intoxicating liquors as defined in the Prohibition (Enforcement of Hadd) Order, 1979.	

1	2	3
14.	Hides and skins, all sorts.	(i) Lamb skins (grades I to V).
		(ii) Wild boar skins.
15.	Wet blue leather made from cow hides and cow calf-hides.	
16.	Wild animal skins and garments made of such skins; products or derivatives of such skins; finished or tanned leather made of wild animal skins; and stuffed mounted or preserved specimens of wild animals.	
17.	Charcoal and firewood.	
18.	Timber.	including thin cut B.M.
19.	Empty wooden crates, assembled or unassembled.	
20.	Ferrous and non-ferrous metals.	(i) Pig iron.
		(ii) Scrap obtained from ship-breaking.
21.	Arms and ammunitions and explosives and ingredients thereof.	(i) Knives.
		(ii) Sporting rifles, hand guns and accessories and ammunition thereof.
		(iii) Saltpetre.
		(iv) Arms, ammunitions, explosives and ingredients thereof recommended by the Ministry of Foreign Affairs and Defence Production Division.
22.	Fissionable material.	
23.	Maps and charts.	(i) Maps of scale smaller than 1/4" or 1/250,000.
		(ii) Educational and scientific charts.
		(iii) Guide maps and relief maps.
24.	Unfinished and semi-finished hockey sticks and blades.	
25.	Paper waste.	
26.	Human skeletons.	

1	2	3
27.	All imported goods in their original or un-processed form.	(i) Parts obtained from ship-breaking. (ii) Scrapped battery cells. (iii) Waste Dental amalgam. (iv) Waste exposed X-ray films. (v) Over 20 years old automotive vehicles and aircrafts, provided export earnings are received in foreign exchange. (vi) Imported goods in their original or unprocessed form provided their re-export f.o.b. price is higher by at least 10% than their C&F prices. The goods would be re-exported against a licence and re-exports would be affected either against advance payment or against sight letter of credit.

Antiquities.

**SCHEDULE II**

**(A) COMMODITIES EXPORTABLE THROUGH PUBLIC SECTOR AGENCIES**

The following items will be exported only through public sector agencies:

S. No.	Description	Exceptions
1	2	3
	Petroleum and petroleum products.	(i) Mineral turpentine when it is to accompany and form part of paints and varnishes exported. Finished lubricants in blended form subject to production of NOC from the Ministry of Petroleum and Natural Resources.
	Coke.	
	Rock salt when exported under border trade.	Table Salt
	Sodium hydroxide (Caustic Soda).	

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1	2	3
5.	Raw cotton, including desi cotton.	As per CEC/RECP Policy of private sector participation and Government policy of induction of private sector in cotton and rice trade.
6.	Rice.	As per CEC/RECP Policy of private sector participation and Government policy of induction of private sector in cotton and rice trade.
7.	Cement.	As per CEC/RECP Policy of private sector participation and Government policy of induction of private sector in cotton and rice trade.

**(B) COMMODITIES EXPORT OF WHICH IS SUBJECT TO SPECIAL PROCEDURES**

1. The export of precious and semi-precious stones and gold jewellery (including gold jewellery embedded with indigenous or imported precious or semi-precious stones) shall be governed by the special procedure notified by the Export Promotion Bureau.

2. The export of cinematographic films produced in Pakistan by private sector shall be allowed subject to the production of No Objection Certificate from the Culture, Tourism and Youth Affairs Division, Government of Pakistan.

3. The export of used copper and brass utensils shall be allowed subject to the production of No Objection Certificate from the Department of Archaeology and Museums to the effect that such goods do not fall within the definition of 'antiques' and that the items presented for shipment have been duly checked and photographs thereof have also been authenticated by the said Department.

4. Export exotic captive bred birds (guinea fowl, turkey, common, domesticated/exotic pigeons, java sparrows, zebra finches, white finches, domestic ducks, domestic geese, budgerigars, cockatiels, love birds, common crows, house sparrows, Japanese quails, bod white, quails, day old ducklings, Bengali finches, serene finches gimp finches) and domesticated rabbits are subject to mandatory checking by National Council of Conservation of Wildlife (NCCW) at Islamabad and of Provincial Wildlife Departments at other airports/exit points. The export consignments are also required to be accompanied with the quarantine certificate about health and caging by the Animal Plant Quarantine Department.

5. Export of Endemic birds will be subject to mandatory checking by

the NCCW at Islamabad and of Provincial Wildlife Department at other airports/exit points. Export consignments of rose ringed parakeet (*psittacula krameri*) will be accompanied by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), export certificate issued by the National Council of Conservation of Wildlife (NCCW). The following two scientific institutions will, however, be exempt from the requirements of plants and animals, including insects, for scientific purpose, namely:--

- (i) Pakistan Agricultural Research Council, Islamabad, and
- (ii) Commonwealth Institute of Biological Control, Rawalpindi.

6. Export of *atta*, *suji*, *maida* and wheat bran will be subject to distribution of quota by the Pakistan Flour Mills Association.

7. Export of fillies and mares will be subject to clearance by a Committee comprising representatives of the Remount, Veterinary and Farms under GHQ, Livestock Division, Jockey Club of Pakistan and Horse Breeders' Association. Horses other than fillies and mares registered with Jockey Club of Pakistan can be exported after obtaining an identification certificate from Jockey Club of Pakistan and export permit from the Chief Controller of Imports and Exports.

8. Export of fertilizers is authorised by a Standing Committee in the Ministry of Industries on the basis of exportable surplus determined by the Government.

9. Export of Basmati rice by private sector is allowed in packets with brand names or in bulk subject to the conditions that (i) the exporters are registered with the respective Chambers of Commerce and Industry (ii) the brand names will be registered with the Registrar Trade Marks, Government of Pakistan (iii) the exporters may obtain rice either from Rice Export Corporation of Pakistan Ltd. (RECP) or may use their own stocks (iv) the buyer shall appoint internationally reputed inspectors or RECP for inspection and (v) the contracts shall be subject to approval and registration by the Export Promotion Bureau (EPB).

10. Export of cotton by the private sector shall be subject to such procedure as may be specified by the Federal Government by Notification in the official Gazette.

11. Export of wild boar, its meat and skin shall be permissible only by the non-muslim registered exporters.