

Chapter 27

Setting up of ICDs/CFSs

1. Introduction:

- 1.1 With the liberalization of the economy, widespread industrialization, enhanced economic growth, development of multi-modal transport system, a need was felt to develop Inland Container Depots (ICDs) or Container Freight Stations (CFSs) that function like a dry port and offer common user Customs clearance facilities at the doorstep of importers and exporters.
- 1.2 An ICD/CFS may be defined as: *“A common user facility with public authority status equipped with fixed installations and offering services for handling and temporary storage of import/export laden and empty containers carried under Customs transit by any applicable mode of transport placed under Customs control. All the activities related to clearance of goods for home use, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export, transshipment, take place from such stations.”*
- 1.3 An Inter-Ministerial Committee (IMC) under the chairmanship of the Additional Secretary (Infrastructure), Ministry of Commerce comprising representatives of various concerned Ministries/Departments including Department of Revenue considers the proposals for setting up of new ICDs/CFSs at different centres in the country and monitors their progress.

2. Distinction between ICD & CFS:

- 2.1 An ICD is a ‘self contained Customs station’ like a port or air cargo unit where filing of Customs manifests, Bills of Entries, Shipping Bills and other declarations, assessment and all the activities related to clearance of goods for home use, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export, transshipment, etc., take place. An ICD would have its own automated system with a separate station code [such as INTKD 6, INSNF6 etc.] being allotted by Directorate General of Systems and with in-built capacity to enter examination reports and enable assessment of documents, processing of manifest, amendments, etc.
- 2.2 A CFS is only a Customs area located in the jurisdiction of a Commissioner of Customs exercising control over a specified Customs port, airport, LCS/ICD. A CFS cannot have an independent existence and has to be linked to a Customs station within the jurisdiction of the Commissioner of Customs. It is an extension of a Customs station set up with the main objective of decongesting the ports. In a CFS only a part of the Customs processes mainly the examination of goods is normally carried out by Customs besides stuffing/destuffing of containers and aggregation/segregation of cargo. Thus, Custom's functions relating to processing of manifest, import/export declarations and assessment of Bill of Entry/Shipping Bill are performed in the Custom House/Custom Office that exercises jurisdiction over the parent port/airport/ICD/LCS to which the said CFS is attached. In the case of Customs Stations having facility of automated processing of documents, terminals are provided at such CFSs for recording the result of examination, etc. In some CFSs, extension Service Centers are available for filing documents, amendments etc. However, the assessment of the documents etc. is carried out centrally.
- 2.3 An ICD may also have a number of CFSs attached to it within the jurisdiction of the Commissioner of Customs just as in the case of a port.

[Refer Circular No.18/2009-Cus., dated 8-6-2009]
- 2.4 A standalone Customs clearance facility in an inland Commissionerate cannot be approved by the Commissioner as a CFS, if there is no ICD/port within its jurisdiction to which the said CFS can be attached. Such a facility can, however, be notified as an ICD i.e., as an independent Customs station with provision for filing and assessment

of documents and examination of goods. A Customs clearance facility could be established as a CFS at a port city for examination of imported/export goods, since the CFS would fall under the jurisdiction of Commissioner of Customs, having jurisdiction over the Customs port with which the CFS would be attached. Further, in a port city such as Chennai or Mumbai, it may be possible to develop an ICD within the territorial jurisdiction of the concerned Customs Commissionerate in addition to existing CFSs. Such an ICD should be capable of providing full-fledged Customs services, independent EDI system, and all procedures meant for transshipment of cargo have to be followed for movement of goods from the port of import to the ICD. Further, such an ICD would function as an independent Customs Station in all respects and would not be attached to any other port or airport. Thus, in respect of proposals for setting up of ICD/CFS from prospective operators it has to be examined whether the proposed facility is required to be approved as an ICD or CFS.

- 2.5 Movement of goods from a port/airport/LCS to an ICD is in the nature of movement from one Customs station to another, governed by Goods Imported (Condition of Transshipment) Regulations, 1995. On the other hand, movement of goods from a port/airport/LCS or an ICD to a CFS is akin to local movement from a Customs area of the Customs station to another Customs area of the same station, covered by local procedure evolved by the Commissioner of Customs and covered by bonds, bank guarantee, etc. Further, the person undertaking the transshipment would be required to follow the prescribed procedure.
- 2.6 Goods intended for transshipment from the Customs station of first arrival shall be allowed to be unloaded/loaded in a Customs area, approved by the jurisdictional Commissioner of Customs, within the same Customs station. Movement of goods directly from a Customs station to a CFS of another Customs station shall not be permitted, since manifest is required to be filed only at a Customs station. In exceptional cases, such as strike or disruption resulting in congestion at some ports, the direct movement of goods to a CFS of another Customs station can be permitted only with approval of the Board, after waiver of Sub-Manifest Transshipment Procedure (SMTP).

[Refer Circulars No.79/2001-Cus., dated 7-12-2001 and No.46/2005-Cus., dated 24-11-2005]

3. Procedure for approval of ICD/CFS:

- 3.1 Proposals for setting up ICD/CFS are considered and approved by the IMC on the basis of applications in prescribed form submitted to the Infrastructure Division, Department of Commerce, duly accompanied by requisite copies of feasibility report as mentioned in the guidelines.
- 3.2 The applicant should also send a copy of the application to the jurisdictional Commissioner of Customs, who will send his comments to the Department of Commerce and the Board within 30 days. The applicants are expected to be familiar with the statutory Customs requirements in relation to Bonding, Transit Bond, Security Insurance and other necessary procedural requirements and cost recovery charges payable before filing the application.
- 3.3 On receipt of the proposal, the Department of Commerce takes action to obtain the comments from CBEC and other concerned agencies within 30 days and IMC normally takes six weeks to take a decision. On acceptance of a proposal, a Letter of Intent is issued to the applicant, which will enable it to initiate steps to create infrastructure.
- 3.4 The applicant is required to set up the infrastructure within one year from the date of approval, but the Department of Commerce may grant an extension of 6 months. Thereafter, IMC may consider a final extension for a further period of 6 months or withdraw the approval granted. The applicant, after receipt of approval, shall send quarterly/annual progress report to Ministry of Commerce, as per prescribed format through electronic mode as well as through hard copy.
- 3.5 After the applicant has put up the required infrastructure, met the security standards of the jurisdictional Commissioner of Customs and provided a bond backed by bank

guarantee to the Customs, final clearance and Customs notification will be issued. The approval will be subject to cancellation in the event of any abuse or violation of the conditions of approval.

[Refer Chapter 28 also]

4. Posting of Customs officers on cost recovery basis:

- 4.1 For the purpose of Customs clearance at the ICDs/CFSs, Customs staff is provided on cost recovery basis by issue of a sanction order by the Administrative Wing of the Board. The custodians are required to pay @ 185% of total salary of officers actually posted at the ICD/CFS.
- 4.2 Cost recovery posts of ICDs/CFSs that have been in operation for two consecutive years with following performance benchmark for past two years will be considered for regularization. However, the waiver of cost recovery charges would be prospective with no claim for past period.

(i) No. of containers handled by ICD	7200 TEUs per annum
(ii) No. of containers handled by CFS	1200 TEUs per annum
(iii) No. of B/E processed by ICDs / CFSs	7200 per annum for ICDs and 1200 for CFSs.
(iv) Bench mark at (i) to (iii) shall be reduced by 50% for these ICDs / CFSs exclusively dealing with exports as per staffing norms.	

[Refer Instruction F.No.434/17/2004-Cus-IV, dated 12-9-2005]

- 4.3 Normally, at an ICD/CFS having both import and export functions the staff allocation is 13 (1 Assistant/Deputy Commissioner, 2 Appraisers, 2 Inspectors, 2 UDCs, 2 LDCs, 4 Sepoys) and at ICD/CFS having only export it is 7 (1 Assistant/Deputy Commissioner, 1 Appraiser, 1 Inspector, 1 UDC, 1 LDC, 2 Sepoys).
- 4.4 In the initial stages of operations of an ICD/CFS, due to less volume of trade, full strength of the officers may not be required. In such a situation, if the custodian requests, the Commissioner of Customs may, after due consideration post less than the sanctioned strength of officers. Gradually, when the business picks up at the ICD, the full contingent of staff may be posted. The Commissioner of Customs would accept the deposit of advance cost recovery charges for 3 months for the number of staff actually posted in an ICD/CFS.

[Refer Circulars No. 52/97-Cus dated 17-10-1997, No.80/98-Cus., dated 26-10-1998, No.27/2004-Cus., dated 6-4-2004, No.13/2009-Cus., dated 23-3-2009, No.18/2009-Cus., dated 8-6-2009, and No.21/2009-Cus., dated 4-8-2009]

Chapter 28

Customs Cargo Service Providers

1. Introduction:

- 1.1 The Public Accounts Committee (PAC) in its 27th Report (2005-06) recommended formulating appropriate legal provisions and guidelines to control the activities of custodians. In pursuance of these recommendations, the Government inserted a new Section 141(2) to the Customs Act, 1962 and thereafter under its authority framed the Handling of Cargo in Customs Areas Regulations, 2009 (HCCR, 2009).
- 1.2 The HCCR, 2009 provide for the manner in which the imported goods/ export goods shall be received, stored, delivered or otherwise handled in a Customs area. The regulations also prescribe the responsibilities of persons engaged in the aforesaid activities.

2. Salient features of the HCCR, 2009:

- 2.1 The HCCR, 2009 apply to all 'Customs Cargo Service Providers' (CCSPs), who are persons operating in a Customs area and engaged in the handling of import/export goods. These include the custodians of imported/export goods and those handling such goods and all persons working on their behalf such as fork lift or material handling equipment operators, etc. Consolidators/ break bulk agents and other persons handling imported/export goods in any capacity in a Customs area are also covered.
- 2.2 The HCCR, 2009 indicate various responsibilities and conditions for different kinds of CCSPs. The conditions prescribed under its Regulation 5 apply to the CCSPs who desire to be approved as custodians of imported/export cargo and thus handle goods in Customs areas. These conditions shall not apply to persons who only provide certain services on their own or on behalf of the custodians.
- 2.3 Responsibilities prescribed in Regulation 6 of the HCCR, 2009 apply to both custodians and persons who provide various services, though certain responsibilities specifically apply to one or the other category. For example, the responsibility for safety and security, pilferage of goods under their custody, disposal of uncleared, unclaimed or abandoned goods within the prescribed time limit, payment of cost recovery charges of the Customs officers posted in the facility are applicable to an approved custodian who handled imported or export goods. On the other hand, responsibilities for publishing or display of the schedule of charges for the activities undertaken in respect of imported/export goods shall apply to both categories of persons. These responsibilities are aimed at expeditious clearance of goods, reduction of dwell time, transaction cost and safeguarding revenue.
- 2.4 As specified in Regulation 3 of the HCCR, 2009, these regulations shall apply to handling of imported goods and export goods in Customs area specified under Section 8 of the Customs Act, 1962. This would cover all Customs facilities such as ports, airports, ICDs/CFSS and LCSs. Also, imported goods would cover goods under transshipment and all goods held under the custody of CCSP. However, these regulations do not apply to Customs bonded warehouse or to the warehoused goods covered by Chapter IX of the Customs Act, 1962.
- 2.5 Major ports notified under the Major Port Trusts Act, 1963 and airports notified under the Airports Authority of India Act, 1994 will continue to be authorized to function as custodians under their respective Acts and these regulations shall not impact their approval as a custodian. Thus, in terms of Section 45 of the Customs Act, 1962, the Port Trusts of the notified major ports and the Airports Authority of India shall not be required to make an application under Regulation 4 or 9 of the HCCR, 2009 for approval or renewal under these regulations. However, they would be required to discharge the responsibilities cast upon them as specified in its Regulation 6.

- 2.6 Regulation 5 of the HCCR, 2009 provides the conditions to be fulfilled by an applicant who wishes to be appointed as a custodian of the imported/ export goods in a Customs area. This contains an exhaustive list of infrastructure and operational requirements for efficient handling of imported or export goods, though sufficient discretion is provided for the Commissioner of Customs to decide on the nature of infrastructure and equipments required. Hence, it is to ensured that the facilities provided by the custodians are sufficient for efficient handling of cargo. However, the facilities should be sufficient to enable efficient handling of the cargo having regard to the volume of containers/ cargo and its nature, etc. (the requirement may, or course, vary between Customs areas at different places in the country). The Commissioner of Customs can also specify general standards or requirements such as height of boundary wall, quantum and specifications of material handling and other equipments etc., to ensure the facilities are adequate for effective and efficient handling of cargo.
- 2.7 Under Regulation 5(1)(j) of the HCCR, 2009, the infrastructure required to be provided by the custodian shall include the civil and electrical infrastructure including properly air-conditioned office space, cabins with proper furniture, power backup facilities, hardware, networking and secure connectivity to Customs data centres for Customs officers and service centres specified by Customs. Facilities required for secure exchange of electronic information between the custodian and Customs shall also be provided. In addition, the custodian would undertake site preparation including civil works, electrical works, electrical fittings, air-conditioning, etc. and provide DG Set for power back up and link to the Customs EDI server. The networking, communication equipments, UPS, computers/personal computers/thin clients, servers, printers and other computer peripherals as may be specified by the Directorate General of Systems shall also be provided by the custodian.
- 2.8 Board has clarified that custodians already exempted from payment of cost recovery charges under Circular No.27/2004-Cus., dated 6-4-2004 and Para 5.3 of Circular No.13/2009-Cus., dated 23-3-2009 would continue to avail the exemption even after issue of Circular No.4/2011-Cus., dated 10-1-2011.
- 2.9 Commissioner of Customs, subject to his satisfaction, should not insist for residential accommodation for staff from CCSP in cases where concerned facility of CCSP is located in the city area. The underlying idea is to provide for residential facilities for staff deployment at Customs facilities located in far flung and remote areas where it is difficult to have appropriate residential facility and which can not be easily commuted by the officers. Therefore requirement of residential accommodation should not be insisted upon in cases where the location is commutable from the base town/city. Commissioner of Customs concerned should exercise due diligence before enforcing provisions of 5(1)(i)(b) of Notification No.96/2010-Cus(NT)., dated 12-11-2010. The type of residential accommodation to be provided to Customs staff would be determined as per entitlement of the officer of Central Government.
- [Refer Circular No.29/2011-Cus., dated 18-7-2011]
- 2.10 CCSPs are required to have weigh bridges installed at their facilities preferably near the entry/exit gate and all containers must be weighed.
- [Refer Instruction F.No.450/81/2011-Cus.IV, dated 18-8-2011]
- 2.11 In a large number of cases, containers detained by Directorate of Revenue Intelligence (DRI), Special Intelligence & Investigation Branch (SIIB) or Preventive formations are not being released for considerable time and this has caused undue hardship to shipping companies by paying exorbitant demurrage charges. One reason for longer detention can be lack of adequate space for storing such goods in a Customs area. In this regard, Board desires that sufficient space for custody / storage of detained imported / export goods should be provided by Customs Cargo Service Provider (CCSP) as per regulations 5 (1) (o) of the HCCAR, 2009 so that detained goods may be stored after de-stuffing from the containers and empty containers be returned to the concerned Shipping Line. Further, in terms of regulation 6 (1) (l) of the HCCAR, 2009 CCSP shall subject to any other law for the time being in force not charge any rent or demurrage on detained goods. In case containers are

detained / seized under the Customs Act, 1962, the same may be considered for provisional release subject to furnishing of Bond and Bank Guarantee under the Customs Act, 1962.

[Refer Instructions F. No.450/24/2012-Cus.IV, dated 14-3-2012]

2.12 Regulation 5(2) of the HCCR, 2009 requires the custodian to pay cost recovery charges in respect of the Customs officers deployed at the ICD/CFS/port/airport etc., unless exempted by a specific order or a circular or instructions issued by the Ministry of Finance. Presently, payment of cost recovery charges in respect of ports and airports has been exempted for three categories of custodians, as follows:

- (i) Custodians notified under Section 45 of the Customs Act, 1962 prior to 26-6-2002 and there is no change in custodianship or area after 26-6-2002;
- (ii) Custodians notified prior to 26-6-2002 but part or whole of the same premises is transferred (on lease or otherwise) to new custodian on or after 26-6-2002 (e.g. AAI, custodian of Mumbai Air Cargo Complex prior to 26-6-2002 later transferred part custodianship to Air India); and
- (iii) Custodians notified prior to 26-6-2002 but premises extended after 26-6-2002 under the same custodianship.

[Refer Circular No.27/2004-Cus., dated 6-4-2004]

2.13 The Greenfield Airports Policy framed by the Government and notified by the Ministry of Civil Aviation specifies that the applicant for setting up of a greenfield airport will obtain clearance from the Department of Revenue for provision of Custom services and the cost of providing these services will be borne by the Airport Company.

2.14 Regulation 6(1)(m) of the HCCR, 2009 deals with disposal of imported or export goods lying unclaimed, uncleared or abandoned in ICDs/CFSs/Customs areas by the CCSP who is holding custody of the such goods. Proper and timely disposal of unclaimed, uncleared or abandoned goods is to be ensured.

[Refer Circular No.50/2005-Cus., dated 1-12-2005]

2.15 In order to ensure security of premises and to prohibit unauthorized access of person in the Customs area all CCSP/ Custodians should provide CCTV/ Video Camera and give video footage of the same to the Customs Officer who shall monitor it regularly.

[Refer Circular No 3/2013-Cus., dated 1-1-2013]

2.16 Cases of lease, gift, sale or subletting or transfer of the premises in any other manner, in a Customs area by major ports may be firstly examined to see whether required permission from the Central Government / Ministry / Cabinet Committee has already been obtained or not. In cases where appropriate authority has already given this permission, then necessary written permission may also be given by the Commissioner for such lease or transfer. On the contrary, if no approval of the Government has been obtained, then appropriate action may be initiated against the erring Custodian under the said Regulations and the Customs Act, 1962. Thus, further permission from the Commissioner of Customs would not be required in respect of PPP projects approved by the Government / PPA Appraisal Committee or Cabinet Committee on Infrastructure.

[Refer Circular No.54/2011-Cus., dated 29-12-2011]

2.17 The power to exempt the conditions required to be fulfilled by CCSPs is provided under Regulation 7 of the HCCR, 2009 to the Commissioner of Customs. For example, the requirement of sufficient facilities for installation of scanning equipment may not be an immediate requirement in respect of ICD/CFS who have established their operations as new custodian. However, when this requirement becomes a necessity, then these conditions may have to be fulfilled by such custodian at that point of time. Hence, the Commissioner of Customs needs to examine individual cases where exemptions are sought to be given to the custodian and record the reasons in writing before providing exemptions. However, no exemption shall be granted in respect of any of the conditions in Regulation 5 where the overall safety and security of the premises are likely to be affected thereby.

- 2.18 In order to overcome situations where clearances of imported/ export goods are getting affected by congestion at a particular Customs facility (e.g. CFS), it has been provided that the Commissioner of Customs may consider regulating the entry of goods in that particular CFS for a temporary period, say, 15 days, in terms of Regulation 7(2) of the HCCR, 2009. In such cases, the Commissioner of Customs may not allow any import/ export cargo to be received and handled in the facility or may allow such reduced quantity as considered sufficient for being handled efficiently for such temporary period till the congestion is cleared and the delay in clearance of goods is sorted out.
- 2.19 In terms of Regulation 9 of the HCCR, 2009, at the time of submission of applications for acquiring custody and handling of imported/export goods, the applicant shall provide complete details of the facility such as extent of the area, equipment, infrastructure etc. for receiving, unloading/loading, stacking, storage, delivery of imported/ export goods including the map. Further, the projected capacity of the cargo or container proposed to be handled at the premises, would form the basis for determining the adequacy of the infrastructural facilities and bond or bank guarantee, wherever applicable. For example, in respect of containers, the volume in terms of Twenty feet Equivalent Units (TEUs) may be ascertained. As regards X-Ray scanning equipment, the custodians are expected to provide for suitable land and other site requirements, but the actual scanning equipments would be installed by the Customs department subject to conditions as may be prescribed.
- 2.20 Only such CCSPs who wish to be appointed as custodian of imported/ export goods need to take approval as specified in Regulation 10 of the HCCR, 2009. CCSPs who either operate on behalf of the custodian or with his permission, do not require any approval. However, custodian will be responsible for fulfilment of the conditions of these regulations by such CCSPs.
- 2.21 The procedure for approval of appointment, renewal, suspension or revocation of CCSP as per Regulations 10 to 13 of the HCCR, 2009 is based upon transparency and objectivity. Cases involving outright transfer of custodianship, leasing of premises without informing Customs, subletting, sub-contracting, outsourcing, gift or lease of any of the services of CFS/ICD have to be dealt by the jurisdictional Commissioner of Customs. In case of violations of the conditions or obligations prescribed under the regulations, necessary action may be taken against the erring CCSP including imposition of penalty. Further, action would need be initiated against the CCSP, wherever lack of infrastructure facilities is noticed leading to deterioration in services or damage of imported or export goods, loss of value and loss of revenue etc. In case of CCSP authorized under the Authorised Economic Operator (AEO) Programme, the approval granted may be extended for a period of ten years at a time.

[Refer Instructions F.No.450/105/2008-Cus.IV, dated 25-7-2008]

- 2.22 All the CCSPs are required to publish a schedule of charges associated with various services in relation to imported or export goods in the Customs area and its display at prominent places including webpage or website of the CCSP. It has also been clarified that no exemption is available to existing custodians / CCSPs in so far as the provisions of facilities and fulfilment of prescribed conditions in Regulation 5 & 6, as applicable, within the specified limits are concerned.
- 2.23 Custodians under the Major Port Trusts Act, 1963, and Airports Authority of India Act, 1994 shall not be required to make an application under Regulation 4 or 9 for approval or renewal under these regulations, but they are required to necessarily discharge the responsibilities cast upon them in terms of Regulation 5 and 6.
- 2.24 The CCSP will also undertake to indemnify the Commissioner of Customs from any liability arising on account of damages caused or loss suffered on imported or export goods, due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, storage, delivery, dispatch or otherwise handling by furnishing an indemnity bond.
- 2.25 No relaxation or exemption from requirements on safety and security of premises shall be allowed by the Commissioner of Customs to the custodians or CCSPs in

terms of provisions of Regulation 7 of HCCR, 2009. also keeping in view the paramount importance of overall safety and security of imported / export goods, detailed guidelines are prescribed to ensure that all concerned persons ensure that suitable arrangements are put in place for safety and security of premises relating to imported or export goods.

2.26 The HCCR, 2009 provide for levy of penalty in case the CCSP contravenes any of the provisions of the regulations or fails to comply with the regulations. However, these provisions do not impact the past proceedings against the custodian, if any, where necessary action has been initiated against erring custodians.

2.27 For the purposes of Regulation 6 (1) of HCCCR , the following officers are notified as Proper Officers:

S.No.	Clause under Regulations 6(1)	Designation of the Proper Officer
1.	a	Inspector of Customs or Preventive Officer or Examining Officer
2.	f	Superintendent of Customs or Appraisers
3.	g, h, k	Deputy Commissioner or Assistant Commissioner of Customs
4.	l	Superintendent of Customs or Appraiser or Inspector of Customs or Preventive Officer or Examining officer

2.28 Regulation 5(1)(iii) of HCCAR, 2009 provides that CCSPs shall provide to the satisfaction of Commissioner of Customs, insurance for an amount equal to the average value of goods likely to be stored in the customs area based on projected capacity and for an amount as Commissioner of Customs may specify having regard to the goods which are already been insured by the importers or exporters. Board has clarified that the amount of insurance to be provided by CCSPs should be equal to the average value of goods likely to be stored in the Customs area for a period of 30 days (based on projected capacity), and for an amount the Commissioner of Customs may specify having regard to the goods already insured by the importers or exporters.

2.29 Regulation 5(3) of HCCAR, 2009 mandates CCSPs shall execute a bond equal to the average amount of duty involved on imported goods and 10% of the value of export goods that is likely to be stored in the customs area during a period of 30 days and furnish a bank guarantee or cash deposit equivalent to ten *percent* of such duty. Board has appreciated that there is justification in increasing the validity period of the bond, which would remove procedural hassles. Therefore, noting that under Regulation 10 of HCCAR, 2009, the new CCSPs are approved initially for 2 years, which is renewed for 5 years at a time, while existing CCSPs are straightaway approved for 5 years, it is clarified that the carrier bond executed by CCSPs i.e. ICDs/CFSs shall have a validity period of 2 years (in case of new CCSP which can be renewed for 5 years) or 5 years (in case of existing CCSP).

2.30 Ministry of Agriculture has raised the issue of temporary ban on Import of Rice and Peanuts from India due to detection of quarantine pest in an import consignment and highlighted that CFSs conducting phytosanitary measures have no designated area for fumigation and separate storage for keeping fumigated/ treated cargo which leads to cross contamination from untreated goods/commodities. Ministry of Agriculture has desired that facilities provided by CFSs should be improved to ensure that treated cargo is adequately sanitized in a separate storage enclosure. Board has therefore decided that all CCSP/Custodians shall provide separate and dedicated storage space for fumigation and post fumigated storage sites to enable Plant Quarantine Authorities to carry out necessary checks for both imported / export goods under the Handling of Cargo in Customs Area Regulations, 2009.

2.31 In order to obviate the situation of compromising cargo integrity on account of sub contracting operations relating to handling of import / export cargo, under no circumstances, CCSPs shall lease, gift, sell or sublet or in any other manner transfer any of the premises in a Customs area; or sub

contract or outsource functions permitted or required to be carried out by him in terms of these regulations without written approval of the jurisdictional Commissioner of Customs. Jurisdictional Commissioners of Customs are required to review the conditions and obligations to be fulfilled by CCSP under HCCAR, 2009 and promptly initiate remedial action in case non compliance is noticed. Cases of violation of regulation 6(2) shall be dealt with sternly according to law.

[Refer Circulars No. 52/97-Cus., dated 17-10-1997, No.80/98-Cus., dated 26-10-1998, No.27/2004-Cus., dated 6-4-2004, No.13/2009-Cus., dated 23-3-2009, No.18/2009-Cus., dated 8-6-2009, No.21/2009-Cus., dated 4-8-2009, No.4/2011-Cus., dated 10-1-2011, No. 16/2013- Cus IV, dated 10-4-2013, No.32/2013-Cus., dated 16-8-2013 and No.45/2013-Cus., dated 31-12-2013 and Instruction F.No.450/19/2005-CusIV., dated 23-7-2013]

3. Norms for staffing Customs facilities on cost recovery basis:

18.2.1 The facility-wise staffing norms are as follows:

(a) ICD/CFS, Sea Port, Air Cargo Complex, Courier Terminal and Diamond Plaza:

Customs Facility	Dy./Asst. Commissioner	Appraiser/ Supdt.	Inspector/ Examiner	UDC/LDC/ STA/TA	Sepoy	Total
ICD/CFS for import & export	1	2 Supdt.	2 Inspector	2 UDC and 2 LDC	4	13
ICD/CFS for only export	1	1 Supdt.	1 Inspector	1 UDC and 1 LDC	2	7
Sea Port	2	4	12	2 STA/TA	12	32
Air Cargo Complex	2	8	12	4 STA/TA	5	31
Courier Terminal	4	9	12	4 STA/TA	8	37
Diamond Plaza	1	2+2	8	2 STA/TA	4	19

(b) Airports: Staffing norms are determined on the basis of the Class of the Airport as per the criteria of minimum number of international flights and passengers and envisage 4 shifts at Class A and B Airports and 2 shifts at Class C Airports. The Class of an Airport and its staff requirement are determined as follows:

(i) Norms for identifying the Class of an Airport:

Class of Airport	Minimum No. of international flights per annum (incoming and outgoing)	Minimum No. of passengers per annum (incoming and outgoing)
Class A	12,000	10 lakhs
Class B	6,000	5 lakhs
Class C	3,500	3 lakhs

(ii) Staffing norms for Airports:

Class of Airport	Staffing Norms				
	Dy./Asst. Commissioner	Superintendent	Inspector	Sepoy	Total

Class A	4	38	78	24	144
Class B	4	29	48	16	97
Class C	-	8	16	4	28

[Refer Circular No.16/2013-Cus., dated 10-4-2013]

4. Eligibility norms for exemption from cost recovery charges:

4.1 Cost recovery charges may be waived if the facility fulfils the laid down norms for a consecutive period of two financial years. Specific orders in individual cases for grant of exemption from the payment of cost recovery charges are issued by Ad. IV Section of the Board. The cost recovery posts are also considered for regularization. In each and every case the waiver of cost recovery charges would be prospective with no claim for past period.

4.2 **ICD/CFS:** The eligibility performance norms for the grant of exemption from cost recovery charges in respect of Customs staff posted at ICDs/CFSs are as follows:

(i) No. of containers handled by ICD	7200 TEUs per annum
(ii) No. of containers handled by CFS	1200 TEUs per annum
(iii) No. of B/E processed by ICDs / CFSs	7200 per annum for ICDs and 1200 for CFSs
Note: Benchmark at (i) to (iii) shall be reduced by 50% for these ICDs / CFSs exclusively dealing with exports as per staffing norms.	

[Refer Instruction F.No.434/17/2004-Cus-IV, dated 12-9-2005]

4.3 **Sea Ports, Air Cargo Complexes, Courier Terminals and Diamond Plaza:** The eligibility performance norms for the grant of exemption from cost recovery charges in respect of Customs staff posted at Sea Ports, Air Cargo Complexes, Courier Terminals and Diamond Plaza are as follows:

Facility	Minimum Annual Volume/Value of Import & Export Cargo	Minimum Annual Number of Documents – Bills of Entry/Shipping Bills
Sea Port	6 Lakhs MTs	3,000
Air Cargo Complex	12,000 MTs	35,000
Courier Terminals	1.5 Lakh Packages	20,000
Diamond Plaza	Rs.15,000 Crores	12,000

Note: Both performance norms (cargo and documents) would be reduced by 50% for facilities that handle only import or export cargo.

4.4 **Airports:** Minimum number of international flights is 3500 (both incoming and outgoing) and the minimum number of passengers is 3 lakhs (both incoming and outgoing) in each of the preceding two financial years.

4.5 The conditions for grant of exemption from payment of cost recovery charges for all facilities viz. Sea Ports, Air Cargo Complexes, Courier Terminals, Diamond Plazas and Airports shall be as follows:

- (a) Both performance norms i.e. volume/value and number of documents in case of Sea Ports, Air Cargo Complexes, Courier Terminals, Diamond Plazas and number of international flights and number of passengers in case of Airports must be met in each of the preceding two financial years.
- (b) Exemption from cost recovery charges shall be prospective; and
- (c) No cost recovery charges should be outstanding.

Based upon the aforementioned norms, jurisdictional Commissioners would review the existing facilities and send proposals for waiver of cost recovery charges to DG, HRD, CBEC.

[Refer Circular No.16/2013-Cus., dated 10-4-2013]
