

## Chapter 5: Facilitation of imports under Project Imports

With a view to facilitate smooth and quick assessment by a simplified process of classification and valuation, the goods imported under Project Imports are classified under a single Customs Tariff Heading (CTH). In other words, facilitation of project imports is expected to prevent undue delays in cargo clearance and quick and simple assessment procedure.

Audit examined some aspects of facilitation, like the dwell time of cargo at the ports, submission of documentation by the importers, time taken by the Commissionerates in finalising provisional assessments of BEs and finalisation of contracts. Audit findings are narrated in subsequent paragraphs.

### 5.1 Dwell time for goods cleared under Project Import

Dwell time is the measure of the time elapsed between arrival of the cargo into the port to the time taken for goods to leave the port premises after all permits and clearances have been obtained. It is an important indicator of impact of trade facilitation measures.

A time release study was conducted by CBEC to identify inordinate delays in the various stages of import clearances for BEs given out of charge (OOC) during the period 2010-11 to 2013-14. The report of the dwell time analysis compiled from the details furnished by the Commissionerate revealed that there was a downtrend in dwell time and the decrease was from 13.94 days during 2010-11 to 10.95 days during 2013-14. The decline was attributed to various ICT measures adopted by CBEC/DGFT and rationalization of procedures.

One of the main objectives of the Project Imports scheme was to simplify the procedures by single classification/single rate of duty for various types of goods and consequent facilitation to importers by quicker customs clearance of the imported goods. The Board (September 2016) confirmed that dwell time study for the clearance of Project Import goods was not conducted by them. DoR in the entry conference for this Performance Audit provided details of average dwell time for Project Import goods as under:

**Table No. 9: Dwell time for Project Import goods**

Port	Dwell Time (in days)
Chennai	26.2
JNCH, Mumbai	27.7
Mumbai-I	15.5
Mundra	6.2
Kolkata	30.4

Source: CBEC

All India average dwell time during the year 2013-14 was 10.95 days for all category goods. Audit, however, noticed the delay in clearance of Project Import goods.

**Table No. 10: Delay in clearance of Project Import goods**

Port	No. of case in which delay noticed	Delay ranges between	Average delay (in days)
Chennai	52	27 and 297 days	61
NCH, Mumbai	18	16 and 109 days	25
JNCH, Mumbai	18	28 and 158 days	50
ACC, New Delhi	13	16 and 54 days	27
ICD/TKD	8	18 and 80 days	39
ICD City Bangalore	7	56 and 100 days	70

Thus, even though various measures have been adopted by CBEC/DGFT for rationalization of import procedures, project imports clearances at the ports test checked by audit continued to experience heavy delays.

DoR in their reply (December 2016) stated that dwell time has been taken from the time of filing the Bill of Entry till the time of OOC. The dwell time referred might have included the time taken by importers also. At times the delay cannot be attributed to the departmental officers, delay occurs due to the non-submission of documents in time and time taken in duty payment by the importers. Since clearances require verification of various documents produced by the parties, debiting of bond and entering necessary particulars in register manually, dwell time may increase. However, efforts are being made to ensure speedy clearance.

DoR has suggested that a study may be undertaken for the time taken for assessment i.e. time between filing of B/E and assessment and time taken for out of charge i.e. from time of registration of goods at docks/CFS and out of charge.

Commissionerate wise factual information furnished by DoR ( December 2016) was under examination.

## **5.2 Inadequate facilitation and delays due to cumbersome documentation**

One of the trade facilitation measures initiated by the Department is reduction in the volume of documents, to avoid delays due to cumbersome documentation process.

DoR in their submission to PAC (Audit Report No. 13 of 2015) with reference to reduction in number of documents stated that most of the activities related to customs clearance have already been automated. The task to ease of doing business is enhanced by reducing manual interface and

reducing/replacing manual documentation by online verification of message exchanges with other partner regulatory agencies.

Under regulation 5 of PIR 1986, the importer desirous of claiming assessment under Project Imports is required to register the contract along with a set of multiple documents like industrial license, SSI certificate, recommendation letter from the sponsoring authority, plant design and location, list of goods etc. According to regulation 7 of PIR 1986, the importer is required to submit a reconciliation statement indicating the details of goods imported, along with other supporting documents as proof regarding the value and quantity of goods imported, within three months or extended period as authorised, of import of last consignment of imports for home consumption.

Audit scrutiny revealed that in 164 contracts in 15 Commissionerates<sup>43</sup> the importers had not submitted the reconciliation statements/other documents or submitted the same with delay of more than three months resulting in delay in the process of finalisation of contracts. The CIF value involved in the contracts was ₹ 20,507.91 crore and duty foregone was ₹ 2,789.12 crore.

In NCH, Mumbai Commissionerate, there were 275 contracts involving 124 importers with CIF value of ₹ 7,296.22 crore, registered between 1993 and 2015 pending due to non-submission of requisite documents. Among 275 contracts, 108 contracts pertained to Public Sector Undertakings (PSUs). Among PSUs, the biggest non-compliance was from two importers<sup>44</sup> which did not submit their documents in 74 and 22 contracts respectively resulting in non-finalisation of contract value of ₹ 4,142.21 crore and ₹ 1,226.21 crore pertaining to the year between 1994 and 2009.

In contracts selected in JNCH, Mumbai Commissionerates, audit noticed 33 cases of delay/non-submission of documents for finalisation, involving CIF value of ₹ 2,092.80 crore and duty foregone of ₹ 73.66 crore. In these cases, the delay is on an average of 976 days.

Audit observed that none of the Commissionerates mentioned above initiated any action to levy penalty in case of non-submission/incomplete submission of documents within the prescribed time as stipulated in CBEC Circular dated 4 May 2011.

Commissionerate wise factual information furnished by DoR (December 2016) was under examination.

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<sup>43</sup> Ahmedabad, Bangalore (City) ICD, Chennai Sea Customs, Cochin, Hyderabad, Jamnagar, Kandla, Kanpur, Kolkata, Ludhiana, Mumbai (JNCH), Mumbai (NCH), New Delhi (ACC), Noida, and Vishakhapatnam

<sup>44</sup> M/s Bharat Heavy Electrical Ltd. (BHEL) and M/s Gas Authority of India Ltd. (GAIL).

In a study report by Federation of Indian Export Organisation (FIEO)<sup>45</sup> it was stated that while Government has reduced the documentation for imports and exports and many of the Schemes, the huge amount of documentations required for project imports deter small and medium manufacturers to avail project import benefits and they thus prefer to import on normal tariff rather than adding to their transaction time & cost.

While, better monitoring of completion of project imports especially at senior level, and timely finalisation of contracts is a must for improved functioning of the scheme, there is also a need to review and simplify the documentation procedure for Project Imports which consequently causes the delay in finalisation of contracts for indefinite period.

***Recommendation: Audit recommends that the Ministry may consider reviewing the volume of documents required under the Project Import scheme with a view to simplify the requirements.***

The Board during the exit meeting stated (19 December 2016) that documents specified in the Regulation for pre and post import stages are reasonable. However, Ministry concurs with the audit on the need for meticulous monitoring at the senior level.

Audit is of the view that, multiple set of documents required to be submitted by importer at the time registration and finalisation of contracts should be reviewed and rationalised to encourage ease of business and trade facilitation.

### **5.3 Delay/non-finalisation of provisional assessment of BEs**

According to paragraph 5.3 of Chapter-5, assessments are to be finalised within a period of three months after submission of the reconciliation statement and other documents by the importers, where PSV is not required and six months where PSV is required. Further, to avoid delay in cases where imports effected from ports other than the port of registration of contract, the Board in circular dated 4 May 2011 instructed that concerned Custom House Agents and Commissionerate should ensure that BEs are finalised without undue delay.

Audit scrutiny of the records of six Commissionerates<sup>46</sup> revealed that there were delays in finalisation of provisional assessments of 633 BEs pertaining to 23 project contracts (CIF value ₹ 8,708.16 crore). The delay was more specifically due to non-finalisation of imports effected by the importers from the ports, other than port of registration.

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<sup>45</sup> Report dated 13.07.2016.

<sup>46</sup> Ahmedabad, ACC Bangalore, Bhubaneswar –I (Paradip Division), Mumbai JNCH, Mumbai NCH, Kolkata.

A case is illustrated below:

In Kolkata Commissionerate, the provisionally assessed 81 BEs involved in eight contracts (CIF value ₹ 840.65 crore) pertaining to six importers were pending finalisation despite receipt of reconciliation statement and other documents. There was on an average delay of 952 days, calculated from expiry of six months after submission of the reconciliation statement and other documents till 31 March 2016, in these cases.

DoR in their reply (December 2016) stated that though Reconciliation Statements have been submitted, submission of other documents like utilisation certificate from an Independent Chartered Engineer & Head of Department (in case of PSUs), Bank Remittance Certificate, Purchase Order Acceptance Letter etc. are to be submitted.

Reply of DoR is not acceptable as in cases where the requisite statement/documents are not submitted in time or submitted incomplete, necessary action for enforcing bond/undertaking, cash security/bank guarantees executed in this regard, issue of notice for demand of duty, penalty for non-compliance with the provisions of the Regulations was required to be initiated against the importers as per Circular dated 04 May 2011. In none of the cases was such action observed to have been taken. Responses in respect of Ahmadabad, Bangaluru, Bhubaneshwar, NCH and JNCH, Kolkata and Mumbai Commissionerates furnished by DoR (December 2016) were under examination.

#### **5.4 Delay/non-finalisation of project contracts**

As per circular dated 4 May 2011, finalisation of assessments under project imports should be completed within a period of 60 days from the date of submission of required documents by the importer. However, in exceptional circumstances where it is not possible to complete the finalisation within time limit for justifiable reasons, the time limit may be extended by the Jurisdictional Commissioner of Customs for such further period as may be decided by him and for the reasons to be recorded in writing.

Where the requisite statement/documents under Regulation 7 of PIR, 1986 is not submitted in time or submitted incomplete, then necessary action for enforcing bond/undertaking, cash security/BGs executed in this regard, issue of notice for demand of duty, penalty for non-compliance with the provisions of the Regulations may be initiated against the importer.

In the study report by FIEO<sup>47</sup>, it has been stated that time stipulated by CBEC to complete the assessments within 60 days from the date of submission of

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<sup>47</sup> FIEO Report dated 13.07.2016.

required documents by the importers has not been implemented in the field formations in letter and spirit. There is a need for meticulous monitoring at the senior level so that the time limits are strictly adhered.

Audit scrutiny of the records related to finalisation of Project Import contracts revealed that 55 contracts in 11 Commissionerates<sup>48</sup> involving CIF value of ₹ 4,004.63 crore, were either not finalised by the customs or the same were finalised with substantial delay. The average delay in these cases was 958 days (**Appendix 5**).

Few illustrative cases are detailed below:

(i) In Kolkata Commissionerate, 12 contracts registered by nine importers<sup>49</sup> between February 2003 and March 2013 for import of goods under PIR, 1986, were pending for finalisation despite receipt of the reconciliation statements and one contract<sup>50</sup> was finalised after 153 days from the date of receipts of documents for finalisation. However, in none of the cases, time for finalisation/for submission of documents for finalisation of contracts was extended by the authority concerned. Average delay in these cases was 1160 days.

Analysis of reasons for delay revealed that in eight cases, no action was taken despite receipt of documents while in three cases; no action was initiated to call for the documents. Further, in two cases, finalisation was pending on account of non-receipt of reply regarding finalisation of assessment of the bills of entry from customs authorities from where project import goods were imported by the importers.

Thus, non-adherence to timeline for finalisation of project contract cases was not only contrary to the Board's instructions but also resulted in non-reconciliation of revenue of ₹ 30.76 crore availed through duty concession under Project Imports.

(ii) In five finalised cases (CIF Value ₹ 73.46 crore) under Chennai Sea Customs Commissionerate, there was average delay of 380 days in finalisation of contracts. In one case, the delay was of two years pertaining to the import made through Air Cargo, Chennai under TRAs and the BEs to be finalised by Air Customs, Chennai.

In TRA cases, the finalisation got delayed as the BEs are required to be finalised by the concerned ports where the TRA is registered. This procedure

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<sup>48</sup>Bangalore ACC, Chennai Sea Customs, Hyderabad ACC, Kanpur, Kolkata, Mumbai NCH, Mumbai JNCH, New Delhi ACC, NOIDA, Patparganj ICD & other ICDS- Delhi, Vishakhapatnam.

<sup>49</sup>M/s Bharat Heavy Electricals Ltd and eight other importers.

<sup>50</sup>M/s Praxair India Pvt Ltd.

needs to be streamlined in order to avoid delay in finalisation of the Contracts.

Again, in 49 contracts involving CIF value of ₹ 2,306.99 crore, documents for finalisation of contracts were submitted to the Commissionerate between 2005 and 2015 but the Commissionerate was yet to finalise those contracts. Out of those 49 cases, 22 contracts (45 per cent) were pending finalisation for more than five years.

(iii) In ICD Patparganj, Delhi Commissionerate, one importer<sup>51</sup> registered (December 2004, July and August 2005) three Project Import contracts of CIF value of ₹ 26.62 crore, for substantial expansion of manufacturing of tempered safety glass at Rewari, Haryana. After last import in December 2005, the importer submitted reconciliation statement, BEs and other relevant documents in July 2006. PSV was also conducted in February 2008.

Commissionerate took more than six years to finalise (December 2014) these three cases without obtaining permission for any extension of time limit to finalise the case from the concerned Jurisdictional Commissioner of Customs.

Commissionerate wise response of DoR (December 2016) to the above observations was under examination.

***Recommendation: Audit recommends that Board may streamline the process and monitor the imports effected through other ports, by exploring the possibility of electronic transmission of TRA assessments (BEs) from TRA ports to the port of registrations, to avoid delay in finalisation of contracts.***

The Board during the exit meeting stated (19 December 2016) that based on the changes in the PIR, a Project Management Module will be developed in ICES 1.5 including electronic transmission of TRA assessments (BEs) from TRA ports to port of registration.

### **5.5 Transaction costs**

Transaction Cost includes differential costs of credit at international and domestic rates, procedural delays e.g. time for custom clearances and cargo handling, delays in transportation/costs of transportation due to poor connectivity of road, rail, port, airport, Cost of funds required including cash security, working capital requirement etc. and Cost of Compliance such as requirement of recommendations from the sponsoring authority, provisional duty bond along with revenue deposit of 2 per cent of the value of the goods, submission of reconciliation statement, site verification by the customs etc.

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<sup>51</sup>M/s Asahi India Glass Ltd.

Through the survey conducted by PHDCCI<sup>52</sup> it was estimated that transaction costs were to the tune of 5-14 per cent of total project imports under the Scheme which is a major problem cited by the respondents of the survey.

**Table No. 11: Break-up of Transaction Costs according to Industry Segment**

S.No.	Heads	Large (in per cent)		Medium (in per cent)	Average (in per cent)
		Public	Private		
1	Differential costs of credit at international and domestic rates	2	3	3	2.7
2	Procedural delays eg. Time for custom clearances and cargo handling	1-2	2	2-3	1.6
3	Delays in transportation/ costs of transportation due to poor connectivity of road, rail, port, airport	1-2	1-2	1-2	1
4	Cost of funds required including cash security, working capital requirement etc.	-	4	6	3.3
5	Cost of Compliance such as requirement of recommendations from the sponsoring authority, provisional duty bond along with revenue deposit of 2 per cent of the value of the goods, submission of reconciliation statement, site verification by the customs etc.	-	1	2	1
<b>Total</b>		<b>5</b>	<b>11</b>	<b>14</b>	<b>9.6</b>

Source: PHDCCI, Survey on Project Imports under CTH 9801, May 2016

As small enterprises surveyed are not availing the scheme, the transaction costs for small enterprises could not be determined.

As seen from the table above, costs on account of procedural delays like dwell time and delay in finalisation of provisional assessment constitute on an average 2 per cent of the total transactions costs. Further, the transaction costs reported by private sector at 11 per cent are significantly higher than the transaction costs reported by public sector enterprises at 5 per cent.

According to the PHDCCI survey, feedback from the medium and small sector respondents revealed that the process to import under CTH 9801 becomes cumbersome as-

- I. They have to manage the financials from the banks with so many compliances and tedious processes
- II. They have to fulfil minimum two percent of CIF value subject to maximum of ₹ 1crore norm which may not be feasible for all units.

However, the benefit is only three per cent as duties and levies under the normal imports are 26.5 per cent and duties and levies under Project Imports

<sup>52</sup>Report dated 15.07.2016

Scheme 9801 are 23.5 per cent. But the transaction costs including getting finance from banks, ₹ 1 crore norm of BG comes at around 14 per cent. So cost-benefit analysis becomes unfavourable to import under CTH 9801 until and unless there is some technical requirement to import machinery or technical know-how from the international market which is also cost-competitive as compared with India.

**Recommendation: Audit recommends that the Ministry review the factors contributing to high transaction costs associated with the Project Import scheme, and compare the benefits of the scheme, vis-a vis other schemes (like EPCG).**

The Board during the exit meeting (19 December 2016) and DoR in their reply (26 December 2016) stated that Project Import Scheme is not linked to any export obligation and it has its distinct advantages. Review of regulations would be taken up with objective of procedural simplification and enhancing level of automation in ICES 1.5. This would bring down the transaction cost.

### 5.6 Awareness of the Scheme

PHDCCI survey revealed that among the respondents, the large enterprises were most aware of Project Imports Scheme under CTH 9801 while among the medium enterprises, around 5 per cent of the respondents are aware of the scheme while only 2 per cent avail it. The respondents from the small enterprises on the other hand, were least aware of the scheme (2 per cent).

**Table No. 12: Percentage of respondent firms aware about the Scheme and availing it**

S.No.	Scale of Operation	Awareness of the scheme (in per cent)	Availing of the scheme (in per cent)
1	Large Enterprises	14	10
2	Medium Enterprises	5	2
3	Small Enterprises	2	0

Source: PHD Research Bureau, Survey on Project Imports under CTH 9801, May 2016

Note: figures are rounded off

According to the survey, among the units surveyed, only 10 per cent large enterprises and 2 per cent of medium scale enterprises reported having utilised the scheme. None of the small scale sector enterprises out of 88 surveyed reported having availed the scheme.

Ministry's reply is awaited (December 2016).

### 5.7 Conclusion

*Though the Project Import Scheme aimed at facilitation quicker imports, Audit found that factors like higher than average dwell time at ports, voluminous documentation, delay in provisional assessments and in contract finalisation*

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*contributed to nullify the objective of the Scheme for simplification procedures.*