

EXECUTIVE SUMMARY

An Inland Container Depot (ICD)/Container Freight Station (CFS) also known as dry ports are multimodal logistics centres with public authority status under Customs. They are connected to a seaport either by rail or road and serve as a transshipment point for export and import cargo. In addition to being transshipment points, they offer services for handling and temporary storage of import/export laden and empty containers, warehousing, temporary admissions, re-export. An ICD is generally located in the interiors of the country away from the servicing ports. CFS, on the other hand, is an off dock facility located near the servicing ports which helps in decongesting the port by shifting cargo and Customs related activities outside the port area. ICDs and CFSs provide much needed logistics infrastructure for movement of containerised cargo for imports and exports and thus play an important role in facilitating trade.

According to data maintained by Department of Commerce, as of March 2017 there were 129 ICDs. Of these, Maharashtra had the maximum number of ICDs (13), followed by Uttar Pradesh (11), Tamil Nadu (10), Gujarat (9) and Haryana (8). ICD Tughlakabad in Delhi NCR region is the largest ICD in the country spread over 44 hectares of land. There were no ICDs in the northernmost state of Jammu and Kashmir and only one ICD in Assam among all north-east states.

There were 168 CFSs in the country out of which Tamil Nadu had the highest number (50) followed by Maharashtra (48) and Rajasthan (24).

In 2016-17, a total of Rs 4.27 lakh crore worth of imports and exports was handled through 80 active ICDs in the country, of which trade worth Rs. 1.94 Lakh crore (approximately 46 *per cent* of total trade) was handled in five top ICDs of the country, namely, ICD Tughlakabad Delhi, ICD Whitefield Bengaluru, ICD Sabarmati Gujarat, ICD Tuticorin Tamil Nadu and ICD Garhi Harsaru in Haryana.

Annual growth of imports through ICDs between FY 13 and FY 15 ranged between 16 - 17 *per cent*, but declined to 0.6 *per cent* in FY 16 and picked up only marginally by 1.5 *per cent* during FY 17. The exports from ICDs grew at an impressive 27.5 *per cent* between FY 13 and FY 14, but slowed down to 8.2 *per cent* in FY 15, 3 *per cent* in FY 16 and modest 4.3 *per cent* in FY 17.

During 2016-17, top items of imports through ICDs were machinery and electrical equipment, base metals plastics and rubber, chemicals, textiles and wood pulp and fibrous cellulosic materials. Top items of exports through ICDs

included textiles, chemical products, machinery and electrical equipment, base metals, vehicles and associated transport equipment and agricultural products . China was the largest source of Indian imports through ICDs, followed by Japan and South Korea, while main destination countries for India's exports through ICDs were USA, UAE and UK.

Performance audit of working of ICDs and CFSs was taken up with a view to assess the extent to which ICDs and CFSs are able to facilitate foreign trade of India through containerised movement of cargo. The audit objectives were to:

- i. Examine the procedures for setting up and closure of ICDs and CFSs
- ii. Assess the performance of ICDs and CFSs in providing containerised cargo handling and customs clearance facilities to facilitate trade, and
- iii. Examine the regulatory framework for the operation of ICDs and CFSs.

The sample selected for test check included a total of 85 ICDs/CFSs under 35 Customs Commissionerates, out of which there were 44 ICDs (38 functional and 6 closed/non-functional) and 41 CFSs . The performance audit covered transactions over a five year period from 2012-13 to 2016-17.

This report is divided into five chapters. Chapter I presents an overview of the ICD/CFS sector. Chapter II delineates audit objectives, scope, sample selection methodology and criteria used for conduct of this performance audit. Chapter III, IV and V contain audit findings, conclusion and recommendations following each of the three objectives of this performance report.

This report contains twenty eight audit paragraphs including sub-paragraphs and eight recommendations. The performance audit has revenue implication of ₹ 573.21 crore.

Responses received from Department of Commerce (DoC) (January 2018) and Department of Revenue (DoR) (February 2018) have been included at appropriate places.

AUDIT FINDINGS

The important audit findings are narrated below.

Chapter 3 - Procedures for setting up of Inland Container Depots (ICDs) and Container Freight Stations (CFSs)

Absence of framework for setting up of ICDs and CFSs

An Inter-Ministerial Committee (IMC) was constituted in 1992 to act as single window clearance for proposals for setting up of Inland Container Depots

(ICD), Container Freight Stations (CFS) and Air Freight Stations (AFS). Ministry of Commerce and Industry guidelines, 1992 prescribe the requirements for setting up of the ICDs and CFSs. Audit observed that two sets of guidelines were available on the Department of Commerce (DoC) website and none of them mentioned the notification or memorandum through which these were formalized. DoC stated that the guidelines were revised in September 2017 but the earlier guidelines were inadvertently not removed from its website. DoC further stated that there was no requirement of separate notification as these have been framed under the IMC's terms of reference. However, without reference to any formal notification of guidelines, Audit could not establish which of the two guidelines were formalized and the date from which revised guidelines came into effect.

Audit concluded that the existing guidelines lay down a checklist of steps to be followed while granting approvals that are more procedural in nature, and there is no policy document or framework laying down principles and objectives which would help the IMC members to evaluate the proposals.

Further, no role and responsibilities have been defined for the IMC or its constituent ministries beyond the approval process leaving the sector unregulated.

(Para 3.1)

Non-availability of basic data and lack of reliable data on number and status of ICDs and CFSs

Basic data relevant to setting up and operation of ICDs and CFSs, such as their number, location, operational status (i.e. functioning or closed), installed capacity, performance in terms of operating capacity, etc. was not available with the DoC which was the nodal Ministry under which the IMC was functioning.

On Audit's request for comprehensive data on number of ICDs established before and after the creation of IMC, DoC provided a list of ICDs and CFSs that had become functional after the creation of IMC in 1992 and stated that they did not have data prior to that year. The Central Board of Excise and Customs (CBEC), now CBIC[#] did not furnish any data to Audit. Audit therefore approached local Customs formations for details of ICDs and CFSs functioning under their respective jurisdiction and found several discrepancies between data maintained by DoC of functional ICDs/ CFSs and that collected through local Commissionerates. Audit noticed at least 27 instances of incorrect reporting and non-updating of status during test check of records.

[#]The CBEC renamed as the Central Board of Indirect Taxes and Customs vide Sec. 1 # 60 of the Finance Act, 2018.

Audit concluded that there is lack of single reliable source of data on the number of functional/operational/closed ICDs/CFSs.

(Para 3.2)

Approvals to new ICDs and CFSs without assessment of capacity created and utilised

New ICDs and CFSs were approved by the IMC without assessing the capacity created and utilized. Audit found that nearly forty *per cent* of ICDs and CFSs test checked were operating at less than half of their installed capacity and another one third were operating between 50-70 *per cent* of their capacity. In five CFSs attached to Kolkata port, although the capacity utilisation was only 74 *per cent* of their combined cargo handling capacity, a new CFS was granted permission to start operations. Audit observed that immediately after the new CFS became operational, volumes handled by one of the existing CFSs dropped drastically in nearly the same proportion as the volumes handled by the new CFS went up. In JNPT Mumbai, in 2012, capacity utilisation in 13 out of 27 CFSs attached to the port was reported in the range of 60-65 *per cent*, while that in 16 out of 29 CFSs in Chennai port was about 56 *per cent*. The IMC approved ten new CFSs in Maharashtra and twelve new ICDs in Tamil Nadu including six in Chennai during 2012-17.

DoC stated that proposals received by the IMC are business proposals from private developers whose viability depends on projected traffic volume.

Audit concluded that there is a proliferation of ICDs and CFSs in certain regions and in and around major port areas of the country and one of the main reasons for under utilisation of capacity created is setting up of multiple ICDs/CFS in close vicinity to each other. It has also resulted in overstretching of the resources of the Customs department.

(Para 3.3)

Audit pointed out other cases of delay in approval and operationalization of ICD and CFS projects, ICDs operating without fulfilling minimum land area requirement and cases of major investments made by the developer even before grant of IMC approval.

(Para 3.4, 3.5, 3.6)

Chapter 4- Effectiveness of ICDs and CFSs in facilitating trade in containerised cargo

ICDs functioning without adequate infrastructure

Custodians operating the ICDs and CFSs are responsible for providing the required infrastructure and security to the import/export goods being handled at their respective premises under various provision of Handling of Cargo in Customs Area Regulations (HCCAR) 2009. Among the test checked

ICDs, Audit found that in ICD Kottayam basic handling equipment like crane for loading and unloading of containers and reach stacker for lift-off operations were not available. Though the ICD was projected to handle 9000 TEUs¹ per year, only 9159 TEUs were handled during five year period of 2012-17. Only 25 exporters had availed of the ICD facilities till the time of audit.

In ICD Verna Goa, Audit noticed that minimum infrastructure requirements under HCCAR 2009 had not been fulfilled including violation of minimum area requirement. The notified area under ICD was 1.2 hectares which was far below the minimum area requirement of 4 hectares for ICD.

(Para 4.1)

Non availability of specified demarcated areas and space for storage of hazardous goods

HCCAR 2009 stipulates that it is the responsibility of the custodian to demarcate separate areas for unloading and storage of import and export cargo and provide separate space for fumigation of goods. Hazardous Waste (Management, Handling and Transboundary Movement) Rules 2008 and other relevant Government provisions should be observed by the custodian in respect of handling and storage of hazardous goods. Audit noticed several cases of violation of these provisions where ICDs / CFSs had not provided demarcated areas as per HCCAR 2009, nor made separate area available for handling hazardous goods.

(Para 4.2, 4.3)

Interruption in EDI connectivity

The Indian Customs EDI System (ICES) 1.5 is the Customs' integrated software for automation of Customs workflow used by both the department as well as importers/exporters. EDI connectivity plays an important role in facilitating speedy clearances for imports and exports.

Audit found that no log books for local connectivity failures were maintained and there were frequent breakdown of network in a few ICDs. DG (Systems) did not share information on the extent of EDI downtime.

(Para 4.4)

Chapter 5-Regulatory framework for the operations of ICDs and CFSs

Lack of proper monitoring of the movement of export and import cargo

The export transshipment module (ETM) in customs EDI system (ICES) allows electronic monitoring of container movement through exchange of electronic messages between the Customs and Port authorities, the ICDs and shipping

¹Twenty-foot equivalent unit (TEU) denotes cargo capacity

lines. All carriers (shipping lines/ ICDs/ other carriers) engaged for transshipment of containers are necessarily required to register a bond/ bank guarantee along with application for export transshipment permit in the ICES application, which allows the container with export cargo to be transhipped from the ICD to the gateway port. As soon as the export general manifest is filed, i.e. cargo is ready to move, the bond which was debited initially get automatically credited. In the manual system, the monitoring is carried out through reconciliation of landing certificates for imported cargo and transference copies for exported cargo. The monitoring of cargo helps in preventing theft, pilferage of goods and containers. Audit found that in test checked ICDs under Noida, Kanpur, Bolpur, Chennai port and Kolkata port Commissionerates the ETM was not operational. In nine Commissionerates where manual system of monitoring was being followed, transference copies of shipping bills for exports had not been received even after 90 days of exports.

On the import side, Audit observed that the import transshipment module (ITM) was not functioning in test checked ICDs and CFSs due to technical glitches. Tracking of containers to their actual destination was not possible through the ICES.

(Para 5.1.1)

Pendency of uncleared cargo

From the data on undisposed containers collected by Audit from 85ICDs/CFSs test checked, it was seen that as on 31 March 2017 7877 containers occupying total storage area of 1.17 lakh square metres was pending for disposal. Out of these 3397 containers (57 *per cent*) were pending disposal for more than 3 years. Analysis of uncleared cargo revealed that pendency was mainly due to delays in issue of no objection certificates by Customs, delay in clearance certificates from participating agencies like plant quarantine and pollution control agencies, delay in implementing orders for destruction of cargo and delay in re-export of containers.

Among the undisposed containers, Audit found 469 containers of hazardous waste like metal scarp, municipal waste, used tyres and used war material, 262 containers of perishable goods like food items and 86 containers of teak/ timber logs

(Para 5.2)

Dumping of Hazardous waste

The Handbook of Procedures 2009-14 of Foreign Trade Policy regulates import of metal scrap and waste. Import of seconds and defective rags, PET bottles and waste is regulated as per the Import Policy under Schedule I of

ITC. The Hazardous Wastes (Management, Handling and Transboundary Movement) Rules 2008 regulate the import of metal scrap and used rubber tyres under special permission by the Ministry of Environment and Forest and clearance of State pollution control boards.

Audit found in test checked 85 ICDs and CFSs, as on 31 March 2017, that there were 469 containers of hazardous waste lying undisposed from periods ranging from one to seventeen years. These included live bombs, war material scarp in three ICDs in Rajasthan, 92 containers of used tyres, metal scarp and hazardous chemicals in one CFS under Mumbai Customs Zone II, 15 containers of hazardous cargo in ICD Tughlakabad and 50 containers of mixed waste in ICD Moradabad.

Through detailed analysis of some sample cases Audit found that the *modus operandi* for import of hazardous waste included import of cargo without mandatory documentation, import of municipal waste through high sea sales and imports of municipal waste by mis-declaring the cargo.

Apart from the fact that these imports were made possible due to laxity in implementing the laid down procedures, Audit also noticed absence of clear procedures for re-export of containers with hazardous waste that resulted in such containers lying undisposed.

(Para 5.3)

Undue advantage to importers under Section 23 of Customs Act

Under Section 23 of the Customs Act 1962, an importer may relinquish title to the imported goods under certain circumstances as long as the goods have not been assessed for domestic clearance or for deposit of goods in a warehouse. Audit found in cases of test checked ICDs and CFSs that as on 31 March 2017, 838 containers had been abandoned by the importers after filing of bills of entry. Scrutiny of such cases of abandoned cargo revealed that certain importers were routinely abandoning cargo while continuing to import similar goods. Audit did not find any recorded reasons which had led the importers to wilfully abandon goods of high value. The imported items involved parts of windmill, steel coils, rubber tyres etc.

(Para 5.4)

Internal control and internal audit

In ten sub-paragraphs under this topic, Audit has reported on issues indicating weak internal controls in the regulatory framework of ICDs and CFSs. These issues pertain to shortfall in execution of bond/bank guarantees and insurance by custodians, shortfall cost recovery charges, theft and pilferage of cargo, manual filing of bills of entry and shipping bills. Further,

Audit found that local Risk Management Committees (LRM), as required under a CBEC circular of 2007, were not set up in at least 12 ICDs from where data was received. Audit noticed deficiencies like non-constitution of post compliance audit (PCA) wings, pending scrutiny of documents selected for PCA audit, and non-existent internal audit.

(Para 5.8.1 to 5.8.10)

CONCLUSION

The existing guidelines of DoC for setting up of ICDs and CFSs lay down a checklist of steps to be followed while granting approvals that are more procedural in nature, and there is no policy document or framework laying down principles and objectives which would help the IMC members to evaluate the proposals. Instead of being an apex regulatory and monitoring body for the ICD/CFS sector, the role of IMC is limited to being an approval granting body with no responsibility to monitor the performance of the ICDs and CFSs once they are set up. Lack of information and data on ICDs and CFSs at DoC which is a nodal ministry hampers taking a holistic view on the infrastructure facilities available for managing container traffic in the country by the IMC before according approvals. Approvals are given on a case to case basis rather than viewing them against a wider perspective of capacity requirement.

Cases of ICDs which have been set up but are not functional due to lack of requisite infrastructure reflect wastage of capacity created. EDI connectivity, which plays a very important role in facilitating speedy clearance of export / import cargo, needs to be monitored continuously. However, Audit did not find data on EDI downtime maintained by any of the test checked ICDs and CFSs which raises questions on the effectiveness of monitoring of EDI functioning.

Analysis of uncleared cargo containers had revealed a plethora of issues that plague management of containerised cargo. While delay in obtaining requisite clearances for disposal of containers is one end of the problem, the problem is compounded manifold because of numerous instances of containers being dumped with hazardous waste materials. Government's response in dealing with dumped waste is greatly impeded due to lacunae in regulations, like provision to abandon containers under Section 23 (2) of Customs Act which was routinely used by some importers and lack of clarity in existing regulations for dealing with dumped municipal waste. Among other instances of violation of regulatory framework, many ICDs and CFSs

were found to be handling hazardous cargo without requisite clearances from the central and state pollution controls boards.

The internal control mechanism was found wanting as instances of shortfall in bonds, bank guarantees and insurance were noticed. Despite EDI system, manual filing of bills of entry and shipping bills was prevalent. Lacunae in post compliance audit functions and internal audit lead Audit to conclude that the overall compliance environment at ICDs and CFSs was weak.

SUMMARY OF RECOMMENDATIONS

In view of the audit findings and conclusion, Audit recommends:

- 1. Government may draw up a policy level document for providing a robust framework that comprehensively defines the approval process as well as the monitoring and regulatory mechanisms. Such a mechanism cannot rely on the Customs Law alone, as it is a legislation primarily for safeguarding government revenue and regulating the cross border movement of goods and does not address the requirements of monitoring and regulation of dry ports sector.*
- 2. A website on ICDs and CFSs may be developed by DoC where updated database and real time information on operations of ICDs and CFSs could be accessed by all stakeholders.*
- 3. CBEC may consider introducing penal clause under HCCAR for CCSPs found flouting these requirements.*
- 4. CBEC may consider making it mandatory for all EDI locations to maintain a system downtime database and share this information publicly as part of performance measure of CCSPs.*
- 5. CBEC may consider bringing suitable modifications in ICES to automate the re-credit of bond by populating the landing certificate message into ICES. Board may also consider developing a reporting mechanism to independently monitor the uncleared cargo/ containers rather than relying upon the custodians report.*
- 6. To check the large scale dumping of municipal and hazardous waste into India through cross border trade, provision in the Customs Act / Customs Regulations may be provided to invoke the Hazardous Materials (Management, Handling and Transboundary Movement) Rules, 2008 or any other relevant laws of the land to initiate stringent penal action including criminal action, if warranted, against defaulting importers and shipping lines. CBEC may issue relevant guidelines to its field formations in this regard.*
- 7. CBEC may lay down procedures for re-export of hazardous waste in consultation with other concerned ministries like the Environment and Shipping to avoid any ambiguity in procedures*

8. *To address the risk of importers taking undue advantage of provisions of Section 23 for wilful abandoning of cargo routinely, Board may review the provision so that abandoning of cargo is allowed only as a rarest of rare case.*

