DRAFT
DISPOSAL MANUAL
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FOREWARD

This Disposal Manual is a handbook meant for the guidance of departmental officers posted in various Commissionerates associated with the Disposal work. An attempt has been made to comprehensively cover the various procedures to be followed by Customs officers. These procedures are based on the provisions of the Customs Act, 1962 and Allied Acts and the Notifications issued thereunder. This manual has been prepared to serve as a handy guidance tool for the officers in field. The Officers are advised to keep themselves familiar with these legal provisions on the basis of which different procedures have been evolved. References to Notifications/Circulars issued by Government have been indicated wherever possible. In case of any further clarity cross referencing to necessary notifications, circulars, provisions of the Act may please be made. Further, wherever required requisite permissions from the concerned competent authorities may also be obtained.

2. When the situation calls for discretion on the part of the officers, the same should be used in the context of existing law and rules/regulations. In cases, of doubt or those appearing to be clearly beyond the competence of the officer concerned, it should be taken up to the higher authorities for decision and for obtaining orders.

3. This manual has been compiled on the basis of orders/procedures as in force as on 30th Sep. 2013. All subsequent corrections, modifications should be made thereto as and when issued.
CHAPTER- 1

INTRODUCTION & CATEGORIZATION OF GOODS

1.1 Introduction

This Manual prescribes the procedure to be followed for disposal of seized goods/ confiscated goods / unclaimed / mishandled Baggage / goods involved in Time Expired Bonds / Goods detained under Section 142 of the Customs Act, 1962 in all the formations under Central Board of Excise & Customs (CBEC). The procedures prescribed in the Manual are subject to the provisions of Customs Act/Central Excise Act, rules and regulations made thereunder and other allied Acts. In case of inconsistency between the procedures prescribed in this Manual and the provisions of Customs Act/Central Excise Act and various rules and regulations or allied acts, the later shall prevail.

This Manual supersedes all the instructions issued on the subject till date. If there are no provisions as regards a particular aspect of disposal, the officers are required to make a reference to the CBEC. As and when amendments are issued to this Manual or additional instructions are issued by the CBEC, officers must carry out the corrections in the Manual and keep the Manual up-to-date.

1.2 Categories of Goods:

The entire stock of seized/confiscated goods in the custody of the Department has been grouped under the following four different categories. The categorization has been done on the basis of the life and nature of the goods, goods notified under the Customs Act and other allied Acts. Steps for early disposal of the goods falling under the different categories should be taken by the Commissionerates as prescribed therein.

1.2.1 Category-I: Goods to be disposed off immediately after seizure

The goods under this category have a very short shelf life and are prone to rapid decay or they become outdated very fast. Some of such goods may be perishable in nature while some others may have certain expiry time prescribed thereon. Some of these goods may also require special arrangements for their preservation and storage. Therefore these goods may be disposed of immediately after seizure by the Custodian of the goods after issue of notice to the owners and obtaining orders from the Competent Authority. If at a later stage, goods are ordered to be released to the lawful claimant, they would get the sale proceeds realized by the department after deducting the duty liability and other liabilities. Further, if the goods in this category have been seized and have to be destroyed because they have become unfit for disposal or for consumption on account of delay, the AC/DC in charge of seizing unit would be responsible for the lapse. The goods falling under this category are as under:

(i) Fresh flowers, Fresh fruits and vegetables, meat, fish, poultry, eggs and other fresh uncanned/unprocessed food materials
(ii) Salt and hygroscopic substances (other than in sealed containers)
(iii) Raw (wet and salted) hides and skins
(iv) Livestock
(v) Medicinal herbs
(vi) Molasses
(vii) Newspapers and periodicals
(ix) Confectionary
(x) Cigarettes, biris, biri-leaves and tobacco, which are liable to deterioration due to drying or humidity
(xi) Menthol, Camphor, Saffron
(xii) Cereals, sugar and other grocer’ items
(xiii) Tea and Coffee
(xiv) Re-fills for ball-point pens
(xv) Lighter fuel, including lighters with gas. not having arrangement for refilling
(xvi) Beer
(xvii) Cells, batteries and rechargeable batteries
(xviii) Petroleum Products
(xviii) All unclaimed/abandoned goods to be disposed off immediately which are liable to rapid depreciation in value on account of fast change in technology or new models etc.

1.2.2 Category-II: Goods falling under Section 110(1A) of the Customs Act, 1962

This Category covers the goods, which are notified under the provisions of Section 110(1A) of the Customs Act, 1962. Goods falling under this category are as under:

1. Gold in all forms including bullion, ingot, coin, ornament, crude jewellery
2. Silver in all forms including bullion, ingot, coin, ornament, crude jewellery
3. Diamonds, precious and semi-precious stones
4. Currency, Indian and Foreign
5. All electronic goods including television sets, Video Cassette Recorders, Tape recorders, calculators, computers; components and spares thereof including diodes, transistors, integrated circuits, etc;
6. Cellular Phones
7. Wrist watches including electronic wrist watches; watch movements, parts or components thereof
8. Primary cells and primary batteries including re-chargeable batteries
9. Photographic films
10. Conveyance
11. Man-made yarn and fabric
13. Patent or proprietary medicine; i.e. any drug or medicinal preparations, in whatever form, for use in the internal or external treatment of, or for the prevention of ailments in, human beings or animals, which bears either on itself or on its container or both, a name which is not specified in a monogram, in a Pharmacopoeia or Formulary
14. Dangerous drugs and psychotropic substances
15. Liquors
16. Ball Bearings;
17. Zip fastners;
18. Software
20. Red Sander
21. Sandalwood

Any other goods notified under notification Section 110 of the Customs Act, 1962 in future will
also be covered by this category. For expeditious disposal of these goods, immediate action as per the 
procedure as laid down in sub-section (II) of Section 110 (1A) must be taken by the seizing unit. A format 
for filing application under sub-section (II) of Section 110 of the Customs Act, 1962 is available at 
Appendix A to this Chapter.

1.2.3 Category- III: Goods to be disposed off within six months from the date of seizure or where the 
date of expiry is indicated well before that date

The goods under this category have a short span of life and deterioration in quality starts after a 
few days of storage and the risk/expenses for storage/maintenance of these goods are expected to be 
heavy and the goods are also liable to rapid depreciation in value on account of the fast change in 
technology or designs or introduction of new models, etc. These goods may be disposed off within six 
months of their seizure or, where the date of expiry is indicated, well before that date after issuing notice 
as provided under para 1.6 All unclaimed/abandoned should be disposed off immediately after 
adjudication. Efforts should also be made to dispose of the goods immediately after adjudication even in 
the unclaimed cases. Where the goods have been ordered to be released on payment of fine, the 
adjudicating authority should invariably specify the time limit within which the option to redeem the 
goods on payment of fine in lieu of confiscation should be exercised and action should be taken for 
disposal immediately after the expiry of the time limit. The AC/DC in charge of seizing unit should also 
keep watch over such goods and communicate disposal order to the Custodian expeditiously.

(i) Photographic goods such as photographic chemicals, papers and digital medium of photographs.
(ii) Cameras of all types
(iii) Time-pieces and clocks
(iv) Pre-recorded cassettes, CDs, DVDs, MDs and other mediums (Audio/Video);
(v) Costume Jewellery
(vi) Readymade Garments
(vii) Spectacles
(viii) Perfume, Toilet waters and essential oils;
(ix) Tinned and preserved provisions, condensed milk and milk powder.
(x) Spices;
(xi) Resin:
(xii) Catechu
(xiii) Hides, Skins, features and products thereof
(xiv) Rubber goods and erasers
(xv) Paper and articles made of paper
(xvi) Raw-jute
(xvii) V. N. E. oils
(xviii) Petroleum products
(xix) Hypodermine needles and syringes, surgical instruments/equipments
(xx) Medicines and drugs which remain officious only for a limited period
(xxi) Boats and launches (other than those meant for departmental Appropriation

1.2.4 CATEGORY - IV (All other goods):

All other goods not listed in the above 3 categories come under this category. The disposal of goods 
falling under this category has to be effected after completion of all due formalities and when finality is
reached about the disposal of the goods

[Based on Circular F. No. 711/31/83-LC (AS) dated 22.05.1984]

1.3 The disposal of different categories of goods as mentioned can be made through the procedure, which has been described in the subsequent paragraphs/chapters. The goods falling under categories I and III need to be disposed off at the earliest because of the very nature of the goods, which have been seized/confiscated. If they're allowed to remain for longer durations, pending adjudication and finality, it is very likely that the said goods would have lost its complete value and would have been non-usable. The Commissioner can decide any mode of disposal, which have been discussed in the subsequent paragraphs.

1.4 Customs authorities are not precluded from disposing of the confiscated goods immediately after confiscation in cases where there is hardly any chance of successful appeal by the owner provided further that the owner is paid the value of the goods, in case in appeal or revision the order of confiscation is set aside.

1.5 As the storage of confiscated goods over long period till the completion of the normal processes of appeal etc. results in the deterioration of the goods, it has been decided that the following types of cases: (i) where the chances of the order of confiscation being modified in appeal etc. are remote, the goods should be disposed off by the department immediately after the confiscation of the goods; (ii) if the goods have been ordered to be absolutely confiscated and (iii) on expiry of the period for redemption in cases where an option to redeem the goods on payment of fine is not exercised by the owner.

1.6 Requirement of issuing Notice to the owner of goods-

   a. Section 150 of the Customs Act, 1962 provides for a mandatory requirement of issuing of notice to the owner of the goods, not being confiscated, which are proposed are to be sold under any provision of the Customs Act, by public auction or by tender or in any other manner.

   b. The requirement to issue notice to the owner of the goods shall also prevail in case of goods that have been confiscated but in respect of which all appeal/legal remedies have not been exhausted by the owner of the goods.


1.7 In order to avoid any disputes regarding the price which may have to be paid to the party from whom the goods were seized in the event of appeal etc. being admitted, an intimation regarding the price at which the goods are being sold should be sent to the party in case the goods are sold to agencies like NCCF/ Kendriya Bhandar etc. If the goods are of the type which are sold through auction conducted, an intimation regarding the date, time and place of auction should be sent to the party well in advance.

1.8 Procedure for disposal of goods under Section 110(1A) of the Customs Act, 1962

   a. Before action under Section 110 (1A) is initiated, a written notice to the concerned party shall be given with a clear 15 days notice.

   b. All cases under Section 110(1A) shall be processed for disposal on completion of a period of
two months from the date of their seizure. The process of seeking sanction of the Magistrate whenever needed shall be completed within a month thereafter. This shall not apply in cases where the party claims legal ownership of the goods and requests for their release. In such cases, since the issue relating to title of the goods has not yet been adjudicated upon by the competent adjudicating authority, attempt should be made to expedite the investigation and adjudication proceedings. A decision regarding disposal of the goods should be taken in such cases immediately on completion of the adjudication proceedings.

c. If seized goods are highly perishable and may not have remaining shelf life of even three months time, the file may be processes and put up for seeking approval to dispose of the goods under Section 110 (1A) immediately after seizure is affected and preliminary investigation are over.

d. The disposal of the goods should be clearly reflected in the Show Cause Notice so that the adjudication authorities as well as the appellate authority pass appropriate orders. When action under Section 110(1A) is initiated after issue of Show Cause Notice, an addendum shall be issued immediately after the disposal of goods to indicate the fact of disposal.

e. After the disposal order is passed in terms of Section 110(1A) and the goods disposed, appropriate entries should be made in adjudication file as well so that at the time of adjudication ,the adjudicating authority does not give an option of redemption to the party since no goods exists for exercising such an option.

[Standing Order No.1/99 dated 16.07.99 of Mumbai (Prev.) Commissionerate]

1.9 Pretrial Disposal:

In respect of the goods other than Category II goods, which are locked in court proceedings or if prosecution is contemplated/launched, Pretrial disposal orders can also be obtained by the seizing unit under Section 451 of Cr. PC. Format for filing application for pretrial disposal under Section 110 of the Customs Act, 1962 (Appendix A to this Chapter) may be used for the purpose.
APPENDIX A

IN THE COURT OF THE MAGISTRATE (CITY)

APPLICATION NO. OF 20
CASE NO.

Shri

Preventive Officer Inspector of Customs/Central Excise of Customs

........................................... (Address)

Applicant

APPLICATION FOR DISPOSAL OF PERISHABLE DETERIORATABLE GOODS UNDER SEIZURE.

MAY IT PLEASE YOUR WORSHIP:

I ______________________the applicant above named beg to state the following on solemn affirmation:

That on _______________________________(name)____________________________ Was/were produced before your worship in connection with the seizure of _______valued at Rs.___________________(M.V) and your worship was pleased to grant him/them bail of Rs_____________________

The case is kept on dormant file on _______________ since the accused is absconding.

a) The above goods are of perishable/deteriorating nature. Any further storage is likely to cause depreciation in its value.

b) There is shortage of storage accommodation. Early disposal orders will ease the congestion in Warehouse.

c) And the said proceeds can be utilized for country’s developmental requirements.

It is, therefore, prayed that your Worship may be pleased to order for the disposal of the said goods after keeping the representative samples.

For this act of kindness I shall ever pray. Solemnly affirmed at ........................................... (Address), This ______________ day of ______________20_______
CHAPTER -2

RECEIPT & STORAGE

2.1 Inventory:

2.1.1 Whenever any goods are detained / seized, a detailed inventory of these goods should be invariably prepared by the seizing officer at the time of detention/seizure in Form I given at Appendix-A to this chapter in triplicate or quadruplicate as explained below. If the seizing officer is not able to prepare the Inventory at the time of seizure, he shall do so as early as possible. The inventory shall always be prepared and signed with blue / black ball point pen and at no point of time ink pen should be used.

2.1.2 The first copy of the Inventory should be given by the seizing / detaining officer to the owner of the goods or his authorized representative, if available; otherwise it should be kept with the case file. The goods together with the Duplicate & Triplicate copies of the Inventory should be forwarded within 24 hrs. of the detention/seizure to the Custodian of the Godown. The Custodian shall give receipt on both the Duplicate and Triplicate copies of the Inventory & return the duplicate copy to the seizing officer for keeping in the seizure file.

2.1.3 The Inventories are very important documents and should be drawn carefully to contain all the relevant details like description, quantity, brand, serial number, Country of origin, etc., which are necessary for identification of the items covered by the Inventory and for taking further action relating to disposal.

2.1.4 The packages containing the detained/ seized goods should be sealed with the seal of the detaining / seizing officer and the seal, if any, of the lawful claimant or his authorized representative or of a gazetted officer as the case may be and also signed by them. Specimens of each seal and signatures also should be affixed on the Inventory of the detained / seized goods for comparison purposes at the time of receipt by the custodian and also in case of return to the lawful claimant. The valuables seized should be packed in non-deteriorating containers like hard plastic or Metal Boxes and wire/metal seals may be used instead of rope/wax seals.

2.1.5 When seized / detained goods are transferred from one Custodian to another, as in the case of transfer of charge, the Original Inventory and also the Re-inventory, (described later at 2.3.4 para), if any, shall invariably be handed over along with the goods. While conducting stock challenges, or during transfer of charge etc., seals on the packages shall always be compared with these specimens of seals on the corresponding Inventories. The specimen of seal on the Inventories shall act as final proof where any tampering of seals is suspected or when discrepancy in the goods is found at the time of opening the packages.

In cases where the detained / seized goods are physically handed over to a third party under sapurbdginama and thus are only notionally handed over to the Custodian, Inventory shall be prepared in quadruplicate instead of triplicate and the fourth copy shall be given to the Supadigar. Other copies of the Inventories will be dealt with in the usual manner.
2.2 Storage Place:

2.2.1 Storage place should preferably be in the Govt. buildings at ground floor or in basement, which should be properly secured.

2.2.2 If it is rented, the godown should not be in an isolated building unless adequate security is provided. It should be spacious enough to house the goods on the racks/almirahs. Godown should be well ventilated, damp proof and properly illuminated preferably with natural light.

2.2.3 Firefighting equipment should be installed. If there are no efficient & working central fire fighting system available, sufficient number of portable fire extinguishers should be installed.

2.2.4 Valuables should preferably be kept in treasury/bank lockers. NDPS goods should be kept more securely.

2.3 Receiving goods in Godowns:

Separate storage and custody for following separate categories of goods may be considered:

(a) Valuables
(b) Narcotics Drugs and Psychotropic substances
(c) Perishable goods
(d) Vehicles/conveyances
(e) Goods detained from passengers or for observance of formalities which are likely to be released soon, and;
(f) Other confiscated goods.

The responsibility for proper storage and custody of these goods should be fixed on individual officers and for this purpose it should be ensured that the charges of individual officers should be compact and manageable. In respect of valuables, double lock arrangement should be made, the second lock being that of gazetted officer, superior in rank to the officer in direct charge.

2.3.1 Immediately on receipt of the goods and the Duplicate and Triplicate copies of the Inventory, the Custodian should satisfy himself that the packages have been properly sealed, seals are intact and the Inventory has been made out in a proper manner and gives all the details required as regards the content of packages. He should also verify whether the categories as regards the nature of the goods as per Chapter-I have been indicated correctly or not. It is not necessary for him to examine the contents of the packages provided the seals are intact and the Inventory is in order.

2.3.2 If the condition of packages, seals and the Inventory are in order, the custodian should receive the goods in his godown and make entries in the Stock Register (refer para2.4) He should then acknowledge receipt of the sealed packages by way of making cross entries in the Duplicate & Triplicate copies of inventories, retain the Duplicate copy with him and return the Triplicate copy to the seizing / detaining officer for keeping it in the case file. In case of any discrepancy, the same should be reconciled before acknowledging the receipt.

2.3.3 Re-inventory: If the seals are not intact at the time of receipt of the goods by the custodian, it is the responsibility of the detaining / seizing officer to get the packages opened, get the Inventory made and the goods verified, tally the contents and re-seal the packages. Such re-inventorisation and re-sealing should be done in the presence of the owner, or his representative. If the owner is not available, a specific note to that effect can be made and thereafter the goods may be re-inventorised, verified and re-sealed.
only in the presence of team of gazetted officers including one officer from the seizing unit on the orders of AC/DC.

2.3.4 When re-inventory of the detained / seized goods is done, the original Inventory should also be attached to the Re-inventory. The fact of Re-inventory should be endorsed on the original Inventory and cross references on each document must also be made. The original Inventory as well as the fresh Re-inventory should always be kept tagged together and be available with the custodian and in case of shifting of goods both should always travel with the goods.

2.3.5 Aforesaid procedure should invariably be followed during authorized opening of packages during adjudication proceedings or drawal of samples and resealing thereof.

2.3.6 Duplicate Inventory and also Re-inventory, if any, shall be kept in the file. Separate files may be maintained for each Stock Register and both shall correctly reflect the stock position in the Godown at all points of time.

2.3.7 In case the goods stored are physically with sapurdgar and only the notional charge is with the Custodian, only Triplicate copy of the Inventory will be handed- over to the custodian. The custodian will not be required to verify the contents of the packages or the packages since the responsibility for keeping the packages intact is with the suparidgar owner of the Godown or the place of storage of goods. However, the custodian will add the goods into the account of goods pending for disposal and in the Stock Register, entries will be made clearly writing the place of storage in the prescribed columns of the Register.

2.3.8 It is necessary to note that all the goods seized / detained which relate to the formations covered by a Disposal Unit will be accounted for in the accounts of one or the other Custodian. Where multiple sections have been set- up in large Custom Houses, one Section will co-ordinate and get the details from different branches but the procedure prescribed in this chapter will apply as regards receipts, storage, etc.

2.3.9 Each package should be securely tied, pinned and stuck with a Stock Card in the proper form given at Appendix ‘C’ to this chapter (Form 3).

2.4 Stock Register:

The Custodian should enter the details given in the Inventory in the ‘Register of Seized / Detained goods’ in Form 2 given at Appendix-B to this chapter hereinafter called Stock Register. Separate registers should be maintained in respect of:

(a) Valuables;
(b) Conveyances and their accessories
(c) Others

For NDPS goods register prescribed at Annexure-II to the Standing Order 1/89 dated 13.6.1989 given at Chapter 15 should be maintained.

2.5 Methods of Storage of Different Goods:

2.5.1 Storage of Valuables:
(i) The term ‘valuables’ will include:
   a) Diamonds, Precious and semi-precious stones, Pearls
   b) Gold and articles made of gold
   c) Jewellery
   d) Silver and articles made of silver
   e) High Value Watches
   f) Currency including Foreign Currency
   g) Such other articles of small bulk and high value as may by special or general order be classified as valuables by the Commissioner.

(ii) Valuables should be kept invariably in a strong room, special safe in the Custom House Treasury or in a locker in a nationalized bank, obtained exclusively for the purpose. The packages shall be stored systematically, serial-wise and year-wise to facilitate easy check and location. Relevant particulars of the storage arrangements should also be recorded in the Register of Valuables maintained in Form 2.

(iii) When the valuables are stored in locker/safe, the key of the safe or the locker shall be kept securely in the personal custody of the Custodian. It should also be ensured that the access to the safe or the locker shall not be allowed by the Treasury Officer or the Bank Manager, as the case may be, except on a written authorisation in an agreed form bearing the running number, signed by the Assistant/Deputy Commissioner in charge of the disposal. Such authorisation should be issued normally in the name of the custodian or in exceptional circumstances when the Custodian is not available, in the name of any other responsible officer. The serially numbered authorisation forms should be kept in the personal custody of the Assistant/Deputy Commissioner in charge of the disposal.

(iv) When the valuables are stored in a strong room, following measures must be taken strictly:

   a. The strong rooms storing valuables such as Gold, Silver, Diamonds, Gems & Jewellery and Precious/Semi-Precious Stones, should invariably have a double lock system,

   b. Two keys for operating the strong room should be entrusted to two separate officers; one to the incharge of the strong room or godown and the other to a superior/supervisory officer of gazetted rank;

(v) Whenever the custodian or his superior officer proceeds on leave or on transfer, a regular substitute should be provided, who shall take proper charge of the strong room & keys, as prescribed in Chapter 3.

(vi) Only experienced officers whose integrity is absolutely beyond doubt, should be posted as incharge of the strong room/ godowns. Similar check from vigilance & integrity angle, should also be ensured for the superior officer who is given the overall supervision of the strong room and custody of the second key,

(vii) No officer, including custodian-in-charge of the strong room / godown, should be allowed to open the strong room/ godown on any holiday (including Saturday/Sunday), without a prior specific written permission from the Addl. Commissioner/Commissioner concerned.
Aforesaid instructions should be scrupulously followed, as a number of reported cases of loss or theft or misappropriation or missing/substitution of valuables and other goods while in the custody of the department have came to light and Board is especially concerned over such lapses. It also reflects supervisory failure and in each and every case investigation must be carried out to fix responsibility. Further, the inspection of warehouse goods /valuables should be made to compulsorily take special note of all packages lying in the Warehouse for than 3 years. Special care should be taken while taking over and handing over the charge of valuables or during delivery and receipt for sending good as exhibits to the courts, etc. All Chief Commissioners & Commissioners should pay personal attention to ensure that the guidelines/safeguards prescribed for custody, accounting, disposal of seized/confiscated goods including valuables, are enforced scrupulously in their jurisdiction, so as to avoid any instances of loss or theft or misappropriation or missing/substitution of the goods.

2.5.2 **Storage of Other Goods:**

Goods other than valuables should, as far as possible, be kept on racks and almirahs kept on sleepers. The goods should never be stored on floor. The almirahs and racks should be serially numbered 1, 2, 3... and the partitions in the almirahs and racks should be lettered commencing from A. The almirahs and racks should be so arranged and the packages so systematically stored, location entries made in stock register that there should be no difficulty at any time to check and locate the packages. The keys of the godown in which the goods are stored should be kept in the personal custody of the Custodian. Special care should be taken to prevent damage to the goods by rodents and insects.

2.5.3 **Storage of Conveyance & Narcotics:**

These have been separately dealt with at Chapter 12 and Chapter 15 respectively.

2.6 **Responsibility of the Custodian:**

It will be the fundamental responsibility of the godown or godown Supdt. / AC/DC to inspect the godown regularly in order to ensure that the goods stored in his charge are being properly kept and none of the packages / goods stored show any sign of deterioration. Special treatment should be accorded to special consignments. For instance, in the case of motor cars, he should see that the tyres are properly inflated and that the engine is periodically run so that it is properly lubricated. Similarly, any chemical which is hygroscopic in nature should not be allowed to melt and spoil other goods during storage. This may be done by changing containers or repairing them. The responsibilities of the custodian are enumerated below. These are not exhaustive.

2.6.1 The Custodian will be responsible for the physical custody of the packages with seals intact. He will not be responsible for the inner contents of the package if they have been properly sealed and the seals are intact. The Custodian should, however, insist before accepting the sealed packages that the Inventory covering the goods is complete in all respects.

2.6.2 After receipt he should attach Stock-Card in the proforma given at Appendix C to this Chapter (Form 3) of appropriate colour (i) Red colour card for detained goods (ii) Pink colour card for goods seized but not adjudicated, (iii) Yellow colour card for goods confiscated but not ripe for disposal and (iv) Green colour card for goods ripe for disposal.

2.6.3 He should ensure that the packages are carefully stored and protected against the ravages of weather, ants, rodents and insects.
2.6.4 He should take adequate precautions against theft and pilferage and keep watch on the condition of the goods and immediately report each such case to the Commissioner. Any incident of the theft/loss/substitution of the goods, which comes to light should not only be immediately examined personally by the concerned Commissioner, but it should also be, with the exception for petty cases, immediately reported to the Principal Accounts Officer and the Statutory Audit Officer etc. as laid down under Rule 16 of General Financial Rules. Board should also be kept informed of all such cases, on immediate basis, with a report of action initiated. Action should also be initiated immediately in terms of provisions of Rule 19 of G.F.R.

[Based on Circular F.No.393/91/98-Cus(AS)dated 12.11.98]

2.6.5 If the goods show signs of deterioration or damage, he should immediately bring it to the notice of the Assistant/Deputy Commissioner, Incharge of godown, for appropriate action. Separate record of such goods should be kept which must be updated every month. In case deterioration is noticed in respect of goods awaiting adjudication, the matter should be brought to the notice of the adjudicating officer for ensuring quick decision of the case. Where deterioration is noticed in respect of cases under appeal, the appellate authority should be informed immediately so that prior attention is given to the disposal of the relevant cases. Where the goods are involved in court proceedings, it will be necessary to bring the matter to the notice of the court and for getting permission for the disposal of goods pending finalization of the proceedings in the court. All packages pending for more than three years should compulsorily be inspected for deterioration of packages/ seals and the same may be brought to the knowledge of the Asst./ Deputy Commissioner Disposal for appropriate action.

2.6.6 He will be responsible for maintaining the Stock Registers in the proper manner; proper custody of Registers for Handing over & Taking over charge and Inventories and for submitting the monthly return of goods ripe for disposal.

2.6.7 Custodian should also be responsible for optimal utilization of space. Following steps may be taken for optimum utilization of space:

(a) The total stock of seized goods must be reviewed by custodian every month so that the possibility of disposal in convenient lots could be considered.

(b) Absolutely confiscated goods must be disposed off expeditiously.

(c) Shifting the seized/confiscated goods from the rented premises to own premises wherever possible to save on rentals. Neat stacking in a scientific manner not only prevents damage / deterioration of goods but also helps in saving space.

2.6.8 Similarly, the interest of the Govt. in respect of confiscated goods left with the Port Trusts or other agencies must be safeguarded by Custodian having the notional charge. Special care must be taken for bulky items like iron and steel materials, heavy machinery etc. which are generally left in the custody of the Port Authorities. However, where it is felt that the Port Trust arrangements are not adequate, then Custodian having notional charge shall take concurrent measures in consultation with the Port authorities for ensuring safety of the goods. In this connection the possibility of renting out suitable open space accommodation from the Port Administration with wire-fencing enclosure for storing confiscated materials, which could not otherwise be removed to the godowns should also be explored.

2.6.9 The Officer handing over goods on transfer from the warehouse unit, should also hand over all files and correspondences relating to these packages received by him or handed over to him.

2.7 Goods received from different sections of Custom House:
2.7.1 **Regular cargo:** A separate godown should, wherever possible, be set apart for keeping regular cargo confiscated to the Government. On receipt of advice Appendix D to this Chapter (Form 4) from the Superintendent/ incharge of the Unit dealing with the relevant case file, the Custodian should immediately move through the concerned section to have the goods located, transported and delivered into his charge as early as possible and within 15 days of the receipt of such advice at the latest. For ensuring prompt dispatch of the advice in Appendix D to this Chapter (Form 4), the concerned section should list out all cases for which the period allowed for exercise of option to pay fine in lieu of confiscation or the period of an appeal, whichever is longer, expires against the date of such expiry in a forward watch diary and one week from that date reference will be made to the penalty register to verify if the fine has been paid or appeal filed and if not whether the goods can be taken over as finally vesting in Government. The section should then list out such of those items which are required to be taken over by the Custodian from the port authorities for disposal action. When the goods are so delivered into custody, the Custodian shall after due examination of the packages, make out in triplicate a detailed Inventory of the contents in Form 1 prescribed at Appendix A to this Chapter and deal with them in the same manner as other seized/detained goods.

In those Commissionerates where a separate godown for the purpose is not kept, it shall be the responsibility of the concerned unit to take necessary steps to arrange for the taking over from the port authorities direct by the Disposal Unit of such of those confiscated goods which have become ripe for disposal.

2.7.2 **Air cargo:** Air cargo stored in the Air Cargo Shed may be allowed to be kept in the same shed even after confiscation, pending disposal in the normal course. The officer incharge of the Air Cargo Shed shall maintain a Stock Register in respect of confiscated cargo in the proper form (Form 2 prescribed at Appendix B to this chapter) and shall perform all the functions of the Custodian of the confiscated goods in respect of Air Cargo and shall deal directly with the Disposal Unit.

2.7.3 **ICDs, CFSs and Ports:** The provisions of the para 2.7.2 shall mutatis mutandis applying case of confiscated cargo at 1CDs, CFSs and Ports.

2.7.4 **Post parcels:** It shall be the duty of the ‘Penalty Unit’ of the Postal Appraising Department to keep a close watch over all penalty cases registered by them. The parcels which are confiscated but not redeemed by the addresssees and which are ripe for disposal shall be sorted out and a detailed inventory in Form I prescribed at Appendix A to this Chapter shall be immediately prepared of the contents of each parcel in the presence of a responsible Postal Official and a Gazetted Officer in the Postal Appraising Unit. The parcels duly sealed with the seals of both the officers shall then be delivered to the Custodian of confiscated goods. These goods shall thereafter be dealt with in the same manner as other seized/detained goods.

2.8 **DISPOSAL UNIT**

2.8.1 In big Custom Houses there shall be a separate unit, called the Disposal Unit which should be charged with the task of taking over all goods ripe for disposal from the Custodians and for disposal by auction or otherwise. Immediately after the close of the month but before the 5th of the month following, all the Custodians should prepare an up- to-date list in duplicate in Form 5 prescribed at Appendix E to this Chapter of all cases which in his opinion have become ripe for disposal and send it to the Supervisory Head Incharge (by name) of the dealing department or section concerned for obtaining a ‘No Objection Certificate’. On receipt of such a list, the Supervisory Head incharge of the dealing department or section shall after necessary verification, certify that there is no objection to dispose of the
goods. If there are any goods which should not be disposed off a remark DELETE should be mentioned against that entry and the reason as to why it should not be disposed off should also be given against each entry. The list should then be returned within one week of receipt to the Custodian. The Custodian should keep the original with him and forward the duplicate to the Disposal Unit for further action. On receipt of the list from the Custodian, the officer incharge of the disposal unit should examine in the presence of the Custodian the packages with the list and with the detailed Inventory relating to the goods. If there are discrepancies, he should immediately bring them to the notice of the Assistant/Deputy Commissioner, Preventive. The Officer Incharge of Disposal Unit should then prepare a complete list of goods for disposal and get the goods disposed of.

2.9 Other Important Matters

2.9.1 Copies of all orders of confiscation, appeal, review should be endorsed to the Custodian

2.9.2 Seized goods should be moved at the earliest opportunity to the head quarters of the division/Commissioner where proper storage and security arrangements exist.

2.9.3 Opening and re-sealing of the packages: As far as possible, the necessity for opening of the sealed packages for further investigation should be avoided. Whenever such sealed packages are required to be opened, such opening should not be done without the specific authorisation of the Asstt./Deputy Commissioner (incharge) and the procedure prescribed at para 2.3.4 and 2.3.5 shall be followed. After opening and resealing the Stock Card and the Inventory / Re-inventory should also be suitably endorsed and the packages should be re-deposited in the original place of storage. If on such re-examination any discrepancy is noticed, such discrepancy should immediately be brought to the notice of the higher officers for appropriate action.

2.9.4 Return of goods to the owner: Whenever seized or detained goods are ordered to be returned to the owner, the Custodian should, after satisfying himself that all the moneys due to the Government have been paid by the owner, give delivery of the goods against the owner’s endorsement on the duplicate copy of the Inventory that the packages have been received by the owner with the seals intact. In case the owner wishes to have open delivery, the Custodian should comply with the request but the presence of the Seizing or Detaining Officer should also, as far as possible be secured. If the seizing or detaining officer is not available, the presence of a Gazetted Officer should be secured.

2.10 CHANGES IN PROCEDURE

Commissioners may make any minor changes in this procedure which may be necessitated by local conditions. No major changes should be made without the prior approval of the Board.

***********
**APPENDIX-A**
(Form)

Valuables, Category I/II/III/IV/NDPS goods/Others

**Inventory of goods detained/seized:**

1. Name and address of the Owner
2. Name and Designation of the Seizing/Detaining Officer
3. Place and date of seizure or detention
4. Case file No. and Seizing Unit, if any
5. Total number of packages (indicate the type of package also)

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Details of the Package containing the goods</th>
<th>Detailed Description of the goods</th>
<th>Quantity</th>
<th>Condition of the goods</th>
<th>Country of Origin</th>
<th>Total estimated market value</th>
<th>Estimated Ex-duty value</th>
<th>Remarks</th>
</tr>
</thead>
</table>

Signature of the Owner

Signature of the Seizing Officer

Signature of the Witnesses

______________________________________________________________________________________________

A specimen of the seal affixed on the packages

______________________________________________________________________________________________

Received with seals intact

Signature of the Custodian/owner
Guidelines for filling the proforma

1. The details of items should be given package-wise and as far as possible for each item value and other details should be furnished.

2. Condition of the goods should also be indicated and wherever accessories are not available, that fact also should be given. The details about accessories be given in the remark column.

3. As far as possible goods of each category should be kept in a separate package so that only those packages can be disposed of within the time limit prescribed for them and the remaining goods can be kept separately.

4. Preferably the signature of the owner and the mahazar (Panch) witnesses should be taken on the package. If the owner is not available at least mahazar witness signature should be taken. The packages should be sealed with the seal of the Seizing/Detaining officer and the seal of the owner or his authorized representative if he is available otherwise or that of a Gazetted Officer.

5. As far as possible specimen of the seal on the packages should also be incorporated in the Inventory.

6. The Inventory should be prepared in Quadruplicate if the goods are going to be handed over to a Sapurdgal i.e. person other than the Departmental Godown Officer for storage. Otherwise the Inventory can be prepared in Triplicate. Original will be handed over to the Owner. Duplicate will be kept in the case file, Triplicate for the Custodian and the quadruplicate to the sapurdgal. (Where Custodian and Ware House Officer are different).

APPENDIX – B
FORM 2
Stock Register

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Date of receipt</th>
<th>By Whom deposited</th>
<th>Nature of sealing</th>
<th>Customs house Case file No.</th>
<th>Whether Inventory (in prescribed form) accompanied the goods</th>
<th>Name of Owner, if known</th>
<th>No of packages</th>
<th>Description of goods</th>
<th>Quality</th>
<th>Estimated Value/duty</th>
</tr>
</thead>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of preparation of Detailed inventory</th>
<th>Name of officers present at the time of preparing detailed inventory</th>
<th>Nature of sealing (after inventorisation and identifying marks given on packages)</th>
<th>Where stored</th>
<th>PARTICULARRS OF REOPENING</th>
<th>RELEASE OF THE GOODS TO THE OWNER</th>
</tr>
</thead>
<tbody>
<tr>
<td>If necessary</td>
<td>Date of reopening</td>
<td>Names of officers present at the time of opening</td>
<td>How sealed</td>
<td>Where restored</td>
<td>Date of release (If so ordered)</td>
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<td>20</td>
</tr>
</tbody>
</table>

**DISPOSAL BY THE DEPARTMENT**

<table>
<thead>
<tr>
<th>Date of reopening for purposes of valuation by Jewellery.</th>
<th>Auction lot no. &amp; Other particulars of the lot in which included</th>
<th>Price fetched at Auction.</th>
<th>Dale of delivery to the bidder at the auction signature of recipient</th>
<th>Signature of recipient</th>
<th>Amount paid as godown rent (receipt no. and date to be indicated also)</th>
<th>Signature (with date custodian)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>22</td>
<td>23</td>
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<td>25</td>
<td>26</td>
<td>27</td>
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<td>29</td>
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</tbody>
</table>

**APPENDIX - C**

**FORM 3**

**STOCK-CARD**

1. Sl. No in the seized/detained goods register.
2. Date of receipt
3. Name of the owner of the goods if known
4. No. of packages
5. Description of goods quantity and value.
6. History of Consignment
   (here enter the date of check made by the officer, date of opening seal, date of auction, etc.)

For example, if there are four packages detained under a Sl./Ref. No., the stock Card for each package should indicate the package as ¼, 2/4, 3/4 or 4/4 as applicable.
APPENDIX - D
FORM 4

LIST OF CASES IN WHICH PERIOD OF REDEMPTION/APPEAL HAS EXPIRED

From
The ____________________________
_________________________ Department

To
The Custodian

The goods mentioned hereunder have not been so far redeemed within the prescribed period and the period for preferring appeal is also over. Necessary steps may therefore, be taken to take possession of the same and thereafter to dispose them of.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>C.H. Case File No.</th>
<th>No. of packages</th>
<th>Marks and Nos.</th>
<th>Weight (if available)</th>
<th>Description of goods</th>
<th>Value of goods</th>
<th>Category of goods</th>
<th>Date of expiry of redemption period /Appeal period</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
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</table>

(DEPUTY COMMISSIONER/ASSISTANT COMMISSIONER/SUPERINDENT INCHARGE DEPARTMENT)
APPENDIX - E

FORM 5

LIST OF CASES RIPE FOR DISPOSAL
(IN TRIPlicate)

From

The Officer- in-charge
Disposal unit

To

__________________________
__________________________ Department

The under mentioned cases have become ripe for disposal. Kindly indicate with in a week hereof whether you have any objection to disposal by action being proceeded with.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Disposal unit registration no.</th>
<th>Original case file no.</th>
<th>No. of packages</th>
<th>Marks &amp; Nos.</th>
<th>Description of goods</th>
<th>Weight</th>
<th>Value</th>
<th>Remarks</th>
</tr>
</thead>
</table>

__________________________________________

Officer in-charge Disposal Unit
Date:________________________

1. No objection to the disposal of the above mentioned.

Date____________DEPARTMENT
CHAPTER – 3

TRANSFER OF CHARGE, STOCK - TAKING AND INSPECTIONS

3.1 TRANSFER OF CHARGE: Proper transfer of charge of godowns is essential for correct accountable of goods. A transfer of charge even temporary should be supervised by Superintendent (or AC /DC in case of transfer of charge of ‘valuables’) and closely monitored by AC/DC at Division and JC/Addl. Commissioner in-charge of the godowns at Commissionerate level. Proper transfer of charge not only affords good opportunity for getting the stock-taking of entire stock and rectifying the shortcomings, if any, in procedures and in the stocks etc., but also obviates any chance of substitution, mis-appropriation and embezzlement. In the past, investigations of many cases of such lapses have failed to pin point responsibility primarily because of improper transfer of charge. In this regard following guidelines need be followed:

3.1.1 Normally experienced officers having integrity beyond doubt should be appointed as Custodians. The Custodians so appointed should not be frequently changed or transferred out.

3.1.2 Whenever any Custodian or any other officer incharge of confiscated goods is transferred, the transfer should be so arranged that the successor is given sufficient time to take charge of complete stock of the goods.

3.1.3 Wherever the packages and seals are intact, it should not be necessary to open the packages and count the individual articles. Whenever sealed packages are taken as open delivery re-inventory shall be drawn by following the prescribed procedure.

3.1.4 A charge report shall be prepared only in a pre authenticated register called ‘Register of Handing over and Taking over of charge’ prepared in the format prescribed at Appendix ‘A’ to this Chapter and not in loose sheets or in any other form. This register shall be permanent record and all charge reports shall be prepared only in this register. Separate registers shall be maintained for different ‘Stock Registers’. Separate pages may be earmarked for transfer of charge of different Stock Registers in the ‘Register of Handing over and Taking over of charge’.

3.1.5 The officer taking over charge shall point out any discrepancies, etc. in the relevant column of the charge report by referring to the serial no of the Stock Register. Actual details of such discrepancies shall, however, be entered in the Stock Register.

3.1.6 The officer taking over the charge shall also take charge of all the Stock Registers and corresponding Inventories. Once he signs the Register of Handing over and Taking over of charge, he’ll be construed to have taken over all the goods in the warehouse as well as the corresponding inventories and Stock Register.

3.1.7 The officer transferred from warehouse/ valuable section should be asked to surrender the Departmental seals issued to them before handing over charge of the warehouse to the officer taking over charge of the warehouse under proper receipt and record of the same should be kept in the warehouse.

3.1.8 After each transfer of charge, the Charge Report shall be scrutinized by the AC/DC in-charge of the Division and JC/Addl. Commissioner in-charge at headquarters level who shall take corrective measures on the points raised and discrepancies noticed thereon and put up the action taken report to the Commissioner.

3.1.9 Whenever the custodian proceeds on long leave, a regular substitute should be appointed in his place and a complete and correct transfer of custody of goods should take
place. Such transfer of charge shall also figure in the Register of Handing Over and Taking Over Charge. However when the custodian proceeds on short or casual leave or in an emergency, the custodian should make arrangements to ensure that any articles which may be required during his absence, are handed over to another officer on proper receipt with the approval of the Assistant/ Deputy Commissioner concerned. This officer shall also attend to any urgent or important work relating to godown. Full responsibility for the remaining goods shall, however, remain with the custodian himself.

3.2 PERIODICAL STOCK CHALLENGE: Once every six months the Assistant/ Deputy Commissioner or Joint Commissioner/ Addl. Commissioner, Preventive, nominated by the Commissioner, shall conduct a complete stock taking of all valuables in the custody of the Custom House/Divisions etc. Similarly, once every six months an Assistant/ Deputy Commissioner nominated by the Commissioner for the purpose shall conduct a complete stock taking of all the packages containing articles other than valuables. In order to ensure that stock taking is conducted regularly, these may be conducted in the month of January and July and report on the stock taking should be submitted in the following month and the action on the report should be taken whenever necessary before the next stock taking. Following guidelines may be followed for stock challenges.

3.2.1 The officers verifying stock shall physically verify the stock with reference to Inventories and Stock Registers and also with reference to Registers of ‘Handing over and Taking over charge.’

3.2.2 They should verify the seals and satisfy themselves that the seals are intact. If the seals are intact it should not be necessary to open the packages and verify contents. If seals are open the reasons thereof may be ascertained and total inventory of the goods must be taken.

3.2.3 Where substitution or pilferage is suspected, immediate action may be taken to verify the contents of the packages and such further steps as are warranted must be taken without delay.

3.2.4 They should also particularly examine whether the packages stored show any signs of deterioration and should also scrutinize the record of deterioration of goods maintained by the Custodian and check whether suitable action outlined at para 2.6.5 above has been taken by the Custodian and/or the supervising officer. If not, the same must be urgently taken. The Officer deputed for stock challenge should compulsorily inspect all packages pending for more than three years for deterioration of packages/seals and bring to the knowledge of the Asstt./ Deputy Commissioner for appropriate action to ensure that the packages remain under proper seal and scope of pilferage is also ruled out.

3.2.5 They should scrutinize the ‘Register for Handing over and Taking over Charge’ to check if proper transfer of charge has taken place & suggest improvements if any.

3.2.6 They should also examine whether the charge of individual custodians is compact and manageable.

3.2.7 They should critically examine and report whether the procedures prescribed in this Manual for storage and safeguard of goods especially for valuables, arms, narcotics drugs and psychotropic substances, Conveyances, etc. are being followed, like whether arms are being
periodically oiled and greased etc.

3.2.8 They should also examine whether all necessary steps for expeditious disposal of the goods have been taken and prepare a report on delayed cases for appropriate action and bring them to the notice of the appropriate departments/authority responsible for release of the goods or their final disposal.

3.2.9 Report of Stock Challenge: They should submit a report regarding the checks conducted and results achieved to the Commissioner within a week from the date of stock challenge covering all the above points.

3.2.10 These reports should be scrutinized by Commissioners themselves and they should also ensure further remedial action is taken immediately. The Assistant/Deputy Commissioner, Preventive, or any other officer nominated for the purpose by the Commissioner shall conduct random stock challenges by surprise, periodically, say once every six months.

3.3 Maintenance of Records by the Warehouse Officer:

3.3.1 The officer in-charge of the warehouse should maintain the warehouse register duly updated. All the entries in the register should be made immediately after receiving the relevant information.

3.3.2 The warehouse in-charge should keep liaison with the seizing unit and ascertain the position of the concerned case on regular/quarterly basis. All the updates may be entered into the relevant column of the register.

3.3.3 The warehouse in-charge should regularly pursue the seizing units for issuance of disposal order. After receiving the disposal order, valuation of the concerned goods may be obtain from the approved govt. valuer for the purpose of approval of the same by JPC.

3.3.4 After approval of price is accorded by the JPC, list of such goods furnishing the information viz. Lot No., Description of goods, Quantity and rate of applicable sales tax/VAT may be forwarded to Disposal Unit for putting the goods for e-auction.

3.3.5 The warehouse Incharge may also from time to time request the seizing units to carry out procedure under Section 110A of Customs Act, 1962 for early disposal of goods falling under the purview of the said Act.

************
Appendix ‘A’

“Register for Handing Over and Taking Over of charge”

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Full name and designation of the officer handing over the charge with his full signatures</th>
<th>Period during which he held the charge of the goods in the relevant stock register</th>
<th>Full name and designation of the officer taking over the charge with his full signatures</th>
<th>Name of stock Register and serial number of entries thereof whose charge was taken over</th>
<th>Discrepancy if any found</th>
<th>Remarks</th>
</tr>
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</table>
CHAPTER- 4

SPECIAL PROVISION REGARDING UNCLAIMED/ UNCLEARED CARGO, MIS-HANLDED BAGGAGE
AND TIME EXPIRED BONDED GOODS

This is the one area where continuous interaction with the custodian is required to be
undertaken, since it would involve substantial amount of duty involvement. The Department
has been very much concerned about the expeditious disposal of unclaimed/ uncleared cargo
lying with custodians and the backlog of accumulated and confiscated cargo. The following
procedure may be adopted for disposal of unclaimed/ uncleared cargo.

4.1 Un-claimed/uncleared Cargo (UCC)

4.1.1 Section 48 of Customs Act, 62 deals with uncleared Cargo (UCC). The custodian is
required to issue a notice of sale of the UCC if the goods are not cleared within 30 days after
unloading. The AC/DC in-charge of UCC should ensure that a monthly statement in the
proforma given at Appendix-A to this chapter, is sent by all the custodians.

4.1.2 Section 48 gives powers to dispose off animals, perishable goods and hazardous goods
at any time with permission of the proper officer and even without notice. However for other
goods following two notices are required to be given.

(i) Notice (Initial) in the proforma given at Appendix-B should be sent by the Custodian
to the Importer by Registered Post AD immediately after the expiry of statutory time
limit of 30 days.

(ii) Further, if no reply is received within 15 days, a Final Notice in the proforma given at
Appendix-C should be sent by the Custodian.

4.1.3 If no response in respect of any of the notices is received or if the notices issued are
returned undelivered, the custodian shall send a report to the AC/DC (Docks) incharge of UCC.

4.1.4 However, if the party abandons the goods before 30 days of import or anytime after
issue of notice, the custodian should immediately inform the AC/DC incharge of uncleared
cargo. A copy of the letters of the importer abandoning the goods should be forwarded by
RPAD by the Custodian to the Steamer Agent for information and a copy of the
acknowledgement should be submitted to the AC (UCC).

4.1.5 On receipt of report at sub para 4.1.3 and 4.1.4 from the Custodian, AC(UCC) shall
scrutinize the individual cases with the respective files/ records and immediately intimate the
custodian details of disputed or stayed consignments or consignments required to be retained
for any investigation/ adjudication/ court proceedings, or because of restrictions imposed
under Customs/ allied acts. If no such intimation is received from the Customs within 30 days,
the custodian shall go ahead with the disposal of the goods.

4.1.6 Under section 48 of the Customs Act 1962, the responsibility for disposal of such goods
rests exclusively with the custodian. Accordingly such goods should be disposed off by the
Custodian who shall fix a reserve price, arrived at by a panel of their approved valuers
[irrespective of any value arrived at by the Customs Appraisers earlier], which should include an expert on the product line. In case any request is made by the custodians, the Customs shall make available to the custodian, the services of an Appraiser to serve on the panel. In cases of doubt, the same may be referred to a panel of three valuers, whose decision shall be final.

4.1.7 The custodian should fix a date for holding the auction and communicate the same date to the officer in charge of the Customs station and the concerned Assistant Commissioner/Deputy Commissioner. The Assistant Commissioner/Deputy Commissioner would nominate, if necessary, an officer not below the rank of Superintendent/Appraiser to witness the auction. Customs officers shall not withdraw any consignments at the last moment from the auction except with the written approval of the Commissioner of Customs.

4.1.8 The Customs officers may not insist on complete and detailed inventory of the contents of all the consignments to be drawn in their presence. They shall, instead choose 10% consignments for which detailed inventory shall be made in their presence for sample check.

4.1.9 The bidding shall be on cum-duty price and duty shall be back-calculated from the sale price [Local taxes like Sales Tax etc., will however have to be charged/recovered extra from the buyer].

4.1.10 The sale proceeds must be appropriated as provided under Section 150 of the Customs Act 1962, keeping the following in mind:

(a) The customs duty shall be determined by backward calculation considering the sale proceeds of unclaimed/uncleared goods as the cum-duty price. For calculation of duty, total sale proceeds without allowing any deduction towards sales expenses or any other charge is to be taken as cum duty price.

(b) After determination of the Customs duty, sale proceeds of unclaimed/uncleared goods is to be appropriated in the manner as provided in Section 150(2) of the Customs Act, 1962.

4.1.11 The custodian will file a consolidated Bill of Entry, of consignments sold buyer-wise, for assessment of the effective rate of duty by the Customs. Goods will be allowed out of charge only after the duty assessed is paid by the custodian.


4.1.12 The above procedure has been slightly modified, as below, by Circulars F.No.442/12/2004-Cus.IV (Pt.II) dated 1.12.2005 and 9.12.2005 as given below.

(i) The procedure shall be applicable only to unclaimed/uncleared cargo landed at least one year prior to the date on which the list of goods for Customs “no objection” is prepared. In other words, this liberalized procedure would not apply to goods which have been lying uncleared for a period less than one year from the date of their import.

(ii) The custodian will furnish the list of items to be considered for disposal to AC(UCC). The list will contain complete particulars such as Bill of Lading/Airway...
Bill number, description of goods, weight, name of the consignee/consignor, etc. A notice shall simultaneously be issued by the custodian to the consignee at his known address and also displayed on the custodian’s notice board stating that if the goods are not cleared within 15 days they be sold by the custodian under Section 48 of the Customs Act, 1962.

(iii) A.C.(UCC) shall scrutinize the list with their own files/records and intimate the custodian a list of disputed or stayed consignments or consignments required to be retained for any investigation/adjudication/court proceedings, motor vehicles or negative list items as restrictions imposed under allied acts. If no such intimation is received from the Customs within 15 days, the custodian shall go ahead with the disposal of the goods.

(iv) The responsibility for the disposal shall exclusively be with the Custodian who shall fix a reserve price arrived at by a panel of Government approved valuers appointed by the Custodian [irrespective of any value arrived at by the Customs Appraisers earlier], which should include an expert on the product line.

(v) The Customs will not insist on complete and detailed inventory of the contents of the consignments to be drawn in their presence. They shall, instead choose 10% consignments for which detailed inventory shall be made in their presence for sample check.

(vi) The disposal of the goods shall be made by public auction/ E-auction/tender. The date of the public auction/ E-auction/tender should be adequately publicized in advance through national newspapers (both in English and Hindi), departmental website as well as in at least one newspaper in the local language. The values assessed by the approved valuers appointed by the custodians shall form the “reserve price”. The maximum number of auctions/tenders to which a lot is subjected should be four, with the goods to be necessarily sold for the highest bid in the last auction/tender regardless of the reserve price fixed. Reserve price fixed would not be applicable in case of fourth auction/tender. In the event of the goods not being disposed of in the first auction, subsequent auctions/tender should be conducted in time bound manner.

(vii) The bidding shall be on cum-duty price and duty shall be back-calculated from the sale price [Local taxes like Sales Tax etc, will however have to be charged/recovered extra from the buyer].

(viii) The custodian should fix a date for holding the auction/tender and communicate such date to the officer in charge of the Customs station and the concerned Assistant Commissioner/Deputy Commissioner. The Assistant Commissioner/Deputy Commissioner would nominate, if necessary, an officer not below the rank of Superintendent/Appraiser to witness the auction/tender. Customs shall not withdraw any consignments at the last moment from the auction/tender except with the written approval of the Commissioner of Customs.

(ix) For each consignment which is sold, the custodian will file a consolidated Bill of Entry, buyer-wise, for assessment of the effective rate of duty by the Customs. Auctioned goods will be allowed out of charge only after the duty assessed is paid by the custodian [Refer Unclaimed Goods (Bill of Entry) Regulations, 1972].

(x) The sale proceeds shall be shared as per the provisions of section 150 of the
4.1.13 For uncleared/ unclaimed goods which are lying for a period less than one year, the custodian would get the reserve price fixed by a panel of Government approved valuers appointed by the Custodian. Customs shall not associate itself with the valuation of such goods lying uncleared with the custodian. However, both reserve price and bids would be approved by the Customs. Further, if these goods remain unsold and pass into the category of landed-more-than-one-year-prior, then the custodians can sell the same following the independent procedure as detailed in para 3 without any reference to Customs, and adjusting the number of auctions/tenders to which the lot was already subjected to against the prescribed number of four such auctions/ tender."

4.2 Mis-handled Baggage (MHB)

4.2.1 Once the MHB is found to be abandoned and to be taken up for disposal, an inventory should be drawn up by the officer in-charge of the MHB in the presence of a gazetted officer. While preparing Inventory, perishable items should be clearly identified so that the same can be taken up for disposal without delay.

4.2.2 Specific approval for opening the packages and inventorising of each lot should be obtained from the Additional Commissioner incharge who shall nominate one or two gazetted officer(s) for the purpose who will also sign the inventory.

4.2.3 The first and foremost task of the gazetted officer so nominated and officer incharge of MHB is to certify the weight of the package. If there is any discrepancy between actual weight and recorded weight he shall immediately bring it to the notice of AC/DC incharge. Inventory shall be done in the latter’s presence also.

4.2.4 After preparing the complete Inventory, the baggage should be sealed with the seals of the officers present and their specimen seal affixed on the margin of the Inventory. All the precautions for preparing Inventory of detained / seized goods as outlined at para 2.1 of Chapter 2 shall ipsofacto, apply in respect of these goods also.

4.3 Time Expired Bonds / Goods

4.3.1 Section 72 of Customs Act, 1962 empowers the Proper Officer to sell the bonded goods which have not been cleared by the owner on payment of duty within the time limit prescribed therein or within the extended time limit, as the case may be, to recover the duty leviable on the goods. Section 72 also requires the Proper Officer to issue a notice demanding the full amount of duty together with penalties, rent, interest and other charges payable after the expiry of the time limit, before detaining and selling the goods. As in the case of UCC, monthly statement has to be prepared in the proforma given at Appendix-D to this chapter by the AC in-charge of Bonded warehouse (s) giving the details of the time expired bonded goods and forwarded to AC (Disposal) for initiating action for disposal. In this case also, AC (Bonds) will ensure that the Categories of goods are clearly marked so that priority for disposal can be accordingly given. The goods after being taken over shall be handed over to disposal unit for disposal.
4.3.2 The Disposal Unit shall maintain a separate register in the proforma given in Appendix-E to this chapter in respect of the Time Expired Goods.

4.3.3 As soon as the goods are disposed off, the details of sale proceeds realised should be communicated to the AC (Bonds) who will take action for apportionment of the same in terms of Section 150 of the Customs Act.

4.4 Goods Detained Under Section 142

Goods detained under Section 142 of the Customs Act, 1962 shall also be inventories in the proforma Form I given at Appendix ‘A’ to Chapter 2. These goods after giving a notice to the concerned person(s) from whose possession/control the goods were detained after 30 days of detention may be disposed off preferably by methods given under Chapter 6 & 7 of this Manual. The sale proceeds shall be apportioned as per Section 142.

************

APPENDIX-A

MONTHLY REPORT TO BE GIVEN BY THE CUSTODIANS
PERISHABLE / HAZARDOUS / OTHERS

1. Serial number
2. IGM NO. & date
3. Line No. and sub line No.
4. Bill of entry No., if any, and date
5. Name of the importer
6. Name of the steamer agent
7. Name of the CHA (if bill of entry has been filed)
8. Description of the goods
9. Quantity
10. Date of issue of first notice
11. Date of issue of second notice
12. Date of intimation to the department for disposal
13. Remarks

/BY R.P.A.D./
APPENDIX-B

Name of Custodian and Address

(Name of the ICD/CFS/ACC/CH)

‘NOTICE UNDER SEC. 48 OF CUSTOMS ACT. 1962’

Dated the 20

To

1
2
3

(Names and full addresses of the importer)

Shri/Smt.______________
M/s.______________

Sir/s

Sub: Notice under Sec. 48 of Customs Act, 1962, regarding the arrival of the goods under import and non-clearance thereof—reg.

Whereas, the cargo i.e.____________________ imported vide Bill of Lading no. dt.______ by vessel ____________________ vide______ 1GM No.____/2000 , Line no. , sub line no. pertaining to container/s No.____________________ have been lying in this ICD/CFS since____ / /20 for want of clearance by the consignee.

2. Whereas, you have failed to clear the cargo within the stipulated period as envisaged under Section 48 of Customs Act, 1962 (as amended) which is reproduced below:

Section 48: Procedure in case of goods not cleared, warehoused, or transshipped within thirty days after unloading:

If any goods brought into India from a place outside India are not cleared for home consumption or warehoused or transshipped within thirty days from the date of the unloading thereof at a Customs station or within such further time as the proper officer may allow or if the title of any imported goods is relinquished, such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having the custody thereof: provided that –

(a) animals, perishable goods and hazardous goods may, with the permission of the proper officer, be sold at any time;
b) arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

**Explanation:** In this section, “arms” and “ammunition” have the meanings respectively assigned to them in Arms Act, 1959 (54 of 1959).

3. We, the ________________, ICD/CFS/ACC/CH, being the Custodian of the aforesaid cargo therefore, hereby tender this Notice under sec.48 of Customs Act, 1962 to you, the Importer on the address as manifested in the relevant IGM to advice/suggest/request you to make necessary arrangements to clear the cargo in question within 15 days from the date of issue of this notice, after paying all their dues to us. If you are not interested to clear the cargo within the stipulated time or to seek any further time for the same or interested to abandon the goods, you may specifically intimate this immediately to us, the ICD/CFS/ACC/CH and also to the Deputy Commissioner of Customs. Un-Cleared Cargo Cell, ____________________________ by RPAD/Courier mail or hand delivery under acknowledgement.

4. Reply should specifically state the your intentions as regards to the clearance of goods and the time required.

5. If you have filed a Bill of Entry in the Custom House for clearance of the same, you may also indicate the same with its present status.

6. In case, no reply is received from you within the aforesaid period, or the reply received does not specify explicitly your intention w.r.t. above, it would be presumed that they are not interested in the above cargo lying in this CFS and cargo will be disposed off as per the provisions of Customs Act, 1962 without any further reference or intimation to you.

Yours faithfully,

( )

Full name and designation of the authorised signatory

Copy to:

1. _______________ Steamer Agents.
2. _______________ CHA(if any)
3. The Deputy Commissioner of Customs, MCD, _______________
4. The Deputy Commissioner of Customs. Uncleared Cargo Cell.
Appendix-C
//BY R.P.A.D.//

Name of Custodian and Address
ICD/CFS/ACC/CH
“FINAL NOTICE UNDER SEC. 48 OF CUSTOMS ACT, 1962”

To
(Name and full address of the importer)
Shri/Smt.
M/s._____________

Sir/s.

Sub: Issuance of “Final notice” under sec.48 of Customs Act, 1962. regarding the arrival of the goods under import and non-clearance thereof- reg.

Kind attention is invited to the Notice ________________ (give number if any) dated / /20___ on the above subject.

2. Whereas, you have neither cleared the cargo within the stipulated period prescribed under the aforesaid notice issued nor sought any extension of time for clearance of the same.

3. We, ICD/CFS/ACC/CH, therefore hereby issue this ‘Final Notice” to clear the above said cargo within 10 days of the issue of this, failing which, the impugned cargo would be put to auction at your sole risk and without any subsequent intimation thereof. The sale proceeds would be appropriated for meeting out the expenditure incurred in the auction, payment of customs duty aid the realisation of the accrued warehousing charges for ICD/Container Freight Station and also the payment of such dues of the different parties/agents who have claimed lien/hold on the subject cargo in the order enumerated below. (give names of parties in order of their lien / hold)

4. In case it is found the sale proceeds is not sufficient to realise the CFS charges after appropriating for the expenditure for auction and customs duty, the short-fall, if any, is liable to be recoverable from the concerned Importer.

5. This may please be treated as ‘FINAL NOTICE’.

Yours faithfully,
(________)

Full name and designation of the authorised signatory

Copy to:
1. ________________ Steamer Agents.
2. ________________ CHA (if any)
3. The Deputy Commissioner of Customs, MCD___________________
4. The Deputy Commissioner of Customs, Uncleared Cargo Cell_______________
APPENDIX-D

Monthly report to be prepared and submitted by the Bond Officer/AC (Bonds)

1. Serial number
2. Bond Register No.
3. Into Bond Bill of entry No. and date
4. Bill of entry date
5. Name of the importer
6. Name of the CHA
7. Description of the goods
8. Quantity
9. Value declared as per Bill of entry
10. Date of issue of first demand notice
11. Date of issue of second notice/final
12. Date of taking over the goods
13. Remarks

APPENDIX-E

PROFORMA OF TIME EXPIRED BOND REGISTER

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>TEB No./ Date of Receipt</th>
<th>Bond Reference No.</th>
<th>Importers Name &amp; Address</th>
<th>Description of Goods/ No. of Pkgs.</th>
<th>Value of the Goods</th>
<th>Duty on Goods</th>
<th>Date of the Receipt of Disposal Order</th>
<th>Sale Proceeds</th>
</tr>
</thead>
</table>


CHAPTER -5

VALUATION & VALUATION COMMITTEE

One vital aspect of speedy disposal of goods is the realistic fixation of retail price in case of Direct Sale and reserve/fair price in case of sale through Auction/Tender. The success of disposal of goods would be greatly dependent upon fixation of fair value keeping into consideration the condition of goods, prevailing market price, technology used in the goods, level of obsolescence, method of store keeping, wider publicity for auction of the goods, the time gap between the seizing date and disposal date, etc.

5.1 Book Value: As Book Value of the goods would serve as a reference for the purpose of Valuation, realistic fixation of the price at the time of seizure with reference to the prevailing market prices is very important. Therefore tendency to inflate the value of the goods at the time of seizure should be discouraged. Further, huge difference in Book value and actual sale proceeds can lead to audit objections. Moreover, when seized goods are ultimately ordered to be restored to the owner of the goods, after the same has been disposed off, vast difference between the Book Value and actual sale proceeds can lead to litigation.

5.1.1 Fixing Book Value:

(i) For the sake of uniformity, throughout India, Book value of all goods seized whether in town or at the ports / airports for various violations should be prevailing whole sale market price.

(ii) The actual sale price of similar seized goods sold through retail shops etc. should also be kept in view while assigning the value for subsequent seizures. If no such price is available, then Joint Price Committee (JPC) prices fixed at the nearest metropolitan city shall be taken as a guide for fixing seizure value.

5.1.2 The Commissioners who are having their headquarters at the same place, they should ensure that there is close consultation and co-ordination between them so that the seizure value and retail prices fixed for similar type and quality of goods to be sold in retail at the same city, are identical.

5.2 Valuation for Direct Sale:

The prices (inclusive of all duties / taxes etc.) fixed by Joint Pricing Committee (JPC) Mumbai, Chennai, Kolkata & Delhi should be launched on their Website(s) and of the CBEC and periodically updated so that the other field formations use the prices of the nearest metropolitan city as guide/reference value for fixing Book Value and/ or for valuation for disposal.

5.2.1 Valuation Committee:

The value fixed for direct sale shall be as fixed by Joint Pricing Committee formed by the Commissioners. The composition of the Committee is given at para 5.4.4 of this chapter based on Board’s Circular F. No. F.No.711/1/2006-Cus (AS), Circular No. 12/2006 dated 20.2.2006. To ensure secrecy, the JPC price sheet should be kept sealed with AC/DC, Disposal in charge of auction.
5.2.2 Frequency of meeting: So that the items which have become ripe for disposal are disposed off expeditiously, it shall be the responsibility of AC/DC (Disposal) to ensure that the Valuation Committee meets as frequently as necessary.

5.2.3 Functioning of Valuation Committee: AC/DC (Disposal) shall prepare a consideration List of items to be valued for disposal for placing before the Committee in sufficient copies in the proforma given at Appendix ‘A’ to this chapter. The column 3 i.e. ‘the condition of item’ should be invariably filled up and following details should be specified in all cases:

(i) Brand name and country of original manufacture.
(ii) Whether in original packing or not.
(iii) Whether books and manuals are available.
(iv) Whether accessories are available and if accessories are not available, details of accessories not available.
(v) The year of release of the model by the mfg. Co. to the market.
(vi) Whether the model is obsolete or still available in the market.
(vii) Whether the item was found to be old and used.
(viii) Whether the items are in working condition. If there are a number of items in one batch, the number of items which are not in working condition shall be given.
(ix) Where the goods are not in working condition, whether the item can be repaired or not. If the AC is not sure of the working condition, specific mention can be made to this effect.

5.2.4 Other functions of the Committee: Valuation Committee will also certify in each meeting that the seized goods put up for valuation were properly stored in the WH and whether any damage because of the storage conditions has been caused. It should also suggest measures to improve the conditions of storage of the goods.

5.3 Valuation for Auction: The Valuation for Auction/tender etc. is done by fixing fair price and/or reserve price. There is a difference between fair price and reserve price. Fair price for the purpose of auction should be the best price at which the Custom House can sell the goods under normal conditions and should be somewhat lower than the price at which goods of the same kind and in the same condition could be sold by the purchaser in the wholesale market, the difference representing the profit which the buyer at the auction expects to make and/or the margin to cover him against the risk of possible loss.

Whereas, the reserve price should be the absolute minimum price below which for legal or other reasons, a consignment cannot be sold. Ordinarily goods should fetch appreciably more than the reserve price. But in exceptional circumstances as elaborated later in this Chapter, goods can be sold below the reserve price.

5.4 Guidelines for the valuation and disposal by auction-cum-tender of seized, confiscated and time expired goods:

The procedure for valuation and disposal by auction-cum-tender of seized, confiscated and time expired warehoused goods that are ripe for disposal is set out in the following paragraphs.
5.4.1 The disposal by sale of seized, confiscated and time expired warehoused goods shall take place simultaneously through public auction and sealed tender right from the first time that the goods are offered for sale.

5.4.2 The auction-cum-tender shall be held every month.

5.4.3 A Joint Pricing Committee (JPC) shall be constituted in each Customs Commissionerate charged with the responsibility of disposal of seized and confiscated goods.

5.4.4 The Joint Pricing Committee shall have the following composition:

i. Additional/Joint Commissioner in charge of Disposal
ii. Deputy/Assistant Commissioner in-charge of Disposal
iii. Superintendent in charge of Disposal
iv. Deputy/Assistant Commissioner holding any other charge
v. Superintendent holding any other charge

5.4.5 The JPC shall determine the Fair Price of the goods to be disposed of through auction-cum-tender. The Fair Price is the best price at which the goods can be sold under normal conditions. It can be expected to be somewhat lower than the price at which goods of the same kind and in the same condition could be sold by the buyer in the wholesale market, the difference representing the profit which the buyer at the auction expects to make.

5.4.6 The Fair Price should be fixed by ascertaining the probable price of such goods in the wholesale market, and subtracting from it a discount representing the profit of the buyer at the auction-cum-tender. This discount (varying according to the nature of the goods) may be 5% to 10% more than the estimated profit which the buyer at the auction-cum-tender can reasonably expect to make on resale, the increase being the incentive to the prospective buyer at the auction. Therefore, if an item can fetch Rs 100 in the wholesale market, and the margin of profit is Rs 20, then the discount may be fixed at 25% to 30%, and the fair price would be Rs 75 or Rs 70. While fixing the quantum of discount representing the margin of profit for the buyer at the auction, due importance should be given to the condition of the goods, the type of packing, the fact that no warranty and after-sale service is attached to the goods, the size of the consignment, etc.

5.4.7 The book value of the goods shall have no bearing on the Fair Price. The CIF value and applicable rate of duty should find a place in the valuation file only to serve as a comparison with the Fair Price arrived at with reference solely to the wholesale market price. Further, such a comparison shall be valid only in respect of goods which have landed up to one year before the date on which they are valued for purposes of disposal. In respect of goods which have landed before one year from the date on which they are being valued for purposes of disposal, the book value shall not be used even as a tool for comparison with the Fair Price determined with reference to the wholesale market.

5.4.8 There shall be no Reserve Price as distinct from Fair Price.

5.4.9 The wholesale market price of the goods offered for sale and the margin of profit shall be ascertained by Government Approved Valuers alone and not by Customs staff.

5.4.10 The highest bid in the auction-cum-tender shall be accepted by the Chairman of the JPC if the bid is more than, or equal to or close (not less than the Fair Price by 5% to 10%) to the Fair Price. Otherwise, the goods shall be put up for auction-cum-tender the second time. In the event of the goods not being sold in the first two auction-cum-tenders, the goods shall be sold at the highest bid obtained in the third auction-cum-tender. If any lots still remain unsold after
the third offer for sale, the Commissioner should ascertain whether the JPC has good reason for the goods remaining unsold.

5.4.11 The goods should not be withdrawn from auction-cum-tender on flimsy grounds, such as the possibility that the goods may fetch a slightly higher price in a subsequent auction.

5.4.12 All post-auction/tender offers, even if these are for amounts higher than the successful bid, shall be strictly disregarded and not taken cognizance of in any manner.

5.4.13 In respect of complaints regarding determination of Fair Price and acceptance of bids in auction-cum-tender, the Commissioner shall immediately ascertain whether the prescribed procedure has been adhered to. The matter should not be referred for Vigilance scrutiny in a routine manner if the prescribed procedure has been followed.

5.4.14 All Custom Houses shall immediately introduce e-auction, and physical auction shall be discontinued.

5.4.15 The procedure as set out in paragraphs 5.4.1 to 5.4.14 above shall not be applicable to goods that are required, as per existing instructions, to be disposed of by sale to NCCF or through SBI or in any manner other than public auction-cum-tender.

5.5. These instructions are applicable to seized, confiscated and time-expired warehoused goods that have become ripe for disposal and respect of which notice has been given to the owner of the goods as required under Section 150 and Section 72(2) of the Customs Act, 1962.

[Based on Board’s Circular F.No.711/1/2006-Cus (AS), Circular No. 12/2006 dated 20.2.2006]

5.6 Using experts for fixation of fair price: As departmental officers do not always possess the expertise to assess the technical parameters and arrive at a fair price that is likely to be accepted by potential/prospective buyers, technical experts, Income Tax Registered Valuers and Chartered Accountants etc. should be actively associated in fixation of prices of goods to be disposed off. Accordingly for valuation of machinery, the assistance of organizations listed in the Exim Policy can be taken and for valuation of motor vehicles, the assistance of Automobile Associations or the Motor Vehicle Department of the local State Govt. can be taken. The AC/DC (WH) and the JC i/c of WH should have a list of agencies who are found to be appropriate for the valuation of machinery and other items and their help can be taken. In all cases, their opinions would only be in the nature of recommendations and should be applied taking into account the facts and circumstances of each consignment. The Valuation Committee would take their recommendations into account and fix the price.

The proforma for preparing the details of goods for the purpose of valuation can be as in Appendix B to this chapter.

5.6.1 Discounts allowed on Fair Price: Apart from profit margins and discounts allowed while fixation of Fair Price, further discounts based on the following factors may be allowed depending upon the nature of circumstances:

a) Size of consignment
b) Condition of goods. Factors as mentioned at para 5.2.3 can be taken into account.
c) No warranty being attached to goods.
5.6.2 Re-fixation of Fair Price: Once a realistic fair price is fixed taking into account of all the relevant aspects, normally there will be little scope for withdrawal of lots once offered in auction sales on the sole ground of lack of proper bids. But many times despite all such care and precautions, goods are not lifted. The major reason is that of obsolescence of goods especially in the case of computer parts and electronic items etc., where obsolescence sets in very fast and quite often, within a period of 3-6 months, the item becomes obsolete and/or the prices comes down drastically. In all these cases, the level of obsolescence has to be ascertained. In case of obsolescence, the revaluation of these items should be done and if found necessary by taking the help of experts in that field.

Apart from above, there may be some unique items like machineries and spare-parts. Some items will not be useful to any other manufacturers/users as they may be specific to the machinery or to the brand/modal of machinery. In some cases, such items may not have any commercial value and may even have to be sold as scrap but the Department would come to know the correct position only after 2 or 3 auctions. It is necessary to identify such items so that the assistance of recognized valuers can be taken, their recommendations are taken into account and goods are sold at the appropriate price.

5.6.3 Transparent system: As Customs official are public servants, they are answerable to various authorities for every action of theirs. In so far as disposal of confiscated goods are concerned, they should not expose themselves to the possibility of allegations of collusion, favoritism or underselling being leveled against them. At the same time it is equally incumbent on them to ensure that goods are disposed off at the earliest opportunity and at the best possible price so that the interests of the Government are adequately served.

**************

Appendix ‘A’

Consideration List

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Entry No.</th>
<th>Date of Seizure/ Import</th>
<th>Condition of Item</th>
<th>Unit of quantity</th>
<th>JPC etc. price if available</th>
<th>Whether any change in JPC price is warranted and if yes why?</th>
<th>Price ascertained in the market including ST if no JPC price is available</th>
<th>Price per unit fixed by the committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>9</td>
</tr>
</tbody>
</table>
APPENDIX - B

PROFORMA

FOR EXAMINATION & VALUATION

1. Name of the CFS
2. Lot No.
3. Name of the Vessel
4. IGM No.
5. Line No.
6. Importer’s Name & Address  M/s.
7. CHAs Name & Address  M/s.
8. Pending since
9. Date of issue of Final Notice u/s 4t of the Customs Act. 1962
10. Marks & Nos.
11. No. of packages / (LCL Containers) (Containers particulars) in case of FCL, consignments as per Manifest
12. Quantity declared
13. Gross Weight
14. Net Weight
15. Quantity in each package
16. Total quantity & weight available on the day of inspection
17. (a) Detailed Description of goods
(b) Brand/ Country of Origin
(c) Specification of goods
(d) Residual shelf life available
(e) Condition of packing
(f) If packing is not intact. whether goods got damaged? If so, the extent of damage
(g) Actual condition of goods
18. Value as per B/E, Invoice, Computer
19. Goods restricted for import or not (CTH & CETH)
20. Duty (Present rate applicable)
21. Total landing cost
22. Details of market enquiry
23. R.P. proposed
  Shelf life has to be mentioned wherever applicable. Test report, if any, has to be Attached.

Signature
CHAPTER -6

DISPOSAL & SALE THROUGH AUCTION & TENDER

6.1 After the goods become ripe for disposal and the valuation etc. is done, concerted efforts need to be made to dispose of the goods expeditiously with a view to get the best price for the goods at the earliest possible opportunity. Apart from the aforesaid twin objectives, the objectives of reducing the cost of storage especially in rented godowns and also disposing of bulky goods with little commercial / no commercial value and consequently liberating the space and thus saving huge amounts of money on account of the rent would also be achieved.

6.2 There is a wide variety of goods varying in quantum, type, brand, age, etc. lying with the Department. The goods and their stock etc. vary from place to place and time to time. Therefore, no standardized method or approach of disposal can encompass all the peculiarities of the goods kept at different places throughout the country at all times and under all the circumstances.

6.3 The manner of disposal of goods may thus vary from type of goods, lots, quantity, condition, quality, etc. and also from time to time. Specific guidelines given in Chapter No. 7 to 16 which may be read together with the broad guidelines of different methods of disposal given in this Chapter as well as Chapter 8. These specific and general guidelines are no doubt important and are useful, yet officers responsible for disposal especially senior officers and the Commissioners must exercise their best judgment, discretion and initiative to adopt any of these methods for disposal with suitable modifications as demanded in any given situation. These specific and general guidelines are given essentially to facilitate the disposal with a view to achieve the desired objective and should be followed in that spirit rather than finding scapegoat for non-action or non-disposal. For example, it may make more economic sense to dispose of promptly at a price offered an item which occupies huge space and for which the rent payable may neutralize any higher value realized at a later date.

6.4 Auction:

Auction sales are peculiar type of sale of goods. The way and the method of auction sale are different from those of ordinary sales.

As per Section 64 of the Sale of Goods Act, 1930, in an auction sale, the sale is complete when the auctioneer announces it by the fall of the hammer or any other customary manner. Until that is done, a bidder can retract his offer. A bidder is at liberty to withdraw his bid at any time before it is accepted finally by the auctioneer. The bid is merely an offer, and it becomes, irrevocable only, when, its acceptance is announced by the auctioneer. In short, the bidder can retract his bid till the hammer falls or until a similar announcement is made.

When goods are sold in lots, each lot is prima facie deemed to be the subject of a separate contract of sale.

A right to bid may be reserved expressly by, or on behalf of, the seller, and if it is not so expressly reserved, it is unlawful for the seller to bid, either himself of through any person.
The sale may be notified to be subject to reserved or upset price.

6.4.1 The implied warranties in an auction sale

When an auctioneer sells goods, he impliedly undertakes, the following four obligations:

a. He warrants his authority to sell.
b. He warrants that he knows of no defect in his principal’s title.
c. He undertakes to give possession against the price paid into his hands.
d. He undertakes that such possession will not be disturbed by his principal or himself.

6.4.2 Procedure for Auction:

Auctions must be held periodically by the Commissionerates for disposal of the ripe for disposal good. The periodicity of the auctions will be decided by the Commissioners based on the quantum of goods available for auction. The following guidelines / procedures should be followed for sale through auction.

6.4.3 Constitution of Auction Committee:

For the purpose of an Auction, at the very outset an Auction Committee consisting of the Assistant Commissioner (Disposal), one Assistant Commissioner nominated by the Commissioner and the Supdt. (Disposal) should be constituted. Wherever it is not practicable to form an Auction Committee with one or more Asstt. Commissioners, the Commissioners may in their discretion, form committee consisting of specified classes of officers, lower in rank to that of Asstt. Commissioners. The Commissioners, may, similarly, designate the officers for conducting various items of work connected to an auction.

The auction Committee, at the very outset, must decide about the following issues:

- lots to be included in the auction,
- the time and date of auction.
- the nature of publicity to be given,
- recommending the appointment of auctioneer and the terms & conditions of his appointment
- draft conditions of sale through auction

It may also recommend cases to the Commissioner for disposal of goods by tender cum auction, by tender or any other mode of disposal, where such goods have not fetched or are unlikely to fetch the fair price at the auction. The Commissioner shall accordingly decide these matters. The Department will be at liberty to offer any goods for sale by auction cum tender, or tender or by private treaty or any other means other than a auction whenever deemed fit to do so.

6.4.4 Appointment of Auctioneer:

For the purpose of sale of goods by way of auction, the Commissioners are required to appoint an auctioneer. The agreement of appointment shall initially remains in force for a
period of one year which can be reviewed & renewed thereafter. The duties of an auctioneer are, inter-alia, as follows:

a) to prepare draft auction notice in consultation with the Auction Committee for approval of the Commissioner.

b) to give wide publicity in respect of the goods to be auctioned at his cost in at least two leading English’ newspapers or Hindi newspaper & two vernacular newspapers.

c) to put up the goods for sale in such lots as approved by the Auction Committee.

d) to arrange for examination of the lot(s) by the prospective bidders before the date fixed for auction, on compliance of such terms & conditions, as may be specified.

e) to conduct auction in the manner and as per conditions laid down by the Auction Committee and to announce and publish all such conditions at his own cost.

f) to collect and immediately deposit the amount of earnest money and also any other amounts realised or collected on the day of auction, with the Deptt. failing which he shall deposit the full amount within 24 hours of the auction with the Deptt.. This would be without prejudice to any other remedy the Deptt has on account of such breach against him.

g) to cancel a bid forthwith if the bidder fails to pay the earnest money and re-auction the lot/ lots.

h) to collect the balance amount of the bid from the bidder within the time prescribed from the date of auction or within such extended time by Cash/ Draft as may be specified by the Auction Committee and deposit the same with the Deptt.

i) to immediately communicate to the successful bidder the decision of final acceptance of provisionally accepted bids.

j) to prepare in triplicate the Sale Sheet in the form given at Appendix A to this chapter which shall be signed immediately after the sale both by the auctioneer and supervising officer.

k) to send one copy of the signed Sale Sheet to Customs Warehouse, Superintendent and the other copy to the Chief Accounts Officers on the same

l) to prepare in triplicate a Final Sale Account on completion of auction in the form given at Appendix ‘B’ to this chapter within three working days, showing the proceeds realized and to submit a copy there of to the officer supervising the auction sale and to the Chief Accounts Officer.

m) to submit a separate bill in duplicate for his commission. He shall not deduct his charges from the collections on account of Auction.

n) The Auctioneer or their staff should not, directly or indirectly bid for or purchase any lot at the auction, except with the prior permission of the Deptt. in writing.
The notice issued by the Auctioneer must stipulate that the officer supervising the auction reserves to himself the right of fixing reserve price for the goods put up for sale through auction and of withdrawing part or whole of the goods from the auction if considered necessary by him without assigning any reasons.

6.4.5 Payments to auctioneer:

Only on the completion of a sale and collection of entire sale proceeds, the auctioneer shall be entitled to a commission on the gross proceeds thereof paid and credited to the government account. A resale shall be treated as a fresh sale. Thus, in case of re-sale, the Auctioneer shall be entitled to commission only in respect of proceeds of the resale and not on the proceeds of the previous sale.

The Auctioneers shall conduct the auctions at the godowns owned or hired by the Department. The Auctioneer will also not be entitled to get from the Government any conveyance charges etc., incurred in connection with the transport of their staff even if property or goods are stored at godowns situated outside the Customs Houses or place of auction.

6.4.6 Making Catalogues etc.

Where regular auctions are conducted and a large number of consignments are available, it may be advisable to prepare a catalogue containing, inter-alia, the details of lots and photographs of the items. These may also be uploaded on the Commissionerate’s website.

6.4.7 Publicity:

i. For ensuring maximum participation in the auction, widespread publicity must be given. Advertisement of the goods in at least two leading English or Hindi newspapers and two vernacular newspapers is the minimum requirements of publicity for auctions.

ii. The decisions on the additional modes and level of publicity i.e. using internet, T.V., radio, yellow pages, trade directories and other publications available in the market, putting up posters in the local and wholesale markets of the commodities put for auction may be taken beforehand by the Commissioner to encourage more and more people to participate in the auction

iii. The details of auction should also be put up on the website of the Custom House and of the CBEC.

6.4.8 Caution Money and Registration of Bidders: The caution money may be fixed in advance. It shall normally be 2-5% of individual Lot with a maximum limit of Rs. 20,000/- in case of non valuables and more in case of valuables. Bidders may be asked to deposit the caution money and get the registration done after furnishing all the relevant information including telephone number, PAN number, etc. Only Registered Bidders must be allowed to inspect the lots and bid in the auction. The caution money will be adjusted against the earnest money or refunded as the case may be, at the conclusion of the auction. There is no objection to the owner of the goods bidding in the auction. If the bid is fair and he happens to be the
highest bidder, the goods may be sold to him.

6.4.9 Examination of Lots: The registered bidders would be allowed to examine the lots who can bring one additional person for consultation & expert examination. Examination shall be done only in the presence of officer appointed for the purpose which may be AC (Disposal) and/or the warehouse Supdt.

6.4.10 Earnest Money:

The Earnest Money deposits by the bidders/purchasers for the auction may be fixed at the following rates:

i) For sales not exceeding Rs. 1,000/- Full payment.

ii) For sales exceeding Rs. 1,000/- but not exceeding Rs. 20,000/- (for each individual lot).

iii) For sales exceeding Rs. 20,000/- (for each individual lot).

25% in the case of confirmed acceptance and 10% in a case which is subject to confirmation or approval but subject to a minimum of Rs. 5,000/-. However, if having regard to local conditions, it is considered necessary, to insist on a higher scale of earnest money, the same can be fixed provided the Commissioners are satisfied that such higher scale would not have any restraining effect on the prospective buyers.

Further, the notice issued to bidders giving the general terms and conditions of sale by auction should clearly stipulate that the earnest money shall have to be deposited in both cases i.e. confirmed acceptance and also in case of subject to confirmation or approval. However, in the latter case the Condition of Sale shall clearly specify that the successful bidder shall, on fall of the hammer, deposit 10 percent of the value of the bid as earnest money on the spot, and the balance amount shall be paid within the time period prescribed or as may be announced during the auction from the date on which notice of confirmation of sale is put up on the Commissionerate’s notice board failing which the sale shall be treated as cancelled and the earnest money shall be forfeited to Government and the goods are resold.

6.4.11 Other essential conditions of Sale:

(a) Goods should be sold on AS IS and WHERE IS BASIS.

(b) All taxes, levies, etc. except Customs and Central Excise duties shall be treated as in addition to the bid amount and will be paid by the Bidder before taking delivery.

(c) An Auction Lot Register in the proforma given at Appendix C to this Chapter may be made before the start of the auction;

(d) If the bidder fails to pay the required Earnest money required immediately after the lot is knocked down in his favour, the bid shall stand cancelled forthwith. The caution money paid by the bidder shall stand forfeited on
account of this act of indiscretion. The officer supervising the auction can also
debar the said bidder from bidding in the current and/or future auctions also.
Also officer supervising the auction may accept the second highest bid if it is
more than the reserve price.

6.4.12 Supervision of Auction

The auction for confiscated goods should normally be under the supervision of
Supdt./AC/DC as may be decided by Commissioner. However, if the book value of the goods of
individual lot/lots is more than Rs. 1 crore, the auction should be supervised by JC/ADC. In the
case of auctions conducted by Port Trust, ICD & the Container Freight Stations for uncleared
cargo, the Commissioner should depute suitable level officer.

6.4.13 Role and Rights of Supervisory officers:

(a) Enforce discipline: Supervisor shall make clear to all Bidders that they must occupy
the seats allotted to them only & show the badge showing registration number to
the CRYER / Auctioneer while making a bid and that they are expected to adhere
to the business ethics and observe discipline. Cross talks and use of gestures is
strictly prohibited and can lead to forfeiture of caution money and bar on
participation in the auction. If the officer supervising the auction so directs, the
Bidders will keep the mobile phones out of the auction hall and/or deposit with
the security personnel.

(b) Strive to get maximum bids and prevent formation of cartel for which he may do
anything including exercise his discretion to give priority to some lot(s) over
others; split or club the lots or withdraw from sale lot(s) any time before or during
the auction without assigning any reason.

(c) A record of all the bids at every auction of public property should be maintained.
But where the number of lots put up for public auction is very large and the
bidding is fast, strict record of all bids cannot be maintained without hampering
the tempo of bidding. In such cases it would sufficient to keep a record of the
amounts of the bids without the names of the bidders. Complete bid lists including
the particulars of bidders in respect of casual auctions (for perishables etc.) where
publicity is limited, should, however, be kept.

(d) No bid shall be deemed to be accepted without the concurrence of the officer
supervising the auction.

(e) The officer supervising the auction shall be at liberty to withdraw from sale lot or
lots for which bids are lower than the reserve price or if there is ring among the
bidders to keep the price from going up.

6.4.14 Acceptance of Bid:

The acceptance of bid will be governed by the guidelines given in para 5.4.10 of this
Manual. The highest bid in the auction-cum-tender shall be accepted by the Chairman of theJPC
if the bid is more than, or equal to or close (not less than the Fair Price by 5% to10%) to the Fair
Price. Otherwise, the goods shall be put up for auction- cum-tender the second time. In the
event of the goods not being sold in the first two auction-cum-tenders, the goods shall be sold
at the highest bid obtained in the third auction-cum-tender if the highest bid is not less than the fair price by 20% subject to the following conditions.

a) If the bid value is below upto 20% of the Fair Price and the book value of the lot does not exceed Rs. 20 lakhs the bid shall be finally accepted by the Chairman of the JPC.

b) If the bid value is below upto 20% of the Fair Price and the book value of the lot exceeds Rs. 20 lakhs the bid shall be finally accepted by the Commissioner.

c) If any lots still remain unsold after the third offer for sale, the Commissioner should ascertain whether the JPC has good reason for the goods remaining unsold.

When the bids are accepted provisionally subject to confirmation by the Department, the final decision shall be notified to the auctioneer in within 7 working days from the date of auction and the auctioneer shall immediately communicate to the bidder the decision of the Department.

**6.4.15 Payment of Balance Money:**

The buyer shall pay the Balance amount of the purchase price between 10.00 Hr and 18.00 Hrs. on any working day’s within the maximum time as per the chart given below:

(a) If a bid amount is less than Rs.5 Lakhs - within 5 days from the date of confirmation/ approval.

(b) Above Rs.5 Lakh to Rs. 10 Lakhs - within 7 days from the date of confirmation/ approval.

(c) Above Rs. 10 Lakhs to Rs. 20 Lakhs - within 8 days from the date of confirmation/ approval.

(d) Above Rs.20 Lakhs to P.s. 1 Crore - within 12 days from the date of confirmation/ approval.

(e) Rs. 1 crore and above - within 15 days from the date of confirmation/ approval.

However, lesser limits may be prescribed if the same are in vogue in the Commissionerate. The Commissioner in exceptional circumstances and on sufficient cause being shown may allow further time not exceeding 5 days. The amount of caution money as well as earnest money would be forfeited to the Govt. if the successful bidder fails to pay the balance within the prescribed time limit.

**6.4.16 Delivery:**

The bidder can take delivery of goods of the confirmed lots subject to receipt of full payment by the department, and on production of proof of payment of all taxes, levies and moneys etc.

Delivery should be taken within 3 working days (FREE PERIOD) beyond the last date for payment allowed herein above. The Commissioner at his discretion on the sufficient cause being shown may allow further time for taking the delivery not exceeding 10 days and on such terms & condition as he may specify in writing.
6.4.17 Re-auction:

Ordinarily goods should not be put up for auction more than three times. Only when there is a doubt and there is a written report of the supervising officer that bidders had formed a cartel and the price offered was not genuine, a consignment should be put up for auction for more than three times.

6.5 Sales through Auction Cum Sealed Tender:

When the goods are not sold in the first auction, the second auction for such goods can also be held under auction cum sealed tender. The advantage of auction cum sealed tender is that it is not necessary for a person to come out in the open and bid in the auction. It has been found that auction cum sealed tender helps in breaking formation of cartels. The guidelines for auction cum sealed tender are outlined below:

(a) Sealed tender option shall be provided after the goods have been subjected to at least one auction.

(b) The auction notice shall specifically identify the lots which are available for auction as well as sealed tender and also specify to whom the sealed tender shall be addressed.

(c) Sealed tenders can be put in a box placed for the purpose in the office. The auction notice shall specify the place where the box is located.

(d) The sealed tenders can be sent by post also. But if the tender is not received within the date and time specified for the receipt of the tender, such tenders shall be ignored. Persons sending tenders by post have to send the tenders at their own risk.

(e) As soon as a sealed tender is received by post, the officer receiving the same shall affix his signature name, designation on the envelope and put it in the box meant for putting the sealed tenders if it has been received in time.

(f) Before commencement of the auction, the box containing sealed tenders shall be opened in the auction hall in the presence of at least two witnesses who may be bidder who shall certify to the effect along with the Officer who is supervising the auction.

(g) Thereafter without opening the sealed tenders, tenders shall be segregated lot wise and kept with the officer supervising the auction.

(h) All the sealed tenders shall be super scribed with the following details:

Customs auction on (date). Sealed tender for lot no. (Item name can be given but not necessary).

Tenders which are not super scribed with thee details are liable to rejection without opening.

(i) The tender shall have the following details:
a. Name and address of the bidder
b. Date of auction
c. Lot No. for which sealed tender is meant
d. Description of the goods in the lot (Not compulsory)
e. Price offered in rupees
f. EMD amount
g. D.D. No.
h. DD drawn on (Bank branch name and address).
i. Date of the DD.
j. Signature of the tenderer

As soon as the bidding is over for a particular Lot, before confirming the acceptance or the decision about the bid, all the sealed tenders pertaining to that lot will be opened and if any tender is found higher than the highest bid in the auction, that tender will be considered for the purpose of making decision about the sale.

6.6 Sale through Tender:

Though this is a less common mode of sale but when there is cartel formation, it is very useful. Standard form of tender has been prescribed at Appendix D of this Chapter. Form must not be sold free but at the price of Rs. 50/- or so to discourage frivolous tendering. To maintain secrecy of fair/estimated price, earnest money should be fixed at rates higher than 5% of the estimated value. Facility of depositing earnest money to any other Central Govt. Treasury or by DD may be allowed to accommodate outstation tenders.
APPENDIX “A”

Sale Sheet

COMMISSIONER OF CUSTOMS

Name of the auctioneer
Officer Supervising sale
Place of Auction
Auction conducted by
Date and time of auction
Approximate No. of Bidders
Highest Bid

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Sr. No. as per Stock Register</th>
<th>Items</th>
<th>Name of the highest auctioned bidder</th>
<th>Rs.</th>
</tr>
</thead>
</table>

Total (in words) Rupees
Total Rupees

Checked and found correct
The auction was held under my supervision

Superintendent of Customs/
Asstt./Dy./Jt./Addl. Commissioner of Customs

Auctioneer
Date

APPENDIX “B”

FINAL SALE ACCOUNT

COMMISSIONER OF CUSTOMS

Sale account held at
On

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Sr. No. as per Stock Register</th>
<th>Accepted bid</th>
<th>Remarks</th>
</tr>
</thead>
</table>
To

The Assistant/Dy. Commissioner of Customs/
Superintendent of Customs/Chief Accounts Officer.

Sir,

I beg to report the sale held at ........................................on..............................................by us the sum of Rs.................................................. was due to the Government. The same was deposited in the Reserve Bank of India, vide T.R No..........................dated.........................Copy enclosed.

Yours faithfully

AUCTIONER

Appendix ‘C’
Proforma of Auction Lot Register

1. Sl. No.
2. Lot No.
4. Description of goods
5. Location
6. CIF / Book Value
7. Duty involved (at time of import)
8. RF/RFP
9. Sales Value
10. Deposit - particulars
11. Date of Auction
12. Remittance Particulars
13. Date of Delivery
14. Remarks / Ack of Bidder
15. Audit
Appendix ‘D’

Standard Form of Tender

Tender No. ____________________________
Due or return on______________________
And will be opened on_________________
At--------- in public-------- Officers
To remain open till____________________

TENDER FOR THE PURCHASE OF________________________________________

To
The President of India
Through the Asstt. Commissioner of Customs
(Outdoor)
Custom House Commissionerate

The undersigned hereby tender(s) for the purchase from you of the goods specified in column one of the 1st Schedule hereto or for such portion thereof as you may determine by your acceptance at the price quoted in column 2 of the said schedule and to take delivery thereof by the time stated in the column 3 of the said Schedule and subject to the conditions set out in the “Instructions to Tenders” and General Conditions of Contract” set forth in the Schedule hereto, and also agree(s) to hold this offer open for your acceptance till the date specified above.

Receipt No................ issued by the Custom House Treasury for Rs.....................is enclosed as earnest money.

The undersigned understand(s) that the tender documents have been sold to him/them. He/they is/are being permitted to tender in consideration of the stipulation on his/their part that after submitting his/their tender he/they will not resile from his/their offer or modify the terms and conditions thereof. Should the undersigned fail to observe and comply with the foregoing stipulation, the earnest money shall be forfeited to THE PRESIDENT OF INDIA.

Date this Day of 20
(Witness) Signature of
(Address) Tenderer Address

THE FIRST SCHEDULE ABOVE REFERRED TO

<table>
<thead>
<tr>
<th>1st Column</th>
<th>2nd Column</th>
<th>3rd Column</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods for which tender is made and where situated</td>
<td>Price tendered (in figures as well as in words)</td>
<td>No. of days guaranteed for removal from godown of goods purchased</td>
</tr>
</tbody>
</table>

(Witness) Signature of tenderer(s)
(Address)
INTERNET AUCTION

With massive growth in the information technology and use of computers, Internet has brought into effect higher level of transparency and spread of knowledge/information on a very large scale. Information technology and Internet are extensively used in procurement and disposal of goods and services. Tendering and auction using Internet has the added advantage of dissemination of information to far-flung areas with ease access and response. One can participate in e-tendering, e-procurement or e-auction from any part of the world. In view of the massive advantages offered by information technology, it is desirable that the Commissionerates should start using increasingly the facility of Internet auction for disposal of goods.

7.1 Broadly the guidelines for e-auction are same as that for the physical auctions given at Chapter 6. However, several safeguards need to be followed, which will include that minimum level of managing the software should be with the AC/DC. Further, the role of the systems administrator should be limited only to entering the Reserve Price and all discretion and powers including that of acceptance of the bids will be exercised by the officers of the rank AC/DC or above. The software for e-auction shall have inbuilt safeguards so as to prevent its misuse.

7.1.2 E-auction through M/s MSTC: The issue of setting up of a centralized portal for Customs e-auction of seized/confiscated/time-expired bonded goods, using the services of M/S MSTC (a Government of India undertaking) has been approved by the Board vide Letter F.No.450/2/2006-Cus-IV dated 26.10.2007. Accordingly, field formations have been instructed to avail of the services of M/s MSTC Ltd. for conducting e-auction.

7.1.3 Further, Board, vide letter F.No.450/2/2006-Cus-IV dated 29.01.2008 clarified the persons who want to participate in e-auction of Customs only, can register with M/s MSTC on payment of one time registration fee (non-refundable) of Rs.5000. It has been further clarified that registration fee will be Rs. 10,000/- for persons who wish to avail of all the e-auctions conducted by MSTC including Customs e-auction.

7.1.4 Currently, 1.75% of the actual sale proceeds of the auction is payable to M/s MSTC by Customs as service charge. A formal single contact/ agreement has been signed in this regard on behalf of the CBEC by the Commissioner of Customs (General & Mulund CFS), Mumbai with M/S MSTC Ltd which is applicable across all the formations (based on para 9.1 of agreement entered into by Commissioner of Customs (General) with M/s MSTC Ltd).

7.2 Current Procedure for e-auction through M/S MSTC Ltd (Based on Methodology of e-auction displayed on MSTC’s Website : www.mstcaction.com).

The e-auctions are being conducted by M/S MSTC Ltd on their website www.mstcecommerce.com under the heading ‘Indian Customs e-auction/e-tender’ The website can also be accessed from Customs website www.icegate.gov.in.
7.2.1 Registration of Principal / Seller:

The Organization / Seller / Principal desirous of selling its materials through MSTC's e-auction Portal will have to first register itself Online on MSTC's e-auction Website by clicking on “New User”, selecting “Seller” and filling-up the Seller’s Registration Form. It is mandatory for the Seller to fill up the e-Mail address & Sales Tax Registration No (if registered with Sales Tax Deptt.) and to generate their own unique Login ID & Password during Online registration. The steps for online registration is given as under:

- Log on to the website at www.mstcecommerce.com.
- Click on the link ‘Indian Customs e-auction / tender’
- This will take you to a page giving a brief write up of the Customs and Excise e-auction.
- If you click on Home, you will be directed to the official website of Customs - www.icegate.gov.in.
- To register as new seller or to enter the bidding area, click on the link ‘Proceed for e-auction / e-Tender’ given at the bottom of the page.
- Then click on the link ‘Register’ to get registered for Customs e-auction.
- GENERAL TERMS & CONDITIONS OF e-auction will appear on the screen. Scroll down to the bottom of the page where two options will be there
  a. Register as Buyer or
  b. Register as Seller
- Select and click on “Register as Seller” option.
- SELLER SPECIFIC TERMS & CONDITIONS will appear next on the screen. Scroll down to the bottom of the page where again two options will be available: ‘Agree’ and ‘Disagree’.
- Select and click on ‘Agree’ button.
- Seller’s Registration Form will appear on the screen. Fill up the desired information. You will have to select and click on ‘Customs Auction’ in the Buyer Type field.
- All fields marked with * are mandatory and must be filled in.
- Select your User ID and Password and keep a note of the same.
- Please ensure that the email address given is a valid one and is presently active.
- After filling up the form click on the ‘Submit’ button.

After successful online registration by the principal, M/s MSTC will send an auto e-mail confirmation letter confirming the seller registration details.

7.2.2 Registration of Customers/ Bidders:

The customers are first required to directly register online on website www.mstcauction.com and then complete off-line registration formalities. The password of the Customer is activated only after they complete the off-line registration formalities including payment of prescribed registration fees and submission of copies of Income Tax PAN card, Sales Tax Registration Certificate, latest Income Tax Return, photograph and specimen signature. A photo-ID card is also issued by M/s MSTC to the Customers. Only registered Customers are allowed to participate in the e-auctions. During ‘Live’ e-auction biddings, the
identity of one bidder cannot be known by other bidders, sellers or even M/s MSTC and therefore, there will be no possibility of any cartel formation. Unregistered customers can also see all details of the auction notice, list of materials and Terms and Conditions of sale on M/s MSTC’s Corporate Website www.mstcindia.com and then register with them to bid.

7.3 E-auction Start-up:

7.3.1 Posting of Auction Notice on Website:

After registration with M/s MSTC, Principal/seller (like Customs) should send the Disposal List / Terms to them necessarily through e-mail or Computer floppy only (hard copies can be sent only as post confirmation copy, if felt necessary). M/s MSTC shall publicize the sale on the Website along with details of Material List, e-auction Schedule (i.e. Opening & Closing Date & Time), Inspection Schedule, Terms & Conditions of Sale, etc. Actual display of Auction Notice on the Website will commence under the heading “View Forthcoming Auctions” only after activation by M/s MSTC. Normally, the e-auction starting date should be kept at a minimum gap of 15 days after the, display of the Sale Notice starts on the Website to allow the Customers ample time to make necessary preparation for inspection and bidding.

7.3.2 Posting of Reserve Prices (RP)/ Fair price:

It is mandatory for the PRINCIPAL to post the Reserve Price (RP) of all the Lots on the Website (through his own Password) at least two working days before the Starting Date of Auction, otherwise the e-auction will not start for those lots for which RP has not been posted. Subject to posting of RP by the PRINCIPAL on the Website, M/s MSTC shall activate e-auction one working day before the Starting Date of e-Auction.

7.3.3 Steps for feeding the RPs:

a) Use the Primary user name and password to log on to the website: www.mstcecommerce.com.
b) Click on Reserve Price Entry.
c) Select the auction from the drop down list. It will display all the lots of the auction.
d) Fill up the column against each item. While feeding the RP care should be taken about the Unit of Measurement indicated against each lot. For example, if the unit of measurement is KG then RP should be in KG, if it is in lot then RP should be in lot and so on.

7.4. On closing of Auction, Automatic Sale Intimation Letters will be issued to the highest (H-1) Bidders by email as under:

a) For Confirmed Sale: If the H-1 Bid is equal to or more than the RP, automatic Confirmed Sale Intimation Letter will be issued to the H-1 Bidder by e-mail and he will be advised to deposit 25% security deposit (SD) within 3 days. On getting the SD, MSTC shall issue Sale Order /Acceptance Letter to the Party advising him to pay the balance Sale Value with applicable Duties/Taxes within 05 days.

b) For “PENDING” Sale: For the lots where the H-1 bid is less than the RP, these H-1Bids will be kept on hold as “Pending” decision. However, the Principal should
communicate their final approval / rejection of the H-1Bids within 7 days of closing of Auction by posting it online on the Website. Once approval is accorded online, the system will automatically fire Sale Intimation Letter to the H-1 parties for submission of SD within 3 days. On getting the SD, Sale Order / Acceptance Letter will be issued by M/s MSTC to the approved H-1 Bidders advising them to pay the balance Sale Value with applicable Duties/Taxes within 05 days.

7.5  e-auction Bidding Process:

7.5.1  All Bids will be deemed to be for materials on “As is where is” basis and subject to prior inspection by the Customers. There will be a pre-determined Starting Time and Closing Time for the Auction bidding. Normally the bidding for each item / Lot will be kept open for a period of maximum 4 hrs. or as may be mutually agreed. Once the e-auction starts, the Registered Customer may log on to the same and choose a particular lot / item for bidding.

7.5.2  Display of H-1 Bid:

Once the bidding starts, the highest bid (hereinafter referred to as H-1 Bid) at any given point of time will always be displayed on the screen, without showing the name of the H-1 Bidder.

7.5.3  Multiple Bid Revision:

Any Bidder, including the H-1Bidder, can go on revising his bid so as to improve upon the same. There will be no restriction on the number of such bids / revisions till the e-auction closes. No downward revision or cancellation of Bid can be done by any Bidder.

7.5.4  “AUTO BID” facility to Bidders:

The Bidder shall have the option to make each bid / bid improvement manually or he can choose the “Auto Bid” mode to give “Standing Instructions” to the system to go on increasing his bid by a specified incremental value and up to a specified limit.

7.5.5  Auto Extension of Closing Time:

The e-auction Closing Time will be automatically extended by 8 minutes every time the last H-1 Bid is received within 8 minutes of the predetermined or extended Closing Time. This process will continue till the last H-1 Bid remains unimproved for a minimum period of 8 (eight) minutes so as to give ample opportunity to all Bidders and to generate the best competition. (For example, if the Closing Time is 3.00 pm and the last H-1 Bid is received at 2.59 pm, then the Closing Time will be automatically extended upto 3.07 pm, and so on).

7.5.6  Bid History:

Any time during the e-auction the Bidders as well as the Principals can see the Bid History of the last 10 Bids. The Principal can access the Bid History of all lots after close of E-auction.
7.5.7 Sale Result/ Automatic Sale Intimation Letter/Payment of EMD /SD:

Immediately after closing of e-Auction, the Bidders can see the Result online on the Website by accessing the “Auction Lot Status” which will show them details of the Lots won by them on Confirmed or STA basis. Such display of “Auction Lot Status” will be available to the Bidders for 3 (Three) days from the date of Closing of Auction (excluding the date of closing). Although after closing of Auction, automatic Sale Intimation Letters will also be issued by email to the successful H-1 Bidders (with copy to Principal) advising them to pay the prescribed EMD / SD, the successful H-1 Bidders will be required to pay the EMD / SD within 3 days from the date of closing of e-auction (irrespective of the date of issue of Sale Intimation Letter). It will be the responsibility of the Bidders to personally see the e-auction Result immediately after closing of e-auction and pay the SD within the said prescribed time.

7.5.8 Bid Sheet:

After closing of e-auction, the complete Bid-Sheet with names of the H-I Bidders, whether Sold / STA / Rejected etc. can be seen and downloaded by the Principal from the Website.

7.5.9 Steps for posting online approval of “Pending” lots:

a) Use your Primary username and password to log onto the website.
b) Click on Approval link.
c) Select a closed auction from the drop down list.
d) The page will display those lots for which approval has to be granted. It will indicate *inter alia* the RP, the H-1 rate and the H-1 rate as a% of the RP.
e) Check the appropriate box under Approve/Not Approve Headings from all the lots and click on the submit button at the end of the page.

7.5.10 Sale Order & Payment of Balance Sale Value:

It may be noted that on receipt of the EMD/SD, a signed Sale Order / Acceptance letter is issued by M/s MSTC to the successful H-I Bidders advising him to submit the balance Sale Value with applicable Duties / Taxes within the stipulated time (viz. 05 days from the date of issue of Sale Order).

7.5.11 Delivery Order:

The successful Buyer can make the payment of EMD and balance final amount by way of pay order/ demand draft drawn in favour of Commissioner of Customs and deposit the same with M/s MSTC. After getting the payment from the buyer, M/s MSTC will issue Delivery order and forward the payments to the Principal. Delivery may be allowed to the Buyer by the PRINCIPAL against production of their Photo-ID Card issued by M/s MSTC (containing Customer’s Photograph & specimen signature).

Alternatively, the Photo-ID Card-holder can authorize his representative along with the Photo-ID Card (or a Notarized copy of the same) to take delivery of materials.
7.6 Post e-auction Activities:

If the H-1 Bidder fails to pay EMD/SD, following actions may be taken:

(a) An auto email is issued to the defaulting H-1 Party thereby deactivating his Password. The defaulting Customer is debarred from participating in the e-auctions for 6 months. Reactivation of Party’s Password after 6 months may be allowed only on examination of nature of Party’s default by a Special Committee in M/s MSTC Head Quarter.

(b) The Lot is put up for immediate re-auction.

7.7 Addition requirement for inspection of Diamonds, Precious & Semi Precious Stones before E-auction (Based on Public Notice No.03/2008 dated 29.10.2008 of Commissioner of Customs (Preventive) Mumbai

Sale of Diamonds, Precious & Semi Precious Stones has been centralized in Mumbai under Commissioner of Customs (Preventive) Mumbai. Commissioner of Customs (P) vides Public Notice No.03/2008 dated 29.12.2008 has specified caution money for the parties who are interested in inspection of diamonds, precious & semi precious stones. Such parties who are registered with M/s. MSTC are required to obtain a photo Identity Pass from Asstt. Commissioner /Deputy Commissioner of Customs(P) Disposal Section, after depositing a demand draft/pay order of Rs.50,000/- drawn in favour of Commissioner of Customs(Preventive) Mumbai. One additional person as assistant / expert for inspection is allowed on the basis of photo identity card issued to him by AC/DC Customs(P) Disposal Cell on payment of Rs.10,000/- by way of DD/Pay order.

7.8 Special Terms and Conditions set out by M/s MSTC for Buyers/bidders

I. The Commissioner of Customs may withdraw any lot from auction or tendering at any time or cancel the same at any stage prior to the delivery of the goods.

II. In case of e-Tender interested buyer can submit their bid through e-Tender only once.

III. Permission/No Objection Certificate is required to be taken by the buyer from the concerned authorities as specified in respective items.

IV. Buyers may refer to 'Bidder’s Manual' for instructions on bidding process in e-auction cum e-tender.

V. In case of default in payment of the balance Sale Value within the prescribed time limits, the balance due payment may be made subject to Customs approval. Delivery Period will be 7 (seven) days counted from the date of issue of Delivery Order by MSTC/date of issue of Release Order by Customs.

VI. Payment Of Post-Bid EMD/SD: Within 3 (THREE) days from the date of closing of e-auction by the highest Bidder whose bid is accepted on Confirmed basis, Non-payment will result in cancellation of bid & automatic deactivation of Bidder’s Password.

VII. Payment of balance Sale Value with Duties & Taxes: Within 5 (FIVE) working days from the date of issue of Acceptance Letter/ Sale Order by MSTC (after receipt of Post-Bid EMD/SD from the Bidder).
VIII. **e-auction Result/Status**: The status of the highest bids having been accepted or Pending basis must be personally seen by the Bidders online through the link "Auction Lot Status" immediately after closing of e-auction and payment of Post-Bid EMD/SD must be made accordingly.

IX. **Email Address of Bidders**: This must always be kept valid, failing which Bidders will be liable for non-compliance of payment or any other instruction issued by MSTC to them by email.

**7.8 Caution:**

7.8.1 The Bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding by him) and no complaint / representation will be entertained by M/s MSTC/Principal in this regard. Hence Bidders must be careful to check (the Bid Amount/No. of "0"/No. of Digits/Unit Of Measurement etc.) rectify their bid (if required) before submitting their Bid into the live floor by clicking the "Bid" Button. In case of any bid being equal to or more than 5 (five) times the current Highest Bid for a particular Lot, this will be displayed by way of a WARNING on the Bidder's screen before he confirms/submits the bid. There is no provision for putting Bids in decimals.

7.8.2 The Sale will be governed by the Material List & Special Terms & Conditions (STC) displayed on the "Live" Floor (and not under "Forthcoming Auctions") as well as the General Terms & Conditions (GTC) and Buyer Specific Terms & Conditions (BSTC) already accepted by the Bidder at the time of Registration with MSTC. The Material List & STC displayed under "View Forthcoming Auctions" on MSTC's e-Auction Website are tentative and subject to change at MSTC's sole discretion before the start of e-Auction. Bidders should therefore download the Material List and STC displayed only under "View Live Auctions" for their record purpose, if required. The BSTC and GTC can be seen and downloaded by going to the Home Page of the e-Auction Website and clicking on "NEW USER". Participation in the e-Auction will be deemed to imply that the Bidder has made himself thoroughly aware of and accepted the STC, BSTC and GTC. In case of any conflict between the STC and BSTC, the STC shall prevail. Principal shall have the right to issue addendum to the STC or BSTC to clarify, amend, modify, supplement or delete any of the conditions, clauses or items stated therein and the Addendum so issued shall form a part of the original STC.

7.8.3 **UNIT/UNIT OF MEASUREMENT (UOM) FOR BIDDING, SALE & DELIVERY**: Each Lot will have to be bid, sold and delivered on the basis of the Unit/ Unit Of Measurement (i.e. UOM) stipulated in the Material List displayed on the Auction Floor of "View Live Auctions" against the respective Lot. Any representation/ complaint from the Bidders for the Bid to be made/ having been made on the basis of any other Unit/Unit of Measurement will not be entertained.

7.8.4 During Live Auction, only brief Lot / Item details will be shown under "Lot Name" on the Auction Floor where Bidders are required to bid. The complete "Item Details" can be seen by the Bidders by clicking on the respective Item hyperlinked under Lot Name and it shall be the responsibility of the Bidders to see the "Item Details" before bidding and no representation/ complaint in this regard will be entertained by M/s MSTC / Principal from the Bidders.
7.8.5 M/s MSTC/PRINCIPAL reserves the right to forfeit any amount / money lying with them from the successful Bidder who defaults in making the due payments against the e-Auction even though such amount / money may be lying with M/s MSTC / Principal on account of the said Bidder against any other contract / transaction.

7.9 INSPECTION OF MATERIALS: All the materials put up for sale through e-Auction will be sold strictly on "As is where basis "and" No Complaint basis". M/s MSTC / PRINCIPAL reserve the right to accept / reject any offer / bid without specifying any reason thereof. All quantities are only estimates and without any guarantee. Inspection, limited to visual checking only, will be allowed with prior appointment from the PRINCIPAL. Any clarification required may be sought by the Bidders from the PRINCIPAL at the time of inspection, and no dispute regarding the material or its physical conditions / location will be entertained thereafter.

7.10 VALIDITY OF BIDS: All Bids will be valid for acceptance by M/s MSTC for a period of 60(sixty) days from the date of closing of e-Auction, excluding the date of closing. In case the 60th day falls on a holiday or remains closed for MSTC, such Bids will be deemed to be automatically extended to be valid upto the next working day of MSTC.

7.11 SALE RESULT/ INTIMATION

7.11.1 All sales will be subject to Reserve Price (RP) fixed/subject to approval by the PRINCIPAL. The PRINCIPAL also has the option to fix a lower limit of the RP for an individual Lot. Such lot will not be declared "sold" on final bidding but declared "pending" during e-auction irrespective of reserve price comparison. The sale acceptance will be intimated by the Principal within 7 working days from the date of e-Auction.

7.11.2 Once bid is confirmed/ accepted, buyer has to make payment accordingly within 3 (THREE) days from the date of Confirmation/ Acceptance

7.11.3 It will be the Bidder’s responsibility to personally see the result of e-Auction by seeing and downloading the "Auction Lot Status" from the Website immediately after Closing of e-Auction which will be displayed upto 7 (Seven) days from the date of Closing of e-Auction (excluding the date of closing of e-Auction). The "Auction Lot Status" will show whether any Lot has been won by the Bidder on Confirmed or PENDING Basis. The successful Highest Bidder for Confirmed shall have to pay the prescribed EMD/Security Deposit within the prescribed time counted from the date of Closing of e-Auction (excluding the date of closing). Although immediately after closing of e-Auction, it must be noted by the Bidders that such Sale Intimation Letter will be issued by MSTC only for the purpose of record and payment of Post-Bid EMD/SD will have to be made within the stipulated time counted from the date of Closing of e-auction irrespective of the date of issue of the Sale Intimation Letter by email. Bidders must, therefore keep a watch on their incoming e-mail. Normally no hard copy of the Sale Intimation Letter will be issued by MSTC.

7.12 POST-BID EMD/SECURITY DEPOSIT (SD):

7.12.1 The successful Bidder shall have to deposit Post-Bid EMD/SD within stipulated time as per Clause 7.5.7 above counted from the date of Closing of e-auction (excluding the date of closing and irrespective of the date of issue of Sale Intimation Letter) as follows: - Post-Bid EMD/SD will be @ 25% of the Sale Value for Lots Sold on Confirmed basis.
7.12.2 Post-Bid EMD/SD by way of PO / DD of any Scheduled Bank favouring the PRINCIPAL must be submitted to M/s MSTC, Mumbai or any office of MSTC (see details of MSTC's Regional / Branch Offices on MSTC's Website). Post-Bid EMD/SD is adjustable towards material value only after receipt of the balance material value along with applicable Duties & Taxes within the due date, failing which the Post-Bid EMD/SD will be forfeited.

7.12.3 If the successful highest Bidder fails to pay the Post-Bid EMD/SD in time, then his Password will be deactivated and shall normally be DEBARRED for a minimum period of 6 (six) months from participating in all e-auction and disposal sales by M/s MSTC on behalf of this PRINCIPAL and, his Registration Fee will be forfeited. While considering his request for reactivation which will be at the sole discretion of M/s MSTC, all facts including the number of PRINCIPALS / e-auction / Lots for which he had failed which are germane will be taken into account. M/s MSTC at its sole discretion may take recourse to any of the following options for sale of the unsold Lot:

a) The Unsold Lot may be put up for re e-auction at the sole discretion of M/s MSTC without Pre-Bid EMD (Earnest Money Deposit) OR with Pre-Bid EMD as may be deemed fit by M/s MSTC.

b) The H-2 Bidder may be asked to match the H-1 Bid along with submission of requisite EMD / SD within a period as may be prescribed by M/s MSTC.

c) In case of default in payment of EMD/SD and / or balance Sale Value with Duties and Taxes by the successful higher Bidder, M/s MSTC reserve the right to invite Bids for the respective Lot from all the other Bidders of the concerned Lot (other than the defaulting Bidder) OR all registered customers in sealed covers along with the prescribed EMD/Security Deposit within the time stipulated by MSTC for finalizing the sale or to take any other action as may be deemed fit in consultation with the PRINCIPAL.

d) MSTC may take any other action as may be deemed fit by the PRINCIPAL.

7.12.4 Delayed payment of Post-Bid EMD/SD may be accepted depending on the circumstances of the case or urgency of disposal in consultation with the Principal with such penalty as may be deemed fit by M/s MSTC. This shall however not confer any right to the Bidder to make any Late Payment of Post-Bid EMD/SD.

7.12.5 In case the successful Bidder pays the EMD/SD, but fails to pay the balance material value along with applicable Duties and Taxes within the due date, then his EMD/SD will be forfeited.

7.13.6 PAYMENT OF BALANCE SALE VALUE & DUTIES & TAXES:

7.13.1 On receipt of Post-Bid EMD/SD from the successful Bidder, Sale Order / Acceptance Letter will be issued by MSTC to him advising him to deposit the balance material value along with all applicable Duties & Taxes to any of the Offices of MSTC within 5 (Five) days from the date of issue of Sale Order / Acceptance Letter by MSTC (including the date of issue). The entire balance Sale Value will have to be paid by the Buyer in one lump-sum and no installment payment will be allowed, unless otherwise stipulated in the Lot / Item Details.
7.13.2 In case of installment payment being allowed as per stipulation in the Lot / Item Details, the first installment will have to be paid within 5 (Five) days from the date of issue of Sale Order/Acceptance Letter by MSTC and subsequent installments at 15 (Fifteen) days interval or as may be stipulated in the Lot/Item Details and the Post-Bid EMD/SD (Security Deposit) will be proportionally adjusted in each installment.

7.13.3 The mode of payment will be as stipulated in the Sale Order / Acceptance Letter and the payment will have to be submitted by the Buyer to M/s MSTC, Mumbai or any office of M/s MSTC for collecting the Delivery Order.

7.13.4 Normally all sale will be treated as Local Sale & the Buyer shall have to pay VAT/Sales Tax as per the Local Sales Tax Act/Rules/Tariff of the concerned State where the materials are lying & sale against 'C' Form/CST will not be allowed. However in those cases where the PRINCIPAL is registered with the Sales Tax Authorities as a Dealer and subject to the permission of such PRINCIPAL, Buyer's request for sale against 'C' Form/CST may be considered at the sole discretion of the PRINCIPAL and in the event of the PRINCIPAL not agreeing to the same, Buyer will have to pay the Local Sales Tax/VAT as per the applicable rate and no representation in this regard will be entertained by M/s MSTC/PRINCIPAL.

7.13.5 The balance payment will have to be submitted by the Buyer to M/s MSTC by Postal Order (PO)/Demand Draft (DD) of any Scheduled Bank as stipulated in the Sale Order / Acceptance Letter. The necessary instructions as to in whose favour the POs/DDs have to be made by the Buyer for the payment of Balance Sale Value, Duties and Taxes etc. will be stipulated in the Sale Order / Acceptance Letter.

7.14 DEFAULT IN PAYMENT: In case of default in payment of the balance Sale Value within the prescribed time limits, the due payment may be made together only subject to CUSTOMS approval with additional charges @ 1% per week or part thereof calculated on the Full 100% Sale Value for a minimum period of one week or multiple thereof. The Post-Bid EMD/SD will be adjusted towards material value only on receipt of the balance Sale Value within the prescribed time. However, this shall not confer any right to the Bidder to make any Late Payment of Balance Sale Value or applicable Duties and Taxes and M/s MSTC reserves the right not to accept the payment of the Balance Sale Value with or without the additional charges after the expiry of the free payment time.

7.15 DELIVERY:

7.15.1 On payment of balance Sale value by the Buyer along with applicable Duties and Taxes to any of the M/s MSTC offices, the Buyer shall obtain Delivery Order from M/s MSTC on producing his e-auction Photo ID Card. In case the Photo ID Card holder deputes any Representative to collect the Delivery Order, he should attest and authorize the signature of his Representative on his letter-head along with a self-certified Notarised Photocopy of his Photo ID Card.

7.15.2 Delivery Period will be 7 (seven) days counted from the date of issue of Delivery Order by MSTC/date of issue of Release Order by PRINCIPAL as the case may be (including the date of issue) in all cases. In those cases where the Balance Sale Value is paid within time but the Buyer delays the payment of applicable Duties and Taxes, the Delivery period will be counted
from the date of payment of Balance Sale Value. The successful Bidder/Buyer shall co-ordinate the date and time with the PRINCIPAL in advance and take prior appointment before placement of Trucks to ensure speedy removal of materials.

7.15.3 The materials sold shall be removed by the Buyers from any one side of the Lot as per the sole direction of the PRINCIPAL and no segregation of items from the sold Lots will be permitted.

7.15.4 In case any hot-work permission is required for dismantling operations, the same will have to be obtained by the Buyers from the PRINCIPAL's authorized representative before lifting and it will be sole discretion of the PRINCIPAL to allow or not to allow such hot-work permission at Buyers cost only to the extent of facilitating the loading and transportation of the goods.

7.15.5 For the purpose of removing the materials, the successful Bidder shall employ or engage only his / their own personnel and shall keep the Principal fully indemnified against any claims whatsoever including claim for wage, injuries, compensation, death, etc.

7.15.6 While removing materials, if any accident or damage to the property/life etc. arises by reason of any act of negligence /omission /default or non-compliance with any of the Terms & Conditions of statutory regulations or rules and regulations applicable within Principal's premises, on the part of the Bidder's / his representative or employees resulting in death or injury to any persons or damages to the property of Principal or any third Party then in such an event the Bidder will have to pay compensation to any such person including the employees of Principal for such injury / for damage to person's property of such persons. The Bidder shall in such event keep the Principal indemnified from any demand, claims or proceedings made.

7.16 DEFAULT IN LIFTING:

7.16.1 In case of any Default in lifting of materials by the Buyer within the prescribed free time limit, the outstanding material may be lifted within 14 (Fourteen) Days from the due date subject to payment of Ground Rent by the Buyer directly to the PRINCIPAL for the period of delay. All matters relating to charging of Ground Rate will be decided by the Customs.

7.16.2 In case of Goods sold on Lot Basis, the Ground Rent will be calculated on the value of the entire Lot even if lifted in part, where as in case of Goods sold on Unit Weight or Unit Number Basis, the Ground Rent will be calculated on the value of unlifted quantity.

7.16.3 However it must be noted by the Bidders that it will be the sole discretion of the PRINCIPAL not to allow the Buyer to lift the Goods with or without the Ground Rent after the expiry of the stipulated free Delivery period or even within the aforesaid additional period of 14 (Fourteen) Days and in such event, the sale of the material not lifted by the Buyer(s) will be automatically cancelled and all the moneys paid by the Bidder /Buyer will be automatically forfeited.

7.17 STATUTORY PAYMENTS:

The rate of Excise Duty, Sales Tax/VAT Income Tax, Education Cess or any other statutory Duty/ Tax/ Levy/ Charge etc. will be applicable and payable by the Buyer as prevailing
on the date of actual physical delivery of materials. The rates of Duties and Taxes displayed on the e-auction Website are only indicative and based on the rates prevailing before the commencement of the e-Auction. Successful Bidders shall have to pay Income Tax by way of TCS @1.0% plus 10% Surcharge and 3% Education Cess on all Scrap items purchased for trading as per Section 206 C of IT Act 1961. The TCS will be calculated on the gross Sale Value i.e. Material Value plus Excise Duty (if any) & Sales Tax/VAT. Parties eligible for Tax Exemption or Lower Rate of Tax should produce prescribed Certificate from Income Tax Assessing Officer at the time of payment. Notarised Photocopy to be given along with Original, the latter will be returned after verification. Manufacturers who are exempted from paying Income Tax, must submitted Certificate to the PRINCIPAL/MSTC as per the format prescribed U/S 206 - (C) of Income Tax Act 1961 at the time of paying the Balance Sale value. All successful Bidders must submit their Income Tax PAN No. at the time of making the payment of balance sale value.

7.18 PERIOD OF CONTRACT:

Upto the validity period of the Delivery Order / Release Order issued by M/s MSTC / PRINCIPAL or upto the extended period of validity of the Delivery Order / Release Order in case the Delivery period is extended by the PRINCIPAL at his sole discretion as the case may be.

7.19 Bidders shall be deemed to imply that the Bidder undertakes not to export the Goods outside the territory of India, failing which the sale will be liable for cancellation.

7.20 The Bidder(s) shall have no right to issue any addendum to these Special Terms and Conditions or Buyer Specific Terms and Conditions to clarify, amend, supplement or delete any of the conditions, clauses or items stated therein.

7.21 ARBITRATION/ LEGAL JURISDICTION:

This will be applicable as per the relevant Clauses stipulated in the Buyer Specific Terms And Conditions already accepted by the Bidders at the time of Online Registration by him on the MSTC e-auction.

(Based on special terms and conditions set by MSTC for buyers /bidders currently being followed and is subject to change if any by MSTC).

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CHAPTER- 8

DIRECT SALES AND OTHER MODES OF DISPOSAL

8.1 Public auction has its own advantages and it is definitely preferable to sale by private negotiation. Therefore, an attempt should be made to dispose off the goods through public auctions as far as possible. However, there are certain commodities, which shall ordinarily be not sold in public auction. These shall include consumer goods, electronic goods, luxury articles, goods which are totally banned or are highly restricted for import. Articles which are prohibited for import have to be destroyed (e.g. obscene literature etc.). These items should be listed and got approved by the Commissioner. Such salable articles will be sold either to:

a) Directly to consumers through retail shops of the Department, or
b) NCCF and other registered Co-operatives societies, or
c) Government Departments, Municipalities, or
d) Government owned Hotels, Hospitals, CSDs, Welfare societies of Armed Forces, IRSLA Charity Institutes, etc.

In arranging direct sales, Commissioners should pay personal attention and take special precautions to avoid allegations of favoritism, etc. First come first served principle may be applied in all cases. The base price (without discount) of direct sale shall be same irrespective of mode of disposal and shall be fixed by the Valuation Committee.

8.2 Sales through Retail Counters:

8.2.1 Where the goods are in good condition, in original packing with relevant manuals, books & accessories and are of interest to general public and consumers, such items should be selected for sale through retail shops. The following steps need be taken to improve the organization and working of the retail shops:

a) The location of the retail shops should be such that it is easily accessible to the public; at the same time, the Assistant Commissioner/ Dy. Commissioner in-charge should supervise the functioning of the shops more closely.

b) Working hours of the retail shops should be prominently displayed on the notice board outside the shop for the benefit of the public;

c) General stock position of the important goods available for disposal along with their price should be prominently displayed on a Notice Board and also on the website of the Commissionerate;

d) Notice Board and also the cash bills shall clearly stipulate that the goods once sold will not be exchanged or taken back and the department doesn’t guarantee or give warranty for the goods sold.

e) Working of the retail shops should be subject to a close scrutiny by an officer not below the rank of an Assistant Commissioner/Dy. Commissioner and senior officers also should pay periodical visits to the shop to ensure that its working is smooth and free from possible malpractices/complaints;

8.2.2 Items which are useful for office like photo-copiers, fax machines, computer and computer parts, educational CDs, stationery items, Air-conditioners, etc. can be offered for
sale to Govt. Departments including our own department. Commissioners / Heads of Office can place orders straightway without calling for quotations and payments can be made by issuing cheques or by book adjustment.

8.2.3 Wherever, co-operative societies other than NCCF are permitted to purchase goods directly from the Customs Retail Counters, it must be ensured that these cooperative societies are engaged in genuine trade and the confiscated goods purchased by them are not disposed off clandestinely.

8.3 Sale to NCCF

8.3.1 All confiscated consumer goods sold in retail through departmental retail shops should also be offered for sale to the National Cooperative Consumers’ Federation, an apex organization of all consumer Cooperative Societies in the country at the prices fixed for retail sales less a discount of 14.5%. The sale to NCCF Ltd. will be subject to the following conditions:

i) NCCF would lift the consumer goods at quarterly intervals soon as an intimation to this effect is sent to them.

ii) Goods will be sold to the Federation only on cash or Bank Draft, Banker’s cheques of local bank and there shall be no pick and choose except that the damaged and unsalable goods may be rejected by the Federation. Such rejected goods will be sold by public auction.

iii) Where statutory possession of prescribed licenses is a precondition for obtaining supplies as a dealer, NCCF or its constituents should hold such a licence.

8.3.2 The representative of the NCCF may be afforded the facility of inspecting goods before lifting them. A broad indication of description of goods together with quantity that are available for disposal may be given to NCCF, as and when required.

8.3.3 To avoid any complaint of preferential treatment to any other registered cooperative society, goods should be sold on ‘first-cum-first-served’ basis. A list of goods ripe for disposal may be sent to the concerned branches of NCCF by the jurisdictional Commissionerates once a month so that NCCF is aware of the goods available for disposal.

8.4 Sale to Other Cooperative Societies:

8.4.1 The goods may also be offered for sale to other co-operative societies/federations. Only Co-operative Societies verified and certified every year as genuine by an officer of the rank of AC and above, State Cooperative Federation and State Civil Corporations should be permitted to purchase the goods. The genuineness of co-operative societies may be verified through Registrar of Societies. They may be given discount of 10%. Apart from the conditions applicable for sale to NCCF, they may be subjected to the following additional conditions:

(a) The goods so purchased are in turn sold directly to bonafide consumers only on the basis of one piece / set per consumer

(b) They shall maintain accounts for purchase and sale. Departmental officer can scrutinize the accounts and stocks as and when necessary.

8.4.2 Goods may be sold to registered Govt. Employees Consumer Cooperative Society Ltd. including Cooperative Societies of Customs & Central Excise Employees at the same terms &
8.4.3 Further any lot of confiscated/seized consumer goods of value not exceeding Rs. Five lakhs which are ripe for disposal shall be offered to NCCF/KB/Other Central Government Employees Consumer Cooperative Society / Multi-State Consumer Cooperative Societies/ State Consumer Cooperatives, subject to the following conditions.

a) They should be functional for at least 10 preceding years and should submit Income- Tax returns and VAT/ST returns showing their activities in sale of goods to the consumers and that appropriate taxes have been duly paid and relevant laws/rules and regulations are complied with.

(b) Only those Co-operative Societies or National/State level Cooperative Federations that are duly verified and certified as genuine, every year by an officer not below the rank of AC/DC, and those that have been duly registered under Multi-State Cooperative Societies Act, 2002 or concerned State Cooperatives Act, should be permitted to purchase the confiscated/seized goods. The genuineness of co-operative societies/federation may also be verified through concerned Commissionerates or other field formations of this department, wherever required.

(c) They should be obliged to sell such seized/confiscated goods directly to bonafide consumers.

(d) No pick and choose of items would be allowed.

(e) Seized/confiscated consumer goods shall be offered on first come first served basis.

(f) Any lot of confiscated/seized consumer goods of value exceeding Rs. Five lakhs shall not be sold directly to the aforesaid cooperative societies/federation and shall be sold by E-auction or auction-cum-tender basis.

(g) Complete accounts may be called for scrutiny by the department as and when necessary, to ensure that the seized/confiscated goods, which are sensitive to smuggling are not misused; or to verify that their disposal has not been made to a single party/ individual; or to ensure that sale has not been made to any persons where in purchase vouchers etc. had been misused by unscrupulous elements in legitimizing smuggling.

8.4.4 In respect of confiscated/seized goods of all types and confiscated/seized consumer goods exceeding value of Rs. Five lakhs in single lot, may be disposed through e-auction or auction-cum-tender, since it offers enhanced transparency and accountability for quick disposal of goods. In such e-auction or auction-cum-tender process, all persons including NCCF, KB, other CG employee’s consumer cooperatives, Multi-State/State cooperatives or National/State level Cooperative Federations can also participate. If the NCCF/KB/other Consumer Cooperative societies are found to be successful bidder, then the goods may be sold to them with the eligible rebate/discount as prescribed, subject to fulfilment of other conditions of e-auction/auction-cum-tender. (Circular no. 50/2005-Customs dated 1.12.2005 and No. 12/2006-Customs dated 20.02.2006.)
8.5.1 Sale to CSD & Other Canteens:

Confiscated consumer and luxury goods including liquor should also be offered for sale to TTDC, Canteen Stores Department (CSD) of the Navy, Army & Air Force, Para Military Forces Canteens, etc. on the basis of retail price with a discount of 10%.

8.5.2 The requirements of Army authorities/Military Canteens/ Canteen Stores Department (CSD) for purchase of confiscated/seized goods may be allowed since they provide consumer goods of high quality to the troops wherever they are situated.

8.6 Sales to Research or Educational Institute, Hospitals, Universities, etc.:

Educational aids, medical equipment, scientific equipment, projectors, sophisticated equipment, etc. used material may be offered to these institutes, hospitals at a 10% discount for their bonafide use.

8.7 Sale of Confiscated Consumer and Luxury Goods to Departmental Officers under CBEC.

8.7.1 Departmental officers would be permitted to purchase only consumer good for themselves for their family use at a discount of 25% of the prices fixed by the Joint Pricing Committee.

8.7.2 Departmental officers would not be permitted to resell the items of confiscated goods purchased from the department retail shops for a period of five years. For this purpose, every departmental officer making the purchase(s) will be required to sign an undertaking to this effect on each occasion.

8.7.3 This will not exempt the departmental officer from the declaration as required under the CCS (Conduct) Rules, 1964, relating to acquisition of movable property and financial transactions.

8.7.4 To ensure that the departmental officers do not appropriate to themselves the favoured items and leave only unattractive items for sale to the general public, the retail shops shall display daily on a notice board a list of items which carry a premium such as electronic gadgets like VCRs, VCPs, TVs, etc available for purchase by the general public including departmental officers.

[Based on F.No. 11412/89-Cus(AS), dated 11.07.1990]

8.8 Fixation of Price in Retail shop: The retail price of articles may be fixed by conducting market enquiries to ascertain the price at which of like kind, quality, shape, design, etc are available in the retail market and deducting there from a ‘discount’ representing the compensation for the buyer in the retail shop for (i) absence of guarantee regarding quality, workmanship and the like, (ii) lack of provision for after-sale service facilities, and (iii) the fact that the goods may not always be in their original packing and condition. The quantum of such discount may be varied depending upon whether they are fast selling popular brands or otherwise.

[Based on F.No.30/51/66.LCI, dated 7.1.1967]
8.9 Cash Memo

Standard Form (‘A’) of cash memos for use in all Custom and Central Excise Commissionerates for sale of goods through retail shops has been prescribed. Form ‘A’ is for sale of articles and will be in duplicate. The original is the Customers copy and should be perforated.

The standardization and printing of these forms in the C.B.R Customs series will be done after it has been in use for some time. Necessary arrangements for the supply of the forms may, therefore, be made by Custom House/ Commissionerate during the interim period. Any practical difficulties encountered in the use of the forms may also be intimated to the Board.

FORM ‘A’

S.NO.___________ ORIGINAL/ DUPLICATE

DATE___________

CASH MEMO
CUSTOM HOUSE/ CENTRAL EXCISE COLLECTORATE

Name & address of the Customer____________________________________________________

<table>
<thead>
<tr>
<th>Name &amp; description of the articles</th>
<th>Distinctive marks and Numbers</th>
<th>Quantity</th>
<th>Rate Rs.</th>
<th>Amount Ps.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local tax____________________</td>
<td>Total______________________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E&amp;OE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Customs/Central Excise Officer

Customer’s Signature
Goods once sold will not be exchanged or taken back.
8.10 Distribution to needy and poor

Commissioners can take a decision to offer old and used goods especially garments directly to the poor and needy free of cost through IRSLA or reputed and registered organizations subject to following conditions:

a) The Commissioner after inspecting the goods is satisfied that the items are old and used and cannot be disposed off except at a throwaway price and can be given away to the poor and needy in public interest.
b) Photographs of the items and the inspection report thereof are kept in the concerned seizure and disposal files.
c) Commissioner shall identify such reputed and registered organization whether Govt. or non-Govt. orphanages, old age homes, institutions for physically handicapped or destitute and organizations which look after the poor and needy without charging any money.
d) The cost of transportation of goods, if any, shall be borne by the institutions and not by the Department. Likewise Port Trust and other custodians shall not be entitled to any charges for storage etc. in respect of such items.

8.11 Destruction

8.11.1 Commissioners have full powers to order destruction of goods of the following description:

(a) Sub-standard drugs, time expired medicines, chemicals and toilet preparations
(b) Plants, seeds or bulbs
(c) Foodstuff, spices and other goods which are unfit for human consumption.
(d) Obscene literature/ audio or video material prohibited or banned books and other items.
(e) Pirated VCDs, films, DVDs, cassettes, etc.
(f) Worn out textiles unfit for use
(g) Goods which cannot be disposed off through any of the modes of disposal

8.11.2 In all these cases, a written report giving the details as to why the item should be destroyed should be prepared and the order of the Commissioner for destruction should be taken.

8.11.3 The mode/method of destruction decided by the Commissioner should be environment friendly.

Supervision of destruction except NDPS goods will be exercised by the officers as prescribed below:

<table>
<thead>
<tr>
<th>Designation of Officer</th>
<th>Maximum Book Value of Goods to be destroyed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspector of Central Excise or Preventive Officer or Examining officer</td>
<td>Rs. 5,000/-</td>
</tr>
<tr>
<td>Superintendent</td>
<td>Rs. 1 lakh</td>
</tr>
<tr>
<td>AC/DC</td>
<td>Value exceeding Rs. 1 lakh</td>
</tr>
</tbody>
</table>
For NDPS Goods procedures and power prescribed in Chapter 15 may be followed. Apart from this if law in force requires that destruction shall be done in presence of any other agency/officer such as Plant Quarantine, Drugs Control, Port Health authority, Pollution Control, Board, etc., the destruction shall be supervised jointly with these authorities. For every destruction a panchnama shall be drawn and of all persons witnessing the destruction may be taken on the panchnama.

8.11.3 Powers to write off deficiencies and depreciation in goods seized and confiscated under the provisions of the Customs Act, 1962 due to natural and other causes to the extent and subject to the conditions indicated below:

<table>
<thead>
<tr>
<th>Designation of Officers</th>
<th>Monetary limit upto which the loss may be written off in each case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant / Deputy Commissioner</td>
<td>Rs. 10,000/-</td>
</tr>
<tr>
<td>Joint Commissioner</td>
<td>Rs. 50,000/-</td>
</tr>
<tr>
<td>Additional Commissioner</td>
<td>Rs. 1,00,000/-</td>
</tr>
<tr>
<td>Commissioner</td>
<td>Without Limit</td>
</tr>
</tbody>
</table>

The amounts mentioned above relate to the value of the seized/confiscated goods. The ‘value’ is the market value which includes the duty leviable so that once the value is written off the question of writing off the duty separately will not arise.

The aforesaid powers may be exercised provided that:

(a) The loss does not disclose a defect in rules or procedure, amendment of which requires orders of higher authority of Finance Ministry; and

(b) There has not been any serious negligence on the part of any Govt. servant which may call for disciplinary action by a higher authority.

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CHAPTER-9

DIAMONDS, PRECIOUS & SEMI PRECIOUS STONES.

9.1 Cut and polished diamonds, rough and uncut diamonds, precious and semi-precious stones have been notified under Notification No. 31/86 issued under Section 110(1A) of the Customs Act, 1962. Action stipulated u/s 110(1B) of the Customs Act, 1962 must be taken in all pending cases urgently. These should be sold through Public auction for which the following additional conditions have been prescribed:

(a) The sale shall be centralized in Delhi, Chennai, Kolkata and Mumbai.

(b) In order to get the best possible price, widespread publicity, both in India and abroad should be given.

(c) The venue and date of auction should be decided well in advance in order to ensure maximum participation.

(d) The services of reputed auctioneer firm may be taken to conduct the auction. The auctioneer should be selected after ascertaining his past performance in conducting auctions, expertise in auctioning diamonds, precious stones, jewellery, etc. The contract between auctioneer and the department should also include responsibility of the auctioneer to advertise the goods for auction in at least four national newspapers, and in a vernacular language paper. The department should however be free to use other forms of media, if it so desires, to give wide publicity, in India and abroad. The terms and conditions for the auctioneer would be decided by the Chief Commissioner of Customs, concerned.

(e) Entire stock of such items should be segregated into identifiable lots either on the basis of seizure cases or any other practical and discernible categorization. Each ‘lot’ must be properly photographed. The photographs would serve as a record in addition to the same being used in the Catalogue which should be prepared for the purpose of giving wide publicity and also for conducting the auctions.

(f) Caution money of Rupees Fifty Thousand only by D.D, pay order or B.C. shall be charged from each prospective bidder. Only on payment of the caution money the bidders would be registered for bidding and will be eligible to participate in the auction.

(Based on Public Notice No. 03/2008, dated 29.10.2008 of Commissioner of Customs (Preventive), Mumbai & Ministry’s letter no. 711/12/2004 Cus(AS) dated 3.10.05 )

(g) The ‘lots’ should be allowed for examination by prospective bidders by following a strict procedure prescribed for the purpose to ensure there is no substitution. The procedure shall, inter-alia, consist of prescribing application form for inspection, giving details of the bidder (address, name, Telephone No., Income tax PAN Number, details of fee payments, etc.). Examination by only one bidder at one time who can bring one additional person for consultation and expert examination. Examination shall be in presence of Assistant Commissioner nominated for the purpose, Jewellery Appraiser of the department and the warehouse Supdt.
(h) The Reserve price shall be fixed by a Pricing Committee consisting of Addl. Commissioner of Customs, Asstt. Commissioner of Customs, Jewellery Appraiser, an eminent person in Commerce/trade in such items and a Government Approved Valuer in respect of these items. The selection of members for pricing committee shall be by the Chief Commissioners of Customs (Preventive), Mumbai on the recommendation of Commissioner of Customs. In order to ensure secrecy, the reserve price list should be kept sealed with the Chairman of the JPC to be handed over to the Asstt. Commissioner supervising the auction only on the day of the auction.

(i) The reserve price may be fixed taking into consideration the value of seizure, escalation in value of these goods over the years, present market value/demand and existing restrictions in free import of these goods.

(j) Since the disposal of diamonds etc., may be spread over a period of time, prices fixed at a time may not hold good subsequently and this may call for periodic revision. The reserve/fair prices so fixed shall be liable for revision once in three months or such time as is considered reasonable by the Chief Commissioner of Customs concerned.

(k) The auction should be attended by Commissioner of Customs, Addl. Commissioner concerned and Senior Officers of Customs to ensure maximum fairness.

(l) A record of all the highest bids for each lot at every auction should be maintained. The record of bid list should mention names of bidders and value/amount bid for the lot in question.

(m) The highest bidder shall, on fall of the hammer, deposit 25% of the value of the bid as earnest money on the spot. The bidder will be informed about the acceptance or rejection of bid within 48 hours of completion of the auction proceedings by way of listing of successful bids on the Notice Board of the Customs House at Mumbai.

(n) The successful bidder will be required to pay the balance amount and take delivery of the goods within 3 days of the receipt of the communication regarding acceptance of their bids. If a party fails to pay the balance amount and take delivery of the goods within the stipulated period as above, the Earnest Money shall be forfeited.

(o) In case of rejection of bid, the rejection letter will be issued and caution money and earnest money collected from the bidder will be refunded to the party within a week’s time.

(p) All available stocks of diamonds, rough and uncut diamonds precious and semi-precious stones should be transferred to Commissioner of Customs (Prev.) Mumbai.

(q) In the case of Custom Houses at Chennai, Kolkata, Delhi and Jaipur smaller lots of these goods of value not exceeding Rs. 2 lakhs and when total value of stock ripe for disposal of these goods at a particular time is less than Rs. 20 lakhs can be disposed off by disposal units attached to these Customs Houses/ Commissionerates. The procedure to be followed will be mutatis mutandis, as
prescribed above except that lower amount of caution money may be prescribed.

[Based on Circular F.No.711/56/90 Cus (AS), dated 16.7.1997]

9.2 However, in view the Board`s instructions, for e-auction of seized and confiscated goods, the Preventive Commissionerate, Mumbai is utilizing the services of M/S MSTC Ltd. The auction of diamonds, precious and semi-precious stones is being conducting through MSTC on their website www.mstcecommerce.com. Procedure for e-auction through MSTC is given in detail in Chapter 7 of this Manual. Commissioner of Customs (Preventive), Mumbai has also issued a Public Notice No.3/2008 dated 29.10.2008 in this regard to cover the procedure of e-auction through MSTC and the requirement of issuing of photo-I- pass to the bidder for inspection of diamonds, precious and semi-precious stones on payment of Rs. Fifty Thousand (refundable) and Rs Ten Thousand (refundable) - respectively for his assistant.

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CHAPTER -10

GOLD, SILVER & OTHER PRECIOUS METALS

Both Gold and Silver in all forms including bullion, ingots, coins, ornaments and crude
jewellery are covered under Notification No.31/86-Cus dated 05.02.86 issued under Section
110 (1A) of the Customs Act, 62. Action stipulated under Section 110 (1B) of the Customs Act,
1962 must be taken in all pending cases urgently.

10.1 Disposal of Gold Standard / Primary Form of assured purity

The procedure for disposal by sale of seized/confiscated gold (other than gold
ornaments/jewellery) shall be as follows:

(i) The sale of seized/confiscated gold found ripe for disposal shall be routed through
State Bank of India (Bank) who will act essentially as consignee agents. Gold considered ripe for
disposal shall be delivered by the concerned Customs House to the Bank at the major centre(s),
viz. Mumbai, New Delhi, Calcutta, Chennai, Ahmedabad, Jaipur, Cochin, Bangalore and Shillong
for sale in the open market.

(ii) Such gold shall, as far as possible, be in an easily marketable form such as TT bars,
1kg bars, 500/100gms bars etc. Crude gold/ jewellery will be converted by the Customs
Department to .999/.995 purity before delivery to the Bank for sale.

(iii) The sale price of gold irrespective of the form of gold (whether TT bars 0.999 or Kg.
bars 0.995 purity) will be based on the closing market price of the previous day, as reported
in the local editions of the three national Economic daily newspapers. Sales tax/Octroi etc. will be
extra and chargeable to the buyer.

(iv) The pricing of gold will be worked out by the Bank taking due note of the
methodology as per enclosed Annexure-I. The Customs Department will accept the price
worked out by the Bank on this basis.

(v) No commission will be levied by the Bank on the Customs Department. However, all
out of pocket expenses incurred by the Bank would be deductible (@ 1% of the market price).

(vi) The Bank will arrange for payment of taxes such as Sales Tax, Octroi, etc. out of the
sale proceeds of the gold and would submit copies thereof to the concerned Commissioner of
Customs along with the advice/ challan for remittance of sale proceeds. The sale proceeds will
be deposited immediately after sale of gold into the designated account to be advised by the
Commissioner of Customs.

(vii) The concerned Commissioner of Customs will provide copies of the Assaying Certificate
along with the physical delivery of gold and assume responsibility for the fineness of gold as
certified in the Assaying Certificate. In the event of any gold being found counterfeit, the same
will be returned to the Commissioner of Customs concerned. The Department will also ensure
that the gold is suitably packaged as per practice in the market. The Bank would render
necessary assistance to Customs Department.

(viii) The Bank will take physical delivery of the gold from the Customs warehouse/ office
against a suitable acknowledgment. The control system /mechanism for this purpose will be
worked out by the Bank and advised to the Department
(ix) The Bank will decide at which centre the gold is to be sold based on various cost/other factors and will also exercise its discretion/judgment as to (a) when to sell (b) at what price to sell. Although it has to be borne in mind that gold prices can fluctuate significantly even during the course of a single day, the Bank will use its discretion/market knowledge to get the benefit of the “best” possible price. The concerned Commissioner will, post – sale, make an evaluation as to whether, in view of the range of prices prevailing at the time of sale, the “best” possible sale has been made. The above arrangement will be reviewed as and when necessary through mutual discussion.

(x) The Bank will also explore the scope for marketability of coins. The price of such coins will be based on the actual gold content only

Annexure-I

1. Quantity of gold sold __________ gms

2. Average market price per 10 grams Rs __________

(Based on the closing market price reported in the three national Economic dailies)

3. Price of gold at the average market price (i.e. 1 x 2) Rs __________

4. Sales tax Rs __________

5. Octroi, if applicable Rs __________

6. Total price of gold Rs __________

7. Out of pocket expenses (@ 1% of (3) above) Rs __________

8. Net price payable to Customs (i.e. (3) – (7)) Rs __________

[Based on Circular F.No.711/164/93-Cus(AS), dated 8.8.2005]

10.2 Disposal of Silver in primary form

The sale of primary silver may be made at the average price reported in the Mumbai, Delhi and local (if any) editions of the three economic dailies, namely, Economic Times, Business Standard and Financial Express on the previous day of sale. The entire silver stocks valued as above may be first offered to M/s MMTC at a discount 3% of the average price fixed. If they fail to lift the stock within three days, it can be sold in retail through retail shop to public on first come first served basis at a discount of 3% of the average price fixed, subject to the procedure laid down below.
(i) Goods should be disposed off in as-is where-is condition;
(ii) The stock will be sold as per the weight of each item as confiscated it will not be cut or otherwise varied in size and shape;
(iii) The sale price of silver sold should be fixed every day based on the closing bullion exchange prices of same purity mentioned in Economic Times, Business Standard and Financial Express of the previous day published from the metropolitan cities at Mumbai and Delhi. If prices of same purity are not available in the aforesaid papers then the price shall be worked out on the basis of the average of prices of the nearest purity available in these papers.
(iv) All stocks of confiscated silver shall be disposed off by way of sale through Customs retail shops at Mumbai, Delhi, Kolkata, Chennai, Jaipur, Cochin and Bangalore only to MMTC/Public.
(v) Silver should be sold only to M/s. MMTC and/or such individuals, firms, etc. who are registered with the Income Tax authorities as assesses and their PAN numbers shall be quoted in the sale voucher.
(vi) All sales of silver shall ordinarily be against a banker’s cheques / DD or Pay Order. However, if there is some difference between the value of the silver bought and face value of banker’s cheques tendered by the purchaser, the balance amount may be accepted by cash and remitted into Custom House Treasury or scheduled bank counter in the Custom House.
(vii) The weight of each silver ingot/brick should be entered in all records up to the third decimal in Kg. E.g. 21.374 Kgs, 9.157 Kgs etc.
(viii) The existing quantity restrictions of 210 Kg. per person may be retained except in respect of sale to M/S MMTC.

[Based on circular No.F.No.711/100/93-Cus (AS), dated 12.3.2003]

10.3 Disposal of Gold/ Silver Jewellery

10.3.1 Studded with precious stones: Jewellery including fine Jewellery of gold, silver or other precious metals studded with diamonds, precious and semi precious stones shall be disposed off on ‘as it is basis’ and the procedure prescribed for disposal of diamonds, precious & semi-precious stones shall be mutatis mutandis followed. However while fixing fair price, the valuation committee shall also take into account the metal content and workmanship.

10.3.2 Other fine Jewellery, Gold ornaments, unique coins, art pieces, etc. which in the opinion of the Commissioner can fetch higher prices in public auctions even though the gold / silver content is low shall be sold in public auctions at Delhi, Mumbai, Jaipur, Chennai & Kolkata. The prescribed procedure for sale in auction for disposal of diamonds, precious stones & semi-precious stones, shall mutatis mutandis apply except that lesser amount of caution money may be prescribed.

10.3.3 Gold or Silver in other forms, coins but not unique coins, broken jewellery shall be sent to the Govt. mint for conversion into primary gold of standard purity. The converted gold / silver may thereafter be sold as primary form through Commissionerates situated at the same place where mint is situated. If the gold / silver in forms mentioned at Para 10.3.2 above cannot be disposed off by the following procedures prescribed therein such gold / silver may be disposed off in the manner prescribed in this para.
10.4 Disposal of other Precious metals:

The disposal of platinum/palladium is centralized under CC(P), Mumbai and shall be effected by tender through M/s MMTC Ltd., subject to the following conditions:

(i) MMTC will be paid service charges equivalent to two percent (2%) of the sale value.
(ii) Cost of advertisement may be charged separately by MMTC.
(iii) The goods shall lie with Customs till the sale is finalized by MMTC. Further till the time the amount due to the department is received the delivery would not be given.
(iv) The minimum sale price shall be fixed by a Joint Pricing Committee (JPC, to be set up by CC(P) Mumbai).
(v) Since a number of national laboratories like National Physical Laboratory (NPL), New Delhi, National Metallurgical Laboratories, Jamshedpur and other actual users, in the Gems & Jewellery Industry may also be interested in buying these metals, so wide publicity may be given to these sales.

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CHAPTER-11

CURRENCY & OTHER MONETARY INSTRUMENTS DISPOSAL OF CURRENCY & OTHER MONETARY INSTRUMENTS

11.1 Due to long time taken in adjudication of cases involving seizure of foreign currency, traveler’s cheques and bank drafts, the validity of traveler’s cheques and/or bank drafts expires and difficulties are experienced in obtaining the credit against such documents. Such delays also afford opportunity to the concerned persons to receive the amount against the seized documents on the pretext of these having been lost or destroyed. The following instructions may accordingly be followed to ensure uniformity in procedure for the realization of the proceeds of the confiscated foreign currency, traveler’s cheque and bank drafts and to avoid difficulties enumerated above.

i) As soon as traveler’s cheques and/or bank drafts and/or other instruments of exchange are seized, an intimation in the proforma given at Appendix A should be sent to the bank/Office of issue informing it of the seizure so that the person from whom these are seized may not obtain duplicates and claim cash against the cheques and drafts etc. from the bank of issue on the pretext of the originals having been lost somewhere. A copy of the intimation should also be sent to the office of the Reserve Bank of India through which the collection is eventually proposed to be made.

ii) Adjudication of the seized bank drafts and/or traveler’s cheques and/or other instruments of exchange should as far as possible be completed sufficiently ahead of the expiry of the period of validity of these documents which normally extends from 3 to 6 months from the date of issue.

iii) The confiscated foreign currency, traveler’s cheques, bank drafts and other instruments of exchange should be sent to the Reserve Bank of India immediately after the adjudication is completed for affording credit of the proceeds to the Government account. The confiscated currency and documents should be sent to the Reserve Bank of India along with necessary details as in the proforma given at Appendix B.

11.2 Normally there is no difficulty in getting early credit so far as foreign currency is concerned. In regard to the traveler’s cheques and foreign bank drafts, the credit can also be obtained immediately provided that (i) the documents are fully discharged i.e. duly signed by the person in whose favor these were issued and (ii) these are presented within the period of their validity. Most of the confiscated bank drafts and/or travelers cheques do not however, contain discharge of the payees/ beneficiaries and, as such cannot be encashed or credited in the Government account in the normal way. Under the procedure followed by the Reserve Bank of India, it takes about 2-3 months to collect proceeds in such cases. It should, therefore, be possible for the Reserve Bank of India to send an intimation of credit in respect of the confiscated travelers cheques and bank drafts which are not fully discharged within a period of 4 months from the date of receipt of the documents by them. If the intimation is not received within this period, the Commissionerate should remind the Reserve Bank of India to expedite the intimation. Wherever it is possible it would be worthwhile to obtain discharge of the
payee/beneficiary on the confiscated documents since this will reduce the work of the Reserve Bank of India to a considerable extent.

11.3 It should, however, be noted that when the Government (i.e. the Customs Department) acquires title to cheques, hundis and such other negotiable instruments by operation of Law (i.e. by endorsement and delivery as required by Sec. 50 of the Negotiable Instruments Act), the Government is not entitled to the rights of a holder in due course thereof as defined in the said Act and therefore, the proceeds of such confiscated instruments should be realized from the foreign banks only if orders passed under Indian laws were binding on them. Even a suitable amendment of the Negotiable Instruments Act will not serve any purpose because that Act is also not binding on banks situated in foreign countries. In the circumstances, before realizing the proceeds of these confiscated instruments from the foreign banks, the Reserve Bank has to furnish an indemnity to the bank concerned guaranteeing the refund of the amount on the propriety of the payment being subsequently challenged by the drawer for one reason or other. The Reserve Bank in turn obtains an undertaking from the Commissioner of Customs concerned to refund the amount to the Reserve Bank on demand. Proforma No. II mentioned in para 11.1 (iii) above indicates the form in which this undertaking should be given by the Commissioner.

11.4 The Reserve Bank have pointed out that whenever they approach the Commissioner concerned for the refund of such an amount, all sorts of queries (as to the of the refund and the question of time-limit) are raised by the Customs authorities thus considerable time is taken to make the actual refund placing the Reserve Bank in embarrassing position vis-à-vis the foreign banks and harming its reputation abroad. It should be clear from the facts stated in the foregoing para that the legal position regarding realization of proceeds of confiscated cheques drawn on foreign banks is very weak and proceeds in these cases are realized only because the Reserve Bank acts as the agents of the Government and also given a proper indemnity to the paying bank. Therefore, when the Reserve Bank approaches the Customs authorities for refund of the amount, there should be no question of challenging the propriety of the refund-claim and the amount should be refunded to the Reserve Bank forthwith and not later than seven days.

11.5 No question of time-limit as envisaged in Sec 27 of the Customs Act, 1962, also arises here because that Sec is applicable only to refund of duty whereas in this case it is a refund of proceeds of a confiscated instrument which has been realized not strictly by the enforcement of any order passed by the Government but through mutual arrangement between the Reserve Bank and the paying Bank.

11.6 The above instructions may also be adopted *mutatis mutandis* in the case of seized Postal Savings Certificates. An intimation of seizure of National Defense Certificates/National Savings Certificates etc. issued by Post Officers may be sent to the post offices in the Proforma given at Appendix C to this chapter and acknowledgement obtained.

11.7 Reserve Bank of India vide their letter ECS 39/122 A-88/89 dated 20.7.88 have conveyed their approval to State Bank of India receiving the foreign currency from Customs and crediting the sale proceeds to Customs account subject to the following conditions:
i) In case State Bank finds that some of the confiscated currencies are not encashable and Custom authorities desire to have those currency destroyed, necessarily permission from the Reserve Bank of India, Exchange Control Deptt., should be obtained.

ii) If an occasion arises for refunding in foreign exchange part or full value of confiscated foreign currency, already credited to the Govt. account, Customs will arrange to obtain though State Bank of India, prior approval of Reserve Bank for the release of Foreign exchange.

APPENDIX ‘A’

PROFORMA FOR INTIMATION OF THE SEIZURE OF CREDIT INSTRUMENT CURRENCY

1. Description of the credit instrument/currency.
2. Full name and address of the person/bank drawing instrument.
3. Name and address of the drawee.
4. Name and address of the payee.
5. Authority under which seized.
6. Action contemplated.

NB: The bank of issue of the credit instrument may please take note of the above seizure and any request for issue of duplicates and claims for cash against the above noted instrument should not be acceded to without prior reference to this Custom House. Undertaking of further commitments in respect of the above instrument with the drawer/payee may please be deferred until the confiscation proceedings contemplated are completed.

Customs Officer

(Seal)

Address of the issue/drawing bank.
1. Copy to Manager, Reserve Bank of India, Public Accounts Department. ..........................
APPENDIX ‘B’

PROFORMA FOR SENDING CONFISCATED CREDIT INSTRUMENTS/ CURRENCIES TO RBI FOR AFFORDING CREDIT TO THE GOVT. ACCOUNTS

From:
Commissioner of Customs/Central Excise

To
The Reserve Bank of India


Dear Sir,

We have caused to be handed over to you for collection and credit to Government account Travelers cheques/bank drafts/Currencies as per details given in the attached statement.

2. These cheques/drafts currencies are being hereinafter referred to as the cheques.

3. We hereby represent and warrant that we are duly entitled to arrange for the collection for and on behalf of the President of India of each of the cheques by virtue of the cheques having been duly confiscated by us in exercise of the powers conferred under the Customs Act and Foreign Exchange Regulation Act. We hereby request that the aggregate of the face amounts of the cheques be collected and credited to Government account.

4. In order to induce you to comply with our above request we hereby agree to indemnify and hold THE RESERVE BANK OF INDIA harmless and indemnified from any and all claims, demands and/or actions which may be asserted or instituted against it by any third party(ies) with respect to all or any of the cheques, and at any time upon its request, to appear and defend against each and every such claim, demand and/or action. In any event, we will pay any judgements(s) which may be obtained against said Bank and will reimburse it for any and all expenses which may be incurred by it in connection therewith.

Yours faithfully,

( )

For and on behalf of the President of India
APPENDIX ‘C’

PROFORMA FOR INTIMATION OF SEIZURE OF NDS/NSC ETC. ISSUED BY POST OFFICES

1. Number of Certificate (including prefixed alphabets)
2. It’s denomination or face value
3. Type of Certificate (i.e. single holder type or joint holder ‘A’ type or joint holder ‘B’ type, as can be seen from the Certificate)
4. Name (s) of holder (s)
5. Post office of issue
6. Date of issue
7. Registration No given by the Post Office on the left hand bottom corner of the certificate.
8. Authority under which seized
9. Action contemplated

NB: The Post Office of issue of the certificate(s) may please take note of the above seizure and any request for issue of duplicate(s) and claims for cash against the above noted certificate(s) need not be acceded to without prior reference to this Custom House.

Seal

CUSTOMS OFFICER

No. Dated

----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Acknowledgement to be detached and returned by the Post Office

Received from the Customs Office ........................................... an intimation about the confiscation of the following saving certificate(s).

1. No. of the certificate
2. Denomination
3. Name(s) of the holder(s)
4. Name of Post Office of issue
5. Date of issue

A note of this seizure has been made in the records of this office.

(Name & date) (Post Master)

Stamp of Office

To

The Customs Officer............................................................... His/her No..............................................................

dated............................................................... refers.
CHAPTER - 12

VEHICLES & VESSELS

12.1 Maintenance of seized / confiscated conveyances:

The seized/confiscated conveyance should be properly looked after during storage. Whenever there is a delay in the disposal of vehicles, vehicles should be jacked and wherever garage facilities are not available temporary sheds should be erected for the proper storage of the vehicles. Vehicles may be handed over to Automobile Association, if such organization exists at the place, vessels to custodians of port on mutual agreed terms & conditions. Particular care should be taken of the spare parts and tools. For the proper upkeep and maintenance of seized/confiscated vehicles/ vessels, Head of Department has also been delegated powers for incurring expenditure up to Rs.2,000/- per two wheeler, Rs.5,000/- per four wheeler, Rs.10,000/- per six wheeler and Rs.50,000/- per vessel per annum respectfully. The expenditure should be incurred having regard to the following considerations:

(a) The seized vehicles should not be put to Departmental use.
(b) Dismantling of conveyances to the extent minimum possible so as to find out hidden articles, if any.
(c) The seized conveyance should be properly looked after during storage by running the engines and auxiliary machinery / equipment periodically, inflating the tyres, (in case of vehicles) checking the engines, etc and for keeping them in a proper state of road/sea worthiness and to keep them, as far as possible in proper running order.
(d) The Vessels may be bottom cleaned and if necessary taken on hard.
(e) The services of a mechanic may be requisitioned to keep the conveyance in good order. But this may be resorted to only in cases of absolute necessity and with the permission of the officer not below the rank of Asst. Commissioner in case of Vehicles & Commissioner in case of Vessels.

12.2 Departmental use of seized / confiscated conveyances:

The conveyances which have been finally confiscated and have become Govt property can be used for Govt. purposes in any exigency. However, the use of the seized conveyances should be kept to the minimum and these should only be run from time to time to keep them in proper working condition and prevent their deterioration. Heads of Department should personally ensure that seized conveyances etc. are not run unnecessarily.

12.3 Appropriation of confiscated conveyances for the departmental use:

Before selling confiscated conveyances, the possibility of utilizing the same for the departmental use should be fully explored. These conveyances, however, be utilized only after taking prior approval of the Board. At the time of making such proposals, the following particulars of the conveyances should be furnished;

1. Date of seizure.
2. Date of the order under which it was confiscated, duty, redemption fine, and
3. Name of the owner of the conveyances
4. Make of the conveyances, its model engine horse power and seating capacity.
5. General condition of the conveyances and its mechanical condition and approximate market value, and the probable period for which it can render satisfactory service with or without repairs.
6. Total mileage run by the conveyances.
7. In case of vehicle the clearance over road.
8. The area where the conveyances is proposed to be utilized in the Commissionerate and the specific purpose therefore.
9. Financial implication of the proposal e.g. approximate amount of expenditure likely to be incurred to make the conveyances road seaworthy, running cost and other recurring and non-recurring expenditure.
10. Cost of appropriation.

12.4 Expeditions Disposal of seized /confiscated motor vehicles & vessels:

Conveyances have been notified vide Notification No.31/86 dated 5.2.86 under Section 110 (1A) of the Customs Act, 1962. Despite this seized conveyance are, in many cases, not being disposed off, pending completion of adjudication proceedings, court cases, etc. for a long time leading to deterioration without any benefit to anyone. Continued storage of such conveyances may also result in considerable expenditure on garaging facilities and maintenance charges. Accordingly, it must be ensured that:

i) Prompt action is taken in terms of Sec. 110(1B) of the Customs Act 1962 to dispose off all seized vehicles.

ii) Where the order of confiscation mentions fine in lieu of confiscation or of reshipment, the period allowed for reshipment / redemption should be only up to 30 days. In case option of re-export of vehicle is given as in case of carnet, the period allowed for re-export normally shall be two months. If the party does not clear the conveyance by paying up the fine in lieu of confiscation, or does not arrange to re-export the vehicle within the permitted period, a final notice of ten days should be given, after which the conveyance should be disposed off.

iii) Where the conveyance has been confiscated absolutely, steps should be taken to dispose off the confiscated motor vehicle or vessel straight away without waiting for further out come in appeal / review.

iv) For the conveyances seized under NDPS Act 1985 or any other Act, action under section 451 of The Code of Criminal Procedure 1973 shall be invariably taken for which an application in the concerned trial court must be filed and pursued during the trial so as to obtain the orders of court before the final judgment in the case. If no such action has been taken till date, the same must be taken immediately and pursued with the trial court to get the orders of disposal from the court before the final orders. In case of appeals pending with High Court, the High Court must be approached for getting early orders of disposal of the conveyances pending decision in the appeals.

v) Utmost care should be taken to ensure that conveyances are sold at the earliest
and at the best available market price after giving wide publicity so as to avoid any loss to the owner in the event of the adjudication order being set aside on appeal or revision and to avoid any possible dispute with the owner regarding the adequacy of the price at which the conveyance or vessel was sold.

vi) The position in respect of the conveyances pending disposal should be reviewed periodically and action as necessary to dispose them off should be taken expeditiously. If there is any delay or negligence on the part of any of the officers concerned, appropriate action to fix the responsibility and initiate disciplinary action should be taken.

12.5 Disposal of conveyances with secret chambers

The conveyances with built in secret chamber used for smuggling shall be disposed off after such chambers are completely removed. If such secret chambers cannot be removed, the orders of the Board should invariably be taken before disposing off such conveyances.

12.6 Conveyances may be sold by public auction e-auction cum tender or may be appropriated to department. If they cannot be sold in such manner, then through NCCF.

************
CHAPTER 13

MEDICINES/BULK DRUGS/ DRUG FORMULATIONS

13.1 The disposal of seized/confiscated drug formulations:

13.1.1 Drug formulations ordinarily fall in two categories. The first category consists of such drug formulations which are labeled in accordance with the provisions of the Drugs and Cosmetics Act and Rules framed thereunder. If the samples drawn from the seized/confiscated consignments of such formulations are found to be of standard quality the goods may be released for use in hospitals only.

13.1.2 The second category consists of formulations which are not labeled in accordance with the provisions of the Drugs and Cosmetics Act and Rules made thereunder. The Drugs Controller (India) has opined that such formulations would be deemed to be “misbranded” drugs under this Act. Further, it would ordinarily not be possible to re-label such products as the information to be given on the label would have to be provided by the manufacturer. He has, therefore, advised that such seized/confiscated drug formulations falling in the category of ‘misbranded’ drugs and should be destroyed.

13.1.3 Therefore, the State Drug Controllers/ Zonal and Port Officers of the Drug Controller (India) should invariably be consulted as above in the case of seized/confiscated drug formulations and action to release them to hospitals or to destroy as the case may be, should be taken only on the advice given by these authorities.


13.2 Disposal of Bulk drugs:

Following directions have been given by Drug Controller of India, New Delhi to all Zonal officers and Drugs Controllers vide letter No. X-11038/50/80-D dated 09.12.1980 regarding procedure to be followed in this respect:

13.2.1 Whenever a request is received from Customs or Excise authorities for advice on the disposal of confiscated drugs, a Drug Inspector may be deputed to inspect the consignment to see whether the containers of the drug are damaged so as to affect the quality of the drug and whether the containers are labeled with the essential particulars such as the name of the drug, name of the manufacturer, date of the manufacture and date of expiry incase of drugs having a limited life period.

13.2.2 If on inspection, the Drug Inspector reports that the containers are damaged so as to affect the quality of the product or the containers do not bear the essential particulars on the label then the consignment of drug concerned should not be recommended to be disposed off by public auction.
13.2.3 If the containers of the drug are found to be intact and not damaged and they are also labeled with necessary particulars then representative samples may be drawn and got tested.

13.2.4 If these samples are reported to not of standard quality, then the drugs in question should not be recommended to be disposed off by public auction.

13.2.5 If the samples are reported to be of standard quality then the drugs in question may be recommended to be sold by public auction. The authorities requisitioning the drugs should be licensed and the drugs permitted to be sold only to manufacturers holding valid manufacturing licenses under the Drugs and Cosmetics Act.

13.2.6 The procedure outlines above would be applicable only to “bulk drugs” seized by the Customs/Excise Authorities. Confiscated formulations should not be allowed to be sold by auction.
CHAPTER- 14

FIRE ARMS

To ensure maximum safety of seized/confiscated prohibited/non-prohibited bore and service pattern weapons, their storage should be done centrally (e.g. in the respective Commissionerate Headquarters) under proper security, safety and supervision. For this purpose, a history sheet with each weapon to indicate make, type or weapon, register number, brief circumstances of seizure/confiscation etc. shall be prepared and shall be kept as records along with the seizure memo.

14.1 Policy guidelines regarding disposal of confiscated fire arms:

14.1.1 The policy guidelines for the disposal of confiscated fire arms are as under:

a) **Confiscated prohibited bore weapons**: The prohibited bore weapons will be confiscated and appropriated only for the departmental use / or given to persons specifically allotted by the Ministry except the following:

(i) **Disposal of warlike stores and their components etc**: Details of all confiscated warlike stores, i.e. Missiles, Weapons of Mass Destruction, grenades, rockets launchers, mines, night vision devices, HHGs & MMGs, etc., and their components and such other stores of similar nature shall be intimated to the Ministry of Defence for obtaining disposal instructions.

(ii) **Disposal of Prohibited fire arms and Prohibited bore fire arms**: Details of certain selected types of confiscated automatic fire arms e.g. 7.62mm SLRs, AK-47 rifles, 7.62mm LMGs, 9mm carbine, etc., and their ammunitions after taking care of the Departmental requirements, be intimated to the Ministry of Home Affairs for reallocation to units of Army/CPMF/ State Police Forces involved in CI Operation as per orders of MHA (Provisioning Branch).

(iii) **The Service pattern and other prohibited bore fire arms**: Details of all confiscated service pattern and other prohibited bore fire arms and their ammunition which are classifiable under categories 1(b) 1(c) of Schedule I of the Arms Rules, 1962 which shall, inter-alia, include all semi-automatic and other fire arms of the type in use of the Armed Forces or Central Para Military Forces / Police Forces or the State Police Forces shall after taking care of the Departmental requirement be intimated to Ministry of Home Affairs (Provisioning Branch), Government of India for disposal instructions in revised proforma I annexed.

b) **Confiscated non-prohibited bore weapons**: Board vide F.No. 711/54/86-Cus(AS) dated 30.10.1987 has discontinued the sale of confiscated non prohibited bore weapons to officers and introduced a scheme for loaning of weapons. It decided that such weapons would be given to the departmental officers on lease terms on a selective basis subject to the condition that on retirement/superannuation, these weapons would be returned to the Department. The lease of fire arms to
c) **Sale of confiscated non prohibited bore weapons to Members of Parliament:**

i. If after meeting the above two requirements, non prohibited bore confiscated weapons are available, these can be sold to sitting Members of Parliament on *first come first serve* basis after receiving their confirmation in writing that they do not own/possess any weapon at present. The orders of Minister of State for Finance (Revenue) will be obtained in each specific case.

ii. Only one weapon will be allotted to an MP from the confiscated stock and no replacement will be permissible even in cases the first weapon allotted has either been lost or stolen or become defective or non serviceable due to excessive use or obsolescence.

iii. The resale /transfer of NPB weapon after it is sold to Member of Parliament is subject to the condition that such a person will not dispose it off for a period of ten years from the date of purchase. Thereafter, he shall be free to dispose it off or keep it. However, at his demise, the disposal of such weapon will be dealt by his legal heirs in accordance with the general laws.

iv. The sale price of PB weapon to MP will be governed by the instructions contained in para 14.1.2 below.

v. The sale of NPB weapon to MPs has been centralized in Delhi and this will be done only by the Commissioner of Customs (Preventive), New Custom House, IGI Airport, New Delhi.

vi. All Commissionerates will transfer the PB weapons which have become ripe for disposal to Commissioner of Customs (Preventive), New Delhi immediately. They will also transfer all the NPB weapons surrendered by officers at the time of their retirement / superannuation.

vii. The Commissioner of Customs (Prev.), Delhi will inform the Ministry about the balance of fire arms available with them in the prescribed format on a monthly basis to enable the Ministry to take decision on the requests received from Members of Parliament.

viii. Any relaxation in the existing guidelines would require the specific approval of the Hon’ble Finance Minister in each case.

ix. All Commissionerates are requested to comply with these instructions scrupulously. Difficulties, if any, in implementation of these guidelines may be brought to the notice of the Board.

(issued vide F.No. 711/30/2002-Cus(AS) dated 15.07.2002)

**14.1.2 Pricing for the purpose of sale of weapons to MPs /VIPs**

(i) The pricing of non-prohibited bore weapons allotted to MPs will be made on the basis of the prevailing CIF prices of the similar weapons for import into India plus the
Customs Duty leviable i.e. (a 150% Ad-valorem plus 10% of the CIF cum-duty prices, as illustrated below (Sales Tax as applicable will be chargeable on this price in addition).

Illustration: Suppose the C.I.F. price of a particular model of a NPB weapons is Rs. 8,000/-. The Sale price of the said weapons shall be fixed/determined as under:

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Price</th>
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<tbody>
<tr>
<td>a</td>
<td>C.I.F. price</td>
<td>Rs. 8,000/-</td>
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<tr>
<td>b</td>
<td>Customs Duty @ 150% Ad-valorem</td>
<td>Rs.12,000/-</td>
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<td>c</td>
<td>C.I.F. cum duty price (a) + (b)</td>
<td>Rs.20,000/-</td>
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<td>d</td>
<td>10% of C.I.F. cum duty price(c)</td>
<td>Rs. 2,000/-</td>
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<td>Sale Price (c) + (d) (Sales Tax will be charged extra as applicable)</td>
<td>Rs.22,000/-</td>
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(ii) Though normally no regular imports of weapons are permitted, but occasional release of the weapons to returning Indian diplomats, etc. on transfer of residence is permitted and the prices for duty purposes are being determined. These prices could be made use of for determining the likely CIF prices of identical / similar models of weapons of same manufacturer.

(iii) Wherever prices of particular models of weapons for sale by the Department to MPs/V1Ps are not easily forthcoming, the latest available price lists, as available on INTERNET could be taken into account. As these prices in the country of sale are generally inclusive of all taxes & incidentals, etc., an average deduction of 33% could be given over these prices for notionally arriving at the CIF prices for the particular models (or somewhat nearest comparable / similar models) for import into India.

(Issued vide F.No.711/150/92-Cus(AS) dated 06.05.1999)

14.2 Loaning of Fire-arms to departmental officers

(a) Board vide F.No.711/54/86-Cus(AS) dated 30.10.1987 has discontinued the sale of confiscated non prohibited bore weapons to officers and introduced a scheme for loaning of weapons. It has been decided that:

(i) Confiscated weapons of non-prohibited bore may in suitable cases, be loaned to executive officers of the Customs and Central Excise department who require them for self-protection in the course of performance of their duties on condition that the weapons are returned by the officers to the department when no longer required and in any case on their retirement/superannuation or their leaving the department for any reasons whatsoever.

(ii) The weapons will be loaned only to officers who possess the necessary valid arms license.

(iii) Not more than one weapon will be given to an individual officer.

(iv) The request of the officer should be forwarded by the concerned Commissioner who after satisfying himself of the above requirement shall recommend the request of the officer and forward the same to
Directorate of Logistics for further action in the matter.

(b) In order to ensure that a proper account is maintained in respect of the weapons that are given on loan, the Board issued following instructions vide F.No.711/54/86-Cus(AS) dated 2.06.1988, which may be strictly adhered to:

(i) A remark in red ink should be affixed in the Service Book of the officer concerned to the effect that __________ bore Revolver / Pistol of make __________ bearing number __________ has been loaned to the officer,

(ii) This remark should be attested by the Head of the department.

(iii) The Officer should give an undertaking in the proforma given at ANNEXURE A given below. This undertaking should be kept in the custody of the controlling head of department of the officer concerned.

(iv) A copy of the undertaking should be forwarded to the DPO (now Directorate of Logistics) for record.

(v) The Directorate of Logistics should maintain a register which should clearly indicate the names of the officer to whom the weapon has been loaned, the date of superannuation of the officer and the make model and the number of weapon. A yearly review of the register should be done by the Directorate of Logistics to ensure that in all cases where the officers have retired or left the department, during the period of the review, the weapons have been resumed and taken back into stock.

(vi) As and when weapons are returned, the second copy of the undertaking kept in the service record should be cancelled by the Head of Department concerned under intimation to the Directorate of Logistics. Suitable entries should be made in the Service Book of the officer concerned regarding the resumption of weapons and cancellation of the undertaking given by the officer. The Directorate of Logistics should, on receipt of this intimation enter the fact of resumption in the register maintained by it and cancel the original undertaking.

(vii) During their tours, the officers of Directorate of Logistics should inspect the Commissionerate record of the weapons loaned out and satisfy themselves that in all cases where the loanee officers have retired/left the department, the weapons loaned to them have been resumed.

(viii) Where a loanee officer has been transferred out of the Commissionerate the undertaking given by him should be transferred to his new Commissionerate along with the service records.
## STATEMENT SHOWING STOCKS OF CONFISCATED/ FORFEITED SERVICE PATTERN AND PROHIBITED BORE ARMS

<table>
<thead>
<tr>
<th>S.N.</th>
<th>Description of the weapon</th>
<th>Calibre</th>
<th>Whether the weapon is free from encumbrances or orders of competent Court for its use has been obtained</th>
<th>Indicate if the weapon is serviceable or otherwise</th>
<th>Opening Stock</th>
<th>Stock added during the Month</th>
<th>Total</th>
<th>Stock transferred to CPO/ State Police during the Month, if any</th>
<th>Balance as on last day of the Month</th>
<th>Remarks: Indicate if this weapon is required by State Police for its use and state the number required</th>
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ANNEXURE A

UNDERTAKING FOR LOANING OF NON-PROHIBITED BORE ARMS TO OFFICERS OF CUSTOMS AND CENTRAL EXCISE

I ________ son/daughter of ________ resident of _____________ hereby undertake to abide by the following stipulations made by the Government of India which may be changed or amended from time to time.

1. The loaned arms/weapons/ammunitions will be returned when no longer required or in any case on my attaining superannuation or voluntary retirement or resignation or dismissal from service or any other natural calamity whichever occurs earlier.

2. The Government of India is, and shall, continue to be the owner of the arms/weapons/ammunitions and that this is given purely on loan basis by the Government to me and that there cannot and shall not be an legal heir or successor or claimant for the loaned gun/weapons/ammunitions to me.

3. In case of loss or damage or theft or accident or any other natural calamity or act of nature, I undertake to pay full price/cost of the loaned arm/gun/weapon/ammunition to the Government of India as determined by the Government of India.

4. I acknowledge that for purpose of recovery of the cost, the same shall be calculated on the basis of the price plus the rate of Customs duty as fixed by the Government from time to time and at any particular given situation.

5. My date of superannuation is____________

The Schedule

Description of weapon
Maker’s Name
Description
Sl. Number

IN WITNESS WHEREOF the Mortgaging or/Borrower has hereunto set his hand and Shri ________________ for and on behalf of the President of India has hereunto set his hand.

* Signed by the said
(Name and designation of the borrower)

____________________________

in the presence of

1. ____________________________

2. ____________________________

(Signature of Witnesses) (Signature & Designation of the Borrower)
14.3 Recovery of cost of weapons in the case of loss by departmental officers:

The following course of action may be taken in each case of reported loss of weapon which is allotted to the Departmental officers:

(i) If a confiscated weapon leased to a departmental officer is lost for any reason, its replacement cost will be recovered from him immediately, i.e. regardless of any departmental action, at the rate fixed by Customs department for sale of such weapon to MPs/VIPs etc.

(ii) A departmental inquiry may be conducted against officer, preferably after obtaining a report from the police regarding their inquiry under the Arms Act. In case the police inquiry points towards negligence or serious lapse or fraud on the part of the officer, a fine equivalent to the replacement cost of the lost weapon may be imposed on the officer in addition to imposition of any other fine/penalty/punishment as may be contemplated under CCS(CCA) Conduct Rules, 1965.


14.4 Disposal of arms and ammunition to National Security Guards

In addition to various existing modes of disposal of arms and ammunition, Govt have decided that hence forth arms and ammunition of the description given below should first be offered to the National Security Guard (N.S.G.). The Director General/Inspector General, National Security Guard, Ministry of Home Affairs, East Block-5, R.K. Puram, Delhi-110066 should directly be informed immediately after the following weapons or any unusual arms are seized, under intimation to this Ministry:

a. 9MM SMG
b. 9MM Pistols.
c. 12 Bore (Automatic)
d. AK 47 Rifles.
e. Senior Rifles (Bolt Action) (7.62/5.56) Calibre
f. Self Loading Rifle (7.6215.56) Calibre.
g. G.III NATO Rifle (7.62/5.56) Calibre.
h. Hand Fired portable Rocket Launches (Any Calibre)

The National Security Guard authorities would thereafter inspect and select the weapons for their use which would be earmarked and given to them after adjudication proceedings, etc. are over. The rest of the weapons and ammunition should be disposed of in accordance the approved manner of disposal of fire-mms and ammunition. The value of the weapons selected by the National Security Guard will be determined by the Pricing Committee on the basis of the prices fixed by the Ordnance Factories for similar type of weapons manufacture in India

[Circular F.No.394/36/85-Cus(AS) dated30.5.85 ]

14.5 Disposal of obsolete/obsolescent, confiscated, seized/ recovered fire arms and ammunition in prohibited/ non prohibited bore categories and country made weapons:

14.5.1 As disposal of seized fire arms which are obsolete / obsolescent is required to be done by the concerned offices in an effective manner and to avoid unnecessary piling up of weapons in Government armories, the disposal of aforesaid categories of arms and ammunition shall be regulated in the manner indicated in the following paragraphs:

(a) First & foremost the obsolete fire arms are required to be condemned. For this purpose the procedure prescribed by the Army towards condemnation/declaring serviceability of the fire arms, being presently followed by some of the Central Para-Military Forces, may be adopted. A gist of such procedure, prescribed by Ministry of Home Affairs vide no.V-11020/14/96-ARMS (PB) and V-11020/7/97-Arms (PB) both dated 16.10.2001, presently being followed in CRPF is given below:

"According to guidelines issued in the Electrical & Mechanical Engineering Regulations No.SA/A- 16.8 of Indian Army and Standing Order 11/76 of CRPF, an Electrical & Mechanical Assistant Engineer (Small Arms) [EMAE(SA)] is authorized to declare a fire arm unserviceable. In CRPF, the officers who have undergone EMAE(SA) course at the Army Training Centre, are called as Arms Inspector (SA) and made available to the arms workshops. By virtue of the technical knowledge attained by them during the course they are authorized to carry out technical examination of fire arms and sentence them unserviceable. The qualified Arms Inspecting Authority is acceptable as competent authority for conditioning the arms as unserviceable/BER (Beyond Economical Repair).

A Fire arm can be declared unserviceable in the following circumstances:

1. In case of damage occurred due to accident/ failure caused during the firing. If a fire arm is damaged during the firing or accident, a board of officers is constituted to conduct a COI for investigating the circumstances under which the arm was damaged. Before finalizing the COI, a technical opinion is obtained from Ammunition Technician Officer / Arms Inspection Authority regarding the probable cause of damage. The AIA is required to furnish this report regarding the
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damage / condition of the weapon in the proforma prescribed for this purpose.

2. As per existing rules and regulations, technical inspection of arms is made once in a year by our AIA. During the inspection, if a weapon is found damaged, the AIA sentence the weapon as repairable or unserviceable considering its condition. If an arm is sentenced unserviceable not due to fair wear and tear, the AIA suggest the concerned head of office to conduct a COI for investigating the circumstances under which the fire arms got damaged. During the technical inspection, the AIA follows the gauging limits / standards as prescribed for declaring the weapon unserviceable. Further in case of arm damaged due to unfair wear and tear, the AIA is supposed to give his recommendation considering the extent of damage and the cause of the weapon as per existing rules.”

The jurisdictional Commissioner may take the assistance of Engineers attached to Army/ Central Para Military Forces in their jurisdiction in order to get the obsolete fire arms declared as unserviceable/BER.

Precautions to prevent misuse of seized/confiscated arms/ammunitions

In order to prevent misuse of various categories of arms and ammunition confiscated forfeited, seized/ recovered by Central Para Military Force/ State Police Forces, there is a need to develop and ensure proper accountability regarding storage and registration of such weapons. For this purpose, all such weapons captured/ confiscated/ surrendered shall be taken on charge of memo of seizures, to be signed by the persons involved in the confiscation/ seizure/ capture. A FIR shall be lodged by the seizing authority with the nearest police station on the basis of memo of seizure explaining the complete circumstances of the case for further necessary action under the relevant provisions of law. The weapons shall be handed over to the concerned authorities as per the seizure memo. Keeping in view the safety of these weapons/arms/ammunition, their storage should normally not be allowed in the Police Stations. To ensure maximum safety of confiscated/seized/captured prohibited, prohibited bore and service pattern weapons, their storage should be done, centrally (e.g. in the respective State/ Force, Headquarters, under proper security, safety and supervision). For this purpose, a history sheet with each weapon to indicate make, type of weapon, register number, brief circumstances of confiscation, capture, seizure etc. shall be prepared and shall be kept as records along with the memo of seizure. A specific time of three months for moving the lot of weapons from intermediate storage place to final place should be observed. The details of seizure, FIR lodged and confiscation orders obtained from competent courts shall be maintained by the State Police/ CPMF Headquarters and reported to Ministry of Home Affairs.

Disposal of ammunition: The instructions contained hereinabove shall mutatis-mutandis apply to the disposal of the corresponding categories of ammunition.

(b) The destruction/defacing/mutilation of weapons will be supervised by a committee consisting of Commissioner. ADC and one officer of the rank of Assistant/
Deputy Commissioner. The wooden butts can be broken and the metal part of the weapons can be destroyed by putting in furnaces after ensuring that there is no explosive material inside.

(c) A record of weapons destroyed/defaced/mutilated should be maintained in the following proforma:

(i) Full nomenclature of weapon specifies caliber and type of weapons i.e. revolver, pistol, shot Gun, rifle, stem carbine, etc.
(ii) Registered number and manufacturers particulars (i.e. firm name, country of origin, country made, etc.)
(iii) Reasons for confiscation/surrender giving full details of Owner, if any.
(iv) Reasons/authority for destruction giving reference of Competent authorities giving orders for destruction.
(v) Details
(vi) Any other remarks, if any.

Certified that the weapon as stated above has been physically destroyed/defaced/mutilated in full in our presence to the extent that even the parts cannot be reused.

Signature & Designation of three officers:

1.
2.
3.

Date: ______________

Place: ______________

(d) The instructions contained hereinabove shall mutatis-mutandis apply to the disposal of corresponding categories of ammunition.

(Issued vide: F.No.441/28/DPO(AS)88/Pt. DPO, Customs & Central Excise, New Delhi dated 13.10.1989)

***********
CHAPTER -15

NARCOTICS

15. It has been noticed that different investigating officers of various enforcement agencies adopt different procedures in drawing samples from seized narcotic drugs and psychotropic substances, particularly with regard to the number of samples drawn, quantity of sample, method of sealing, mode of packing, dispatch of samples, etc., to the laboratory concerned for testing purposes. It has also been found that handling of samples of different stages and places may also become an issue at dispute during the trial and hence, a clear and uniform procedure is necessary to avoid any doubt or confusion at any level. With a view to bring uniformity in approach in such matters, and also to provide for secure system of handling of drug samples and disposal of seized drugs, the procedure with regard to drawing, forwarding and testing of samples and final disposal of the drugs has been standardized as outlined in the Standing Order No. 1/89 dated 13.6.89 issued by the Ministry under section 52A(1) of the NDPS Act, 1985 read with NCB standing orders 1/88 and 2/88 latter dated 11.04.88 may be followed.

15.1 The Government of India has, by issue of Notification in F.No. 664/23/89-Opium dated the 29th May, 1989 (SO. No. 38 1(E) published in the Gazette of India (Extraordinary), has specified the following narcotic drugs and psychotropic substance, which shall, as soon as after their seizure, be disposed off, having regard to their hazardous nature, vulnerability to theft, substitution and constraints of proper storage space:

<table>
<thead>
<tr>
<th>Narcotic Drugs</th>
<th>Psychotropic Substances</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Opium</td>
<td>(i) Methaqualone</td>
</tr>
<tr>
<td>(ii) Morphine</td>
<td>(ii) THC</td>
</tr>
<tr>
<td>(iii) Heroin</td>
<td>(iii) Amphetamine: and</td>
</tr>
<tr>
<td>(iv) Ganja</td>
<td>(iv) Any other psychotropic</td>
</tr>
<tr>
<td>(v) Hashish(Charas)</td>
<td>substance, as defined under clause (xxiii) of section 2 of the said Act.</td>
</tr>
<tr>
<td>(vi) Codeine</td>
<td></td>
</tr>
<tr>
<td>(vii) Thebaine</td>
<td></td>
</tr>
<tr>
<td>(viii) Cocaine</td>
<td></td>
</tr>
<tr>
<td>(ix) Poppy Straw: and</td>
<td></td>
</tr>
<tr>
<td>(x) Any other manufactured drug, as defined under clause (ix) of section 2 of the Act.</td>
<td></td>
</tr>
</tbody>
</table>

15.2 Most of the narcotic drugs and psychotropic substances cannot be conclusively proved to be such drugs or substances merely by visual examination in the trial Court and they require to be proved by chemical analysis to be conducted by chemists authorized under section 293 of Cr. P.C. 1973. Government of India vide notification No. 74 F.No.50/53/76-Ad.II dated 17th July 1976 as amended vide notification dated 2nd February 1977 have declared chemists of different grades working in Central Revenues Control Laboratories as Chemists to Government for the purpose of section 293 of Cr.P.C.
15.3 As regards to materials, apparatus, utensils, any other articles or conveyances seized along with Narcotic Drugs or Psychotropic Substances, or in respect of which any offence punishable under Chapter IV of the Narcotic Drugs and Psychotropic Substances Act, 1985, they shall be dealt as per the provisions of the section 451 of the Criminal procedure, which is reproduced below:

“451. Order for custody and disposal of property pending trial in certain cases:

When any property is produced before any criminal court during any enquiry or trial, the court may be take such order it thinks fit for the proper custody of such property pending, the conclusion of the enquiry or trial, and, if the property is subject to speedy natural decay, or if it is otherwise expedient so to do, the court may after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed off.

Explanation: For the purpose of this section” property includes-

(a) Property of any kind or document which is produces before the count or which is in its custody.
(b) Any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offenses.”

15.4 Para 5.23 of the Opium Manual Volume III prohibits use of contraband opium with amorphine strength of less than 6% for the manufacture of alkaloids by the Opium Chemist and hence the cost is nil and should be destroyed by following the procedure prescribed under Standing Order 1/89 dated 13.06.89.

15.5 Disposal /destruction of seized drugs and compliance of Supreme Court Order-Instructions;

Hon’ble Supreme Court in its order dated 11.04.12 in the case of UOI vs Mohanlal and Anr held that the hazardous nature of the substance seized in large quantities all over the country must not be let loose on the society because of human failure or failure of the system that is purported to have been put in place. Since the NDPS Act provides for pretrial disposal of drugs (Sec 52A of NDPS Act) the post trial disposal can also be done following the Court order. Accordingly, Ministry vide F.No.591/06/2012-Cus(AS) dated 07.08.2013 instructed:

i. Chief Commissioners to look into the matter personally and to ensure all out efforts are made for disposal of narcotics and drugs lying in Customs Malkhanas/ Godowns and pre trial disposal applications are filed for issuance of order for disposal, either by way of destruction or disposal through designated authorities, from the courts.

ii. Wherever, the cases attained finality and the contraband seized that are not destroyed, the same shall be disposed of as per guidelines expeditiously.

iii. The officers dealing with NDPS cases may be asked to draw attention of the concerned Magistrates of the courts to the above Supreme Courts orders while seeking orders for pretrial disposal.

iv. All jurisdictional Commissioners should chalk out time table for ensuring disposal of
narcotic and drugs lying in stock and ensure that the same is disposed off/destruction in a time bound manner at the earliest possible following the prescribed procedure.

v. Commissioner, Directorate of Logistics shall monitor the progress of disposal/destruction of narcotics drugs by the field formations and keep track of the records periodically by seeking reports from the field formations.

vi. A consolidated report on details of disposal of contraband seized under NDPS Act 1985 quarterly of the financial year shall be submitted to the Board by 15th day for the proceeding quarter.

15.6 STANDING ORDER NO. 1/89 DT. 13.06.89

“WHEREAS the Central Government considers it necessary and expedient to determine the manner in which the narcotic drugs and psychotropic substances, as specified in Notification No.4/89 dated the 29th May, 1989 (F.No.664/23/89-Opium, published as S.O. 381(E), which shall, as soon as may be, after their seizure, be disposed off, having regard to their hazardous nature, vulnerability to theft, substitution and constraints of proper storage space;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 52a of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), (hereinafter referred to as 'the Act'), the Central Government hereby determines that the drugs specified in the aforesaid Notification shall be disposed off in the following manner, namely:

SECTION I - DRUGS MEANT FOR DISPOSAL

<table>
<thead>
<tr>
<th>Narcotics Drugs</th>
<th>Psychotropic Substances:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Opium</td>
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</tr>
<tr>
<td>(iii) Heroin</td>
<td>Amphetamine</td>
</tr>
<tr>
<td>(iv) Ganja</td>
<td>Any other psychotropic substance, as defined under clause (xxiii) of section 2 of the said Act</td>
</tr>
<tr>
<td>(v) Hashish(Charas)</td>
<td></td>
</tr>
<tr>
<td>(vi) Codeine</td>
<td></td>
</tr>
<tr>
<td>(vii) Thebaine</td>
<td></td>
</tr>
<tr>
<td>(viii) Cocaine</td>
<td></td>
</tr>
<tr>
<td>(ix) Poppy straw</td>
<td></td>
</tr>
<tr>
<td>(x) Any other manufactured drug, as defined under clause (xi) of Section 2 of the Act</td>
<td></td>
</tr>
</tbody>
</table>

SECTION II- GENERAL PROCEDURE FOR SAMPLING, STORAGE ETC.

Sampling, classification etc. of drugs

2.1 All the drugs shall be properly classified, carefully, weighed and samples on the spot of seizure.
Drawal of samples

2.2 All the packages/containers shall be serially numbered and kept in lots for sampling. Samples from the narcotic drugs and psychotropic substances seized shall be drawn on the spot of recovery, in duplicate, in the presence of search witness (Panchas) and the person from whose possession the drug is recovered, and a mention to this effect should invariably be made in the panchanama.

Quantity to be drawn for the sampling:

2.3 The quantity to be drawn in each sample for chemical test shall not be less than 5 grams in respect of all narcotic drugs and psychotropic substances save in cases of opium, ganja and charas (hasish) where a quantity of 24 grams in each case is required for chemical test. The same quantities shall be taken for the duplicate sample also. The seized drugs in the packages/containers shall be well mixed to make it homogeneous and representative before the sample (in duplicate) is drawn.

Method of drawal:

Single container/package

2.4 In the case of Seizure of a single package/container, one sample (in duplicate) shall be drawn. Normally, it is advisable to draw one sample (in duplicate) from each package/container in case of seizure of more than one package/container.

Bunch of Packages /Containers

2.5 However, when the packages/containers seized together are of identical size and weight, bearing identical markings and the content of each package given identical results on color test by the drug identification kit, conclusively indicating that the packages are identical in all respects the packages/containers may be carefully bunched in lots of 10 packages/containers/except in the case of ganja and hashish (charas), where it may be bunched in lots of 40 such packages/containers. For each such lot of packages/containers, one sample (in duplicate) may be drawn.

Bunching for

(i) Hasish and Ganja

2.6 Where after making such lots, in the case of hashish and ganja, less than 20 packages/containers remain, and in the case of other drugs, less than 5 packages/containers remain, no bunching will be necessary and no samples need be drawn.

(ii) Other drugs

2.7 If such remainders are more in the case of other drugs and substances and 20 or more
in the case of ganja and hashish, one more sample (in duplicate) may be drawn for such a reminder package/container.

**Drawal of representative samples:**

2.8 While drawing one sample (in duplicate) from a particular lot, it must be ensured that representative sample are in equal quantity is taken from a package/container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

**Storage of samples- procedure:**

2.9 The sample in duplicate should be kept in heat sealed plastic bags as it is convenient and safe. The plastic bag container should be kept in a paper envelope which may be sealed properly. Such sealed envelope may be marked as original and duplicate. Both the envelope should bear the S.No. of the package(s)/containers from which the sample has been drawn. The duplicate envelope containing the sample will also have a reference of the test memo. The seals should be legible. This envelope which should also be sealed and marked ‘secret-drug sample/Test memo’ to be sent to the chemical laboratory concerned.

**Dispatch of samples for testing: To whom to be sent?**

2.10 The Seizing officers of the Central Government Departments, viz., Customs. Central Excise, Central Bureau of Narcotics, Narcotics Control Bureau, Directorate of Revenue Intelligence etc. should dispatch samples of the seized drugs to one of the Laboratories of the Central Revenues Control Laboratory nearest to their office depending upon the availability of test facilities.

**Preparation of inventory:**

2.11 After sampling, detailed inventory of such packages/containers shall be prepared for being enclosed to the panchanama Original wrappers shall also be preserved for evidentiary purposes.

**SECTION III - RECEIPT OF DRUGS IN GODOWNS AND PROCEDURE CUSTODY OF DRUGS ON GODOWNS - STORAGE PROCEDURE.**

3.1 All drugs invariably be stored in safes and vaults provided with double-locking system. Agencies of the Central and State Governments may specifically designate their godowns for storage purposes. The godowns should be selected keeping in view their security angle, juxtaposition to courts etc.

**Maintenance of Godowns and procedure for depositing drugs**

3.2 Such godowns, as a matter of rule, shall be placed under the over-all supervision and charge of a Ga2etted officer of the respective enforcement agency who shall exercise utmost care, circumspection and personal supervision as far as possible. Each seizing officer shall deposit the drugs fully packed and sealed in the godown within 48 hours of such seizure, with a
Acknowledgement to be obtained

3.3 The seizing officer, after obtaining an acknowledgement for such deposit in the format (Annexure- 1) shall hand over such acknowledgement to the Investigating officer of the case along with the case dossiers for further proceedings.

Action to be taken by Godown in-charge before acceptance of drugs for deposit

3.4 The Officer-in-charge of the godown, before accepting the deposit of drugs shall ensure that the same are properly packed and sealed. He shall also arrange the package/containers (case-wise and lot-wise) for quick retrieval, etc.

Maintenance of Godown register

3.5 The godown-in-charge is required to maintain register wherein entries of receipt should be made as per format at Annexure-II

Inspection by Inspecting Officers

3.6 It shall be incumbent upon the Inspecting officers of the various Departments mentioned at Annexure II to make frequent visits to the godown for ensuring adequate security and safety and for taking measures for timely disposal of drugs. The Inspecting Officers should record their remarks/observations against Col. 15 of the Format at Annexure II.

Prescription of periodical reports and returns

3.7 The Heads of the respective enforcement agencies(both Central and State Governments) may prescribe such periodical reports and returns, as they may deem fit, to monitor the safe receipt, deposit, storage, accounting and disposal of seized drugs.

Pre-trial disposal of drugs

3.8 Since the early disposal of drugs assumes utmost consideration and importance, the enforcement agencies may obtain orders for pre-trial disposal of drugs and other articles (including conveyance, if any) by having recourse to the provisions of subsection (2) of section 52A of the Act.

SECTION IV-ACTION TO BE TAKEN BY POLICE AND OTHER EMPOWERED OFFICERS FOR PRE-TRIAL DISPOSAL

Follow-up action to be taken by Police and Empowered officers

4.0 Where any narcotic drug or psychotropic substance has been seized and forwarded the officer-in-charge of the nearest police station or to the officer empowered under Section 53,
the officer, referred to in paragraph No.3.3 of the order shall prepare an inventory of such narcotic drugs or psychotropic substances containing arch details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs or psychotropic substances or the packing in which they are packed, Country of origin and such other particulars as may be considered relevant to the identity of the aforesaid drugs in any proceedings under the Act and make an application to any Magistrate for the purpose of-

**Application to Magistrate for pre-trial disposal**

(a) Certifying the correctness & of the inventory so prepared: or  
(b) Taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs.  
(c) Allowing to 4mw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.

**Magistrate to allow application**

4.1 Where an application is made under sub-section (2) of section 52A of the Act, the Magistrate shall, as soon as may be, allow the application.

**Courts to treat documents and list of samples certified by Magistrate as’ primary Evidence’**

4.2 The Officer-in-charge of the godown, before accepting the deposit of drugs shall Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs, or narcotic drugs or psychotropic substances and any list of samples drawn under sub-section (2) ibid and certified by the Magistrate, as primary evidence in respect of such offence.

**Grounds to be enumerated in application**

4.3 While preferring an application under section 52 A to any magistrate, emphasis may be laid on ‘expediency of disposal’. The grounds that may be highlighted may pertain to-

(i) risk of pilferage, theft and substitution:  
(ii) constraints of storage and hazardous nature:  
(iii) high potential and vulnerability of abuse:  
(iv) high temptations to traffickers  
(v) Diminution in the value of other articles (including conveyances), due to long storage, etc.

**Filing of charge sheet/plant**

4.4 Since the filing of charge-sheet /compliant is a condition precedent expeditious issue of orders for pre-trial disposal, complaints by the respective enforcement agencies must be filed after completion of investigation with in stipulated period of 90 days of seizure/arrest, on a
priority basis. This requires to meticulously adhered to.

Documents to accompany application

4.5 While moving the application under sub-section (2) of section 52 A of the Act as above, production of all seized articles/drugs, etc. along with the Panchana (in original) and detailed inventory thereof is essential. The inventory shall be complete in all respects and contain such particulars, as may be relevant to establish nexus/identity articles. The chemical analysis report should also be simultaneously filed.

4.6 After the court orders are passed for pretrial disposal of drugs, those drug which have no legitimate value (expecting opium, morphine, codeine and the baine, which are required to be transferred to the Government Opium and Alkaloid Works Undertaking at Ghazipur or Neemuch, as the case may be) are required to be destroyed consistent with the with the guidelines issued under this order and not repugnant to the court’s order.

Application under Customs Act

4.7 As bulk of seizures of drugs relate to illicit import or export and are made at the points of entry or exit or in transit traffic, such drugs are liable to seizure under section 110 of the Customs Act, 1962 and confiscation under sections 111 or 113 ibid. In such cases, it would be appropriate to initiate proceeding under the Customs Act also.

SECTION V - CONSTITUTION & FUNCTIONS OF DRUG DISPOSAL COMMITTEE

Constitution of Drug Disposal Committee

5.1 A three Member Committee of the respective enforcement agencies (both Central and State), known as the “Narcotics Drugs and Psychotropic Substances Disposal Committee” should be constituted to discharge its functions from the Headquarters of the respective Heads of the Department. The Committee will be headed by an officer not below the rank of Deputy Commissioner of Customs and Central Excise with two Members of the rank of Assistant Commissioner of Customs and Central Excise in case of a Customs and Central Excise Commissionerate.

1. Deputy Narcotics Commissioner with two members of the rank of Assistant Narcotics Commissioner in the case of Narcotics Commissioner’s organization
2. Deputy Director of Revenue Intelligence with two members of the rank of Assistant Director.
3. Deputy Director and two other officers, as may be authorized by the Director - General, Narcotics Control Bureau in the case of that organization:
4. Deputy Inspector-General of Police with two members of the rank of Superintendent of Police in respect of State Police in respect of State Police Organizations; and
5. Deputy Commissioner of Excise with two officers of the rank of Assistant Commissioners, in respect of State Excise Organizations.

The Committee will be directly responsible to the Head of Department concerned.
Functions:

5.2 The functioning of the committee will be to

(a) Undertake detailed analysis of drugs pending disposal, and
(b) Advise the respective investigating officers/supervisory officers on the steps to be initiated for expeditious disposal.

Meeting by the committee

5.3 The committee shall meet, as frequently as possible, as may be considered necessary for quick disposal of drugs and at least once in two months. While the Central agencies shall endorse a copy of the minutes of such meetings directly to the Narcotics Control Bureau, the State Enforcement Agencies concerned shall report the same to their respective State Police Headquarters (CID), who, in turn, may keep the Narcotics Control Bureau informed of the progress made from time to time.

Procedure to be followed by the Committee with regard to disposal of Drugs

5.4 The Officers-in-charge of godowns shall prepare a list of all such drugs that have become ripe for disposal to the Chairman of the respective drug disposal committee. After examining that they are fit for disposal and satisfying that they are no longer required for legal proceedings and the approval of the court has been obtained for the purpose, the Members of the respective drug disposal committee shall endorse necessary certificates to this effect. The Committee shall thereafter, physically examine and verify the drug consignments with reference to the seizure report and other documents like chemical analysis, etc., including its weighment and record its findings in each case.

Variation in chemical analysis report - Further action to be taken

5.5 The composite sample shall be drawn for getting the same tested by the Central Revenue Control Laboratory or the State Forensic Science Laboratory/State Drugs Control Laboratory concerned. If no variation, either in purity or quantity is found the same shall be ordered for destruction by the Department. Where any minor variations are noticed, a detailed report may be submitted to the Head of Department of the enforcement agency concerned. In the case of wider variations, the matter shall be immediately reported to the Narcotics Control Bureau indicating the follow-up action taken in this regard. The destructions of drugs in such cases can be done only after obtaining the orders of the Head of the Department concerned.

Power of Committee for destruction of seized drug

5.6 The committee shall be empowered to order destruction of the seized drugs in the following cases:

<table>
<thead>
<tr>
<th>Name of the drug</th>
<th>Quantity (Kgs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Heroin</td>
<td>2</td>
</tr>
</tbody>
</table>
2. Hashish (Charas) 50
3. Hashish Oil 10
4. Ganja 500
5. Cocaine 1
6. Mandrax 150
7. Other drugs Upto value of Rs.5 lacs

**Intimation to Head of Department on destruction**

5.7 The disposal Committee shall intimate the Head of the Department concerned the program of destruction (giving complete details) in advance (at least 15 days before the date of destruction) so that, in case he deems fit, he may either himself conduct surprise checks. The disposal Committee shall inform the respective Heads of Department in respect of every destruction made by it indicating the date of destruction, quantities destroyed, etc.

**Quantities in excess of delegation-Procedure to be followed:**

5.8 In those cases where the quantities exceed the above limits, destruction shall be ordered and take place only under the supervision by the Head of the Department himself along with the Chairman and Members of the Drug Disposal Committee.

**Mode of disposal of drugs**

5.9 All drugs excepting opium, morphine, codeine and the baine shall be destroyed by incineration in such places where adequate facilities and security arrangements exist for the same after ensuring that this may not be a health hazard from the point of view of pollution. Open destruction of such drugs may also be resorted to, wherever considered feasible and necessary, after due publicity to gain the confidence of public, wide publicity, in such cases would be consequential.

**SECTION VI - MISCELLANEOUS**

**Certificate of destruction**

6. A certificate of destruction (in triplicate (Annexure III) containing all the relevant data like godown entry, no., file No., gross and net weight of the drugs seized etc. shall be prepared and duly endorsed by the signature of the Chairman as well as Members of the Committee. This could also serve the purpose of panchanama. The original copy shall be posted in the godown register after making necessary entries to this effect, the duplicate to be retained in the seizure case file and the triplicate copy will be kept by the Disposal Committee.

6.1 The procedure outlined above should be followed by all Central and State enforcement agencies concerned. Other goods (including conveyance), ripe for disposal may be disposed off by public auction or in such manner as is deemed convenient in the best interests of the Government.
ANNEXURE 1
(Para 3.4)

GODOWN RECEIPT

RECEIVED (No.)____________ packages/containers said to contain _______________ (Description of Drugs) sealed with the seal No. ________________ of (Name & Designation) seizing officer and entered into godown register vide entry No. __________

Facsimile of the seal ____________________

Place:

Signature of the Officer Incharge of godown with Full name & official seal

Date:

Time:

ANNEXURE-II
(Para 3.6)

FORMAT OF REGISTER REQUIRED TO BE MAINTAINED BY THE GODOWN IN CHARGE

1. Godown entry S.No.
2. N.D.P.S. Crime No.
3. Description of drugs in the sealed packages/containers and other goods, if any
4. No. of packages/containers (drug wise)
5. Quantity of drug (packages/containers)
6. Particulars of the test memos.
7. Name(s) and address(es) of accused
8. Name with official designation and address of seizing/depositing officer
9. Facsimile of the seal put on the packages/containers by the seizing officer
10. Date and time of deposit
11. Particulars of exit and re-entry for exhibiting to court
12. Date and time of removal for disposal
13. Disposal particulars including destruction or dispatch to Central Government Opium factory
14. Certificate of disposal including price payment particulars, from Government Opium factory, where applicable
15. Remarks of the inspecting Officer(s)


ANNEXURE III (Para 6.0)

IN TRIPlicate

CERTIFICATE OF DESTRUCTION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (PARA 9, 10 OF THE STANDING ORDER NO. /88) - DETAILS OF DRUGS AND SUBSTANCES DESTROYED

<table>
<thead>
<tr>
<th>Particulars of the drugs</th>
<th>Seizure case file ref. No.</th>
<th>Godown Register Entry No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
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<tr>
<td>As recorded in the Godown register</td>
<td>Weight ascertained on Physical verification</td>
<td>(4) (5)</td>
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<td>________________________</td>
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<tr>
<td>Gross</td>
<td>Net</td>
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<td>Weight</td>
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<td>(a)</td>
<td>(b)</td>
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<td>(b)</td>
<td></td>
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</tr>
</tbody>
</table>

Names and addresses of the witnesses | Date/Place/Mode of destruction |
(6) | (7)

It is certified that a Committee consisting of S/Shri _________________ supervised the destruction of narcotic drugs and psychotropic substances particularized above, in the presence _________________ of wing witnesses. Delete whatever is not applicable.

SIGNATURE WITH DATE (CHAIRMAN)  SIGNATURE WITH DATE (MEMBER)  SIGNATURE WITH DATE (MEMBER)
CHAPTER-16

DISPOSAL OF MISCELLANEOUS GOODS

16.1 Consumer Goods

Ministry vide its Circular 11/2102 dated 11.04.2012 had issued following clarification for disposal of confiscated/ seized goods by the department:

(i) **Sale through Army canteen/CSD:** It is reiterated that the requirements of Army authorities/Military Canteens/Canteen Stores Department (CSD) for purchase of confiscated/seized goods may be allowed since they provide consumer goods of high quality to the troops wherever they are situated. The earlier instructions dated 10.2.64 issued in this regard, provide that confiscated goods, as much as can conveniently be made available, after meeting the earlier demands of Army authorities/Military Canteens/CSD and/or the consumer's cooperative stores, are to be offered to the Central Government Employees Consumer Cooperative Society Ltd.

(ii) **Sale through NCCF/KB/Consumer Cooperatives:** Any lot of confiscated/seized consumer goods of value not exceeding Rs. Five lakhs which are ripe for disposal shall be offered to NCCF/KB/Other Central Government Employees Consumer Cooperative Society/Multi-State Consumer Cooperative Societies/ State Consumer Cooperatives, subject to prescribed conditions. Most of these conditions had been prescribed in various instructions of the Board issued earlier and have been reiterated here:

   (a) They should be functional for at least 10 preceding years and should submit Income-Tax returns and VAT/ST returns showing their activities in sale of goods to the consumers and that appropriate taxes have been duly paid and relevant laws/rules and regulations are complied with.

   (b) Only those Co-operative Societies or National/State level Cooperative Federations that are duly verified and certified as genuine, every year by an officer not below the rank of AC/DC, and those that have been duly registered under Multi-State Cooperative Societies Act, 2002 or concerned State Cooperatives Act, should be permitted to purchase the confiscated/seized goods. The genuineness of co-operative societies/federation may also be verified through concerned Commissionerates or other field formations of this department, wherever required.

   (c) They should be obliged to sell such seized/confiscated goods directly to bonafide consumers.

   (d) No pick and choose of items would be allowed.

   (e) Seized/confiscated consumer goods shall be offered on first come first served basis.

   (f) Any lot of confiscated/seized consumer goods of value exceeding Rs. Five lakhs shall not be sold directly to the aforesaid cooperative societies/federation and shall be sold by *E-auction or auction-cum-tender basis.*
(g) Complete accounts may be called for scrutiny by the department as and when necessary, to ensure that the seized/confiscated goods, which are sensitive to smuggling are not misused; or to verify that their disposal has not been made to a single party/individual; or to ensure that sale has not been made to any persons where in purchase vouchers etc. had been misused by unscrupulous elements in legitimizing smuggling.

(iii) **Sale through e-auction/auction cum tender:** In respect of confiscated/seized goods of all types and confiscated/seized consumer goods exceeding value of Rs. Five lakhs in single lot, may be disposed through *e-auction or auction-cum-tender*, since it offers enhanced transparency and accountability for quick disposal of goods. In *such e-auction or auction-cum-tender process*, all persons including NCCF, KB, other CG employee's consumer cooperatives, Multi-State/State cooperatives or National/State level Cooperative Federations can also participate. If the NCCF/KB/other Consumer Cooperative societies are found to be successful bidder, then the goods may be sold to them with the eligible rebate/discount as prescribed, subject to fulfillment of other conditions of *e-auction/auction-cum-tender*. Instructions for use of E-auction or auction-cum-tender have already been prescribed vide Board's Circular No.50/2005-Customs dated 1.12.2005 and No.12/2006-Customs dated 20.2.2006.

CVC has been emphasizing on e-commerce/e-procurement/e-sales for enhancing transparency, giving equal opportunities to all. Accordingly, CVC vide Office Order No.46/9/03 dated 11th September 2003 (No.98/ORD/1) has stated that the departments/organizations may themselves decide on e-procurement/reverse auction for purchases or sales and work out the detailed procedure in this regard. It has, however, to be ensured that the entire process is conducted in a transparent and fair manner.

Board had earlier appointed a Task Force to examine the various issues arising out of the audit review, and to suggest effective measures to put in place a permanent mechanism for expeditious disposal of cargo including confiscated/seized goods. Based on the recommendations of a Task Force, Board had streamlined the procedure for disposal of goods which *inter-alia* include its approval for setting up of a centralized *e-auction* portal by engaging the services of M/s. MSTC Ltd. Mumbai, a PSU under the Ministry of Steel. This *e-auction procedure* had been in force for quite some time and it had facilitated expeditious disposal of goods by the field formations. Detailed instructions and guidelines on this procedure are already available in MSTC website, which specifically hosts *e-auctions* for Customs and Central Excise department regularly. It is hereby reiterated that *E-auction or auction-cum-tender* prescribmed vide Board’s Circular No.50/2005-Customs dated 1.12.2005 and No.12/2006-Customs dated 20.2.2006 may continue to be utilised in respect of confiscated/seized goods. *(Issued vide F. No. 711/01/2006-Cus.(AS)/Pt.)*

**16.2 Foodstuffs seized under The Prevention of Food Adulteration Act, 1954**

16.2.1 In respect of the following articles of food, import is prohibited under Section 5 of The Prevention of Food Adulteration Act, 1954.

(i) any adulterated food,

(ii) any misbranded food,
(iii) any article of food for the import of which a license is prescribed, except in accordance with the conditions of the license, and;
(iv) any article of food in contravention of any other provision of this Act or of any rule made there under.

16.2.2 The following procedure may be followed for disposal of goods seized under The Prevention of Food Adulteration Act, 1954:

(a) In respect of small consignments comprising of goods unfit for consumption, their goods should be destroyed after confiscation.
(b) In case of other consignments, the detention/seizure may be reported to the Director, Central Food Laboratory for his opinion whether the consignment is unfit for human consumption. If the Director is of the opinion that the consignment is unfit for human consumption, the same should be confiscated and destroyed. If the consignment is reported to be misbranded, the party may be permitted to pay the fine in lieu of confiscation of the goods and clear them after confiscation after suitably re-branding the goods.
(c) In no case should articles, the import of which is prohibited under Section 5 of the PFA Act, be auctioned.

16.3 Liquor

16.3.1 Liquor may be sold to the Canteen Stores Department (India) or to defence establishments for sale to defence personnel at price equal to CIF plus duty less 10% as discount. For sale to ITDC for resale in the duty free shops or for due export subject to making entry in the stock registers of these shops, no duty may be collected. ITDC is allowed to pay 50% of the cost of liquor at the time of delivery and balance may be paid by them within a period of 6 months.

16.3.2 Liquor may also be offered for sale to duty free shops run by private organizations at price equal to CIF less 10% discount. Liquor may also be sold without discount to hotels, restaurants and clubs having the necessary liquor licenses directly, subject to compliance with requirement of State Excise Department

16.3.3 If liquor cannot be sold as above, it may be sold to public as retail sale after following the procedures as per State Excise Law. Only one outlet in a state may be designated by the Chief Commissioner for the purpose. However, not more than two bottles of liquor / wine or one crate of beer may be sold per person

[Based on Circular F.No.711/20/83LC(AS), dated 10.8.1983]

16.4 Nylon Fishing Nets

Nylon fishing nets ripe for disposal may first be offered at prices, fixed by Commissioner to National Federation of Fishermen’s Cooperatives Limited, or to the Fishermen’s Cooperatives approved by the concerned State Governments for sale to bonafide fishermen. In case, however, these goods are not lifted within a reasonable time, say three months from the date of offer, then the goods should be disposed of by public auction.
16.5 Hazardous Waste

16.5.1 There are two categories of hazardous wastes:

I. banned and;
II. regulated

16.5.2 The disposal of these two categories of hazardous waste shall be carried out under the supervision of the Monitoring Committee constituted vide order No.23-16/96-HSMD-Vol.III dated 20.11.2003 of Ministry of Environment and Forests, (HSM Division) on Hazardous Waste Management. Names and constitution of the Monitoring Committee is given in the said letter. Ministry of Environment and Forests may be contacted on the latest constitution of Monitoring Committee. The Committee has been empowered to oversee the implementation of the Hon’ble Supreme Court’s orders on hazardous waste management in the WP No. 657 of 1995. Accordingly:

(a) In respect of banned category, they should be either re-exported, if permissible, or destroyed at the risk, cost and the consequence of the importer, and;

(b) Regarding those that are regulated and are permitted for recycling and reprocessing within the permissible parameters by specified authorized persons having the requisite facilities vide the rules as amended may be released/ disposed off or auctioned as per rules to the registered recyclers/ reprocessors. Also before allowing clearance for recycling and domestic use, clearances should be obtained from the Monitoring Committee on Hazardous Waste Management.

Hazardous Waste Rules and relevant schedules can be accessed at [http://enfor.nic.in/](http://enfor.nic.in/) under the sub-heading ‘Divisions’ under which the Hazardous Waste Substances Management (HSM) Division is listed.

[Based on Circular No. 31/2004-Cus, dated 26.4.2004]

16.6 Trade Goods other than Hazardous chemicals/waste

Trade goods like chemicals, industrial raw materials, machinery parts, motor vehicle parts, etc., other than hazardous chemicals may be disposed of by public auction / e-auction cum tender. Restrictions regarding requirements of licences, if any, must be complied. Clearance from Health Officer should be obtained in respect of food articles. Chemicals, drugs, foods and food articles which are time expired should be destroyed under Customs supervision after getting the destruction orders from the concerned officer.

16.7 Agricultural/Forest Products

(i) Confiscated Cloves and other spices

Cloves and other spices will be disposed of as follows:

a) Seized/confiscated cloves and other spices, ripe for disposal should first be offered to the National Consumer’s Co-operative Federation at the ruling market price i.e. the price quoted in the Mumbai or Delhi or local Economic Times or as fixed by the Valuation Committee based on these in other areas
less a discount of 14.5%.

b) In case National Consumers’ Cooperative Federation fails to lift the goods within a period of one month from the date of offer then they should be sold by public auction open to all.

(ii) **Disposal of confiscated Plants & seeds**

Abandoned/ confiscated/ unclaimed seeds and plants may be handed over to National Bureau of Plants Genetic Resources, New Delhi instead of Indian Council of Agricultural Research free of charge according to the procedure prescribed therein.

(iii) **Red sanders also known as Red Sandal Wood, Ruby Wood, sanders Wood**

Red Sanders and Sandal Wood are to be disposed by *auction / tender* through the State Forest Department. For this purpose the Custodian, after getting disposal orders from the seizing unit, has to coordinate with the District Forest Department authorities and then transport them to the designated godown of the Forest Department under escort by the Preventive Officers. Proper acknowledgement shall be obtained for the receipt of the Red Sanders/Sandalwood by the State Forest Department authorities. All these need to be entered in the Seized Goods Register. Further disposal by the Forest Authorities shall be closely monitored.

[Based on circular F. No. 10807/3/DLA, dated 15.11.2004]

16.8 **Live Stock:**

The live stock is mentioned in category I goods and thus should be disposed off accordingly. Pending disposal the same should be maintained departmentally. Where no such facility is available with the department, the livestock may be handed over to the village headman for proper maintenance before disposal.

16.9 **Wild Life**

(a) All wild life trophies, animal parts, products etc. where no case is pending in a Court of law may be offered to the Regional Wildlife authorities situated at Delhi, Mumbai, Chennai and Kolkata or the Chief Wildlife Wardens of the State for the purpose of using the same as specimens for Govt. organizations, public museums for education and awareness purpose or for exchange purpose with other countries who are signatories to CITES (Convention of International Trade in Endangered Species) on Wild Fauna and Flora after obtaining permission from the jurisdictional Chief Commissioner.

(b) A few specimen/samples of confiscated wild life trophies can be kept to impart training to officers in the Commissionerate. The Commissionerate/ Directorate may also enquire from Regional Training Institute/NACEN and from the proposed National Customs Museum, at Goa if they would be interested in keeping a few samples. Any such specimen retained has to be informed to the concerned Chief Wildlife Warden and if necessary proper approval taken.
(c) Snake skins may be first offered to M/s Bharat Leather Corporation for manufacture of products for export. If they do not take then they should be handed over to Wild life authorities for destruction.

(d) For wild life trophies, animal parts, products including skins, etc., which are on the verge of rotting the same should be destroyed by burning after due intimation and permission of wild life authorities and in their presence and subject to compliance of other provisions relating to disposal of confiscated goods.

16.10 Antiquities

(i) The Ministry of Scientific Research & Cultural Affairs have set up Expert Committees at each of the 4 Ports, namely, Delhi, Kolkata, Mumbai and Chennai with a view to giving suitable expert opinion whether art objects are antiquities or not under the Antiquities (Export) Control Act, 1947. All doubtful cases may be referred to the Committee for their opinion. Only the cases of articles, which are considered by the Committee to be antiquities under the Act or where the Committee considers that the article is not an antiquity but it is not free from doubt need be referred to the Director General of Archaeology for a final opinion in accordance with the Act.

(ii) All confiscated antiquities when they become ripe for disposal should be handed over to the Archaeological Survey of India free of charge. It will be the responsibility of the Archaeological Survey of India to dispose of such antiquities by way of gifts to different Museums or Institutions, or if necessary, by other means.

(iii) For the purpose of handing over such confiscated antiquities to the Archaeological Survey of India, the Commissioner will contact the local/regional Superintending Archaeologists, Archaeological Survey of India, or Deputy Superintending Archaeologists (Customs) and provide them with a list of confiscated antiquities ripe for disposal. The Superintending Archaeologists will make their own arrangements for taking over such antiquities. They will also give a proper receipt to the Custom House indicating the details of antiquities received.

(iv) The fair price fixed for the confiscated antiquities by the Expert Committee referred to at (i) above may be taken as the notional sale proceeds for the purpose of payment of rewards to informers/officers.

(v) With a view to ensuring specialized care of seized antiquities in exceptional circumstances, specially where a seized antiquity is of national importance and the Archaeological Survey of India or their local/regional Superintending Archaeologist makes a request in writing for delivery of such seized antiquity, the Commissioner may also hand over such seized antiquity to the local/regional Superintending Archaeologist or the Archaeological Survey of India. In the case of such seized antiquities handed over to the Archaeological Survey of India, it will be clearly understood that they will not be available for open display either by the Archaeological Survey of India or such of the Museums or Institutions to whom they entrust the custody of such seized antiquities until they have become due for formal transfer after becoming ripe for disposal after confiscation. During the period the seized antiquity is in the custody of the Archaeological Survey of India before final transfer, it will be the Archaeological
Survey of India’s responsibility to look after them with due care to prevent any deterioration or damage or loss. The Archaeological Survey of India will also be responsible for releasing such seized antiquities in their custody to the Customs authorities for inspection or production before the adjudicating authorities or the Courts, as may be required until the final and formal transfer of the antiquities after confiscation etc., is affected. It will be the responsibility of the Archaeological Survey of India to keep, as far as possible, such antiquities at Museums/Institutions situated in the same town in which the office of the adjudicating officer is located so that those are easily available for adjudication, etc.

(vi) If after adjudication in any particular case it is decided by the adjudicating authority or reversed in appeal/revision or as a result of a court order that the seized antiquity is not liable to confiscation, on the request of the Customs authorities, the Archaeological Survey of India will return the antiquity to them.

16.11 Valueless Coins

It has been decided to centralized disposal of valueless coins with Commissioner of Customs (Prev.), Mumbai. All the field formations are required to send coins seized/confiscated under Customs Act, 1962 which are otherwise valueless to CC(P) Mumbai for further disposal at his end. Following procedure is being laid down for disposal of such coins by Commissioner of Customs (Prev.), Mumbai:

a) Valueless coins shall be examined by a Committee consisting of officers from Archaeological Survey of India, CC (P) Mumbai, Bullion Trade and Expert from RBI.

b) Coins which are antiquities under Antiquities and Art Treasure Act, 1972 shall be segregated.

c) Such coins which are antiquities shall be handed over to Archeological Survey of India. The department shall write off book value of the same as per financial Rules applicable.

d) Remaining coins which are antiquities can be disposed by way of auction at Mumbai after reserve price for the same is fixed by the Committee as at Para (1) above.

16.12 Foreign Feature films

a) All seized/confiscated foreign feature films should be sold to the National Film Development Corporation at prices fixed by the Customs & Central Excise Commissionerates.

b) If they cannot be sold as in (a) above then these may be transferred to National Film Archives India, Pune, free of cost in public interest subject to the condition that these films will be used strictly for, preservation and educational use within the Archives and will not be taken out of the record for any other commercial or non-commercial use. Further the archives will have to produce censor certificates in respect of the films acquired by them within a specified period.

c) May be destroyed if the volume is large and both the organizations refuse to accept.
16.13 Nuclear Materials/Bombs and allied components

These may be stored and disposed off in consultation with Department of Atomic Energy through DGRI by the concerned Commissioners.

16.14 Missiles/Weapons of Mass Destruction

These may be stored and disposed off in consultation with Ministry of Defence through DGRI by the concerned Commissioners.

16.15 Cigarettes of Foreign Origin

Seized/confiscated Cigarettes of foreign origin vis-à-vis provision of the Cigarettes and other Tobacco Products 'Packing and Labelling' Rules,2008

In order to obviate the difficulties being faced in the disposal of confiscated cigarettes of foreign origin and to ensure compliance with the provisions of the Rule 3(1) (a) “the cigarettes and other tobacco product (packaging and labeling) Rules, 2008” it has been decided that a printed sticker carrying the specified pictorial health warning that tobacco causes cancer and confirming to the requirement of the above said Rule shall be affixed on each retail cigarette packet before its disposal. The actual cost of printing/ affixing stickers may be taken up with IFU for sanction in due course. Where disposal of confiscated cigarettes of foreign origin is made in bulk to NCCF etc. they shall be directed to affix the stickers before removal of the cigarettes for sale.

It may also be ensured that the confiscated cigarettes before disposal are certified to be fit for smoking by Port Health Officer or any other appropriate authority by visual examination and, if need be, by tests. Cigarettes which are unfit for smoking maybe destroyed in the presence of Deputy Commissioner in Charge of Disposal.

[F.No.711/07/2003-Cus(AS) dated 10.2.2010]

Precaution may also be taken to comply with the statutory provisions of the Cigarettes and other Tobacco Products Act, 2003, Cigarettes and other Tobacco products (Prohibition of Advertisement and Regulation of Trade &Commerce, Production Supply and Distribution) Act, 2003, the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2009 and Standard Weight& Measures Act.

(Based on Hon'ble High Court, Bombay observation in PIL No.62 of 2008 dated 17.03.2010)

16.16 Fertilizers

Seized/Confiscated fertilizers may be sold to any public undertaking authorized to import the same by the Ministry of Fertilizers & Chemicals at the price fixed by the said Ministry currently subject to such discount also fixed by the Ministry.

16.17 Petroleum products

Seized/Confiscated petroleum products such as HSD, Motor spirit, etc being canalized products may be sold to public undertaking having a refinery such as BPCL, HPCL, IOC, etc in
accordance to the Ministry of Petroleum & Natural gas instruction No.P-21027/29/2001 dated 21.12.2001 at Sr.No. (4) which stipulates that in the absence of any specific commercial understanding, the price of the off spec product inclusive all duties and taxes payable by the refinery would be the refinery gate price (RGP) of furnace oil (180 centi stokes) applicable at the time of receipt of product at the refinery

16.18 Cylinders filled with refrigerant gases

In accordance with the provisions laid down under the Gas Cylinder Rules, 1981, Department of Explosives had earlier issued Circular No. G.3(17)15/98/I, dated 24-8-2001 and listed four firms to which such cylinders could be disposed of. Accordingly these four firms were listed, vide Board's instruction F.No.711/79/2000-Cus (AS), dated 26th December, 2001. The Chief Controller of Explosives, Nagpur, vide letter no. G-3(17)/15/98/I, dated 11-5-2009 has now forwarded a list of four additional firms. The firms have been advised by the Chief Controller of Explosives to extend necessary cooperation and guidance for disposal of refrigerant cylinders to the Customs authorities in the interest of public safety whenever any reference in this regard is received by them. The following is the complete list of firms along with addresses:

i. M/s SRF Ltd., A-16, ArunaAsaf Ali Marg, Qutab Institutional Area, New Delhi
ii. M/s ChemplastSanmar Limited, 8, Cathedral Road, Chennai-600 086.
iii. M/s Gujarat Fluorochemicals Limited, A-6, Connaught Place, New Delhi.
iv. M/s Navin Fluorine Industries Ltd., 7 th Floor, Mafatlal Centre, Nariman Point, Mumbai-86.
v. M/s BOC India Ltd., T-25, MIDC Industrial Area Taloja-410208, Navi Mumbai.
vi. M/s Praxair India Pvt. Ltd., 8, Ulsoor Road Praxair House, Bangalore-560042.
vii. M/s Stallion Enterprises, No.4, Orbit Industrial Estate, Chincholi Bunder Road Extn., Off Maland Link Road, Malad (W) Mumbai – 400064.

Accordingly, seized or confiscated cylinders filled with refrigerant gases viz., CFC-11, CFC-12, HCFC-22 and other ozone depleting substances as given in Schedule 1 of the Ozone Depleting Substances (Control & Regulations) Rules, 2000, may be disposed of to one of the above mentioned eight approved refrigerant filling plants, provided they are specifically permitted in writing to decant such gases in approved cylinders by the Chief Controller of Explosives. The intimation to this effect may be given to the Director (Ozone), Ministry of Environment & Forest, who will ensure that the corresponding quantity is accordingly debited from the prescribed quota of the concerned manufacturer.

[Circular No20/2009-Cus, Dated: June 19, 2009 vide F. No. 711/44/2007-Cus(AS)]

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CHAPTER 17

MONTHLY DISPOSAL REPORTS

17.1 The Board monitors the disposal of goods by all 34 Chief Commissioner Zones on monthly basis. All 34 Chief Commissioner zones are required to send their monthly disposal figures in four prescribed profomas i.e. Annexure III, IIIA, IIIB and IIIC only of their Monthly Technical Report- Customs to Directorate of Logistics, Customs & Excise, New Delhi.

17.2 Directorate of Logistics is entrusted with the responsibility of compiling monthly disposal figures and prepare a monthly disposal statement and submits the same to the Ministry. Accordingly, on the basis of such monthly reports an annual bulletin of indicators of efficiency of disposal for the entire year for all field formations is also prepared and submitted to the Ministry.

17.2 All Chief Commissioner zones must ensure that the requisite monthly disposal report for the month, in prescribed formats should reach Directorate of logistics by 15th day of the following month. The prescribed 4 profomas i.e. Annexure III, IIIA, IIIB and IIIC are given as Annexures to this chapter for the convenience of all concerned.
ANNEXURE - III

Month: ..............................

PENDENCY OF DISPOSAL OF SEIZED / CONFISCATED / RIPE FOR DISPOSAL OF GOODS

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<tr>
<th>ZONE</th>
<th>COMMODITIES</th>
<th>OPENING BALANCE</th>
<th>Receipt during the month</th>
<th>DISPOSAL DURING THE MONTH</th>
<th>CLOSING BALANCE</th>
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<td>Quantity</td>
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<td>Gold Bullion Form (in Gms)</td>
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<td>Ripe for disposal</td>
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<td><strong>Gold other Form in gms.</strong></td>
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<td>Ripe for disposal</td>
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<td>Silver Bullion Form in gms.</td>
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<td>Ripe for disposal</td>
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<td>Ripe for disposal</td>
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<td>Diamonds &amp; Prec. Stones in Nos./gms.</td>
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<td><strong>Currency (in Value)</strong></td>
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<td><strong>Arms &amp; Ammunition (in Nos.)</strong></td>
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<td></td>
<td>Before ripe</td>
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<tr>
<td></td>
<td>Ripe for disposal</td>
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<td></td>
<td><strong>Explosives kgs</strong></td>
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<tr>
<td></td>
<td>Before confiscation</td>
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<tr>
<td></td>
<td>Before ripe</td>
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<tr>
<td></td>
<td>Ripe for disposal</td>
<td></td>
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<tr>
<td></td>
<td><strong>All Other goods (as per nature)</strong></td>
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<tr>
<td></td>
<td>Before confiscation</td>
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<tr>
<td></td>
<td>Before ripe</td>
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<tr>
<td></td>
<td>Ripe for disposal</td>
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<tr>
<td></td>
<td><strong>Name of the Zone</strong></td>
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</table>
# ANNEXURE IIIA

## COMPILATION WORK SHEET FOR DISPOSAL OF REVENUE YIELDING GOODS FOR THE MONTH OF ...........

'Value Rs.in Crores.)

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>NAME OF THE CHIEF COMM'ITE</th>
<th>COMMODITY</th>
<th>SEIZED (NOT RIPE FOR DISPOSAL)</th>
<th>CONFISCATED (NOT RIPE FOR DISPOSAL)</th>
<th>RIPE FOR DISPOSAL (BOTH SEIZED/CONFISCATED)</th>
<th>Actual sale proceeds during the month</th>
<th>Actual sale proceeds upto the month</th>
<th>Disposal done through e-auction out of total disposal shown in Col.13</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Gold &amp; Silver</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Precious &amp; S.P.Stones</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other Goods</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>1</td>
<td>Zone</td>
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<td></td>
<td>TOTAL</td>
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<tr>
<td>Sl. No.</td>
<td>Chief Comm'te</td>
<td>COMMODITY</td>
<td>SEIZED</td>
<td>CONFISCATED</td>
<td>RIPE FOR DISPOSAL</td>
<td></td>
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<td>( NOT RIPE FOR DISPOSAL</td>
<td>( NOT RIPE FOR DISPOSAL</td>
<td>( BOTH SEIZED/ CONFISCATED</td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Opening Balance</td>
<td>Receipt</td>
<td>Disposal</td>
<td>Closing Balance</td>
<td>Opening Balance</td>
<td>Receipt</td>
</tr>
<tr>
<td>Zone</td>
<td>1. Canabis (Ganja, Hashish etc.) in kgs.</td>
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<td></td>
<td></td>
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<tr>
<td></td>
<td>2. Heroin &amp; other opiates in kgs.</td>
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<td></td>
<td>3. Cocaine in kgs.</td>
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<td></td>
<td>4. Psychotropic sub. Mandrax etc. in kgs.</td>
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<td></td>
<td><strong>TOTAL</strong></td>
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</tr>
<tr>
<td></td>
<td>5. Other Goods e.g. Fake Currency (Cases)</td>
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<td></td>
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</tbody>
</table>
## ANNEXURE IIIC

### PENDENCY OF UNCLEARED / UNCLAIMED GOODS

**Name of the Zone:**

**MONTH:** ...............  
(Value Rs. in Crores)

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Commodity Groups</th>
<th>Opening Balance</th>
<th>Receipt</th>
<th>Disposal</th>
<th>Destruction/ return to party</th>
<th>Closing Balance</th>
<th>Actual value realised in disposal</th>
<th>Revenue/ duty realised</th>
<th>Revenue/ duty realised</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>No. of Pkg</td>
<td>Value</td>
<td>No. of Pkg</td>
<td>Value</td>
<td>No. of Pkg</td>
<td>Value</td>
<td>Through E-Auction</td>
<td>Total Out of disposal value at 13(a)</td>
</tr>
<tr>
<td>1</td>
<td>Food &amp; Processed Food</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
<td>13 (a)</td>
</tr>
<tr>
<td>2</td>
<td>Chemicals, Fertilizers &amp; Pharmaceuticals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Through E-Auction</td>
<td>13 (a)</td>
</tr>
<tr>
<td>3</td>
<td>Rubber and Plastic</td>
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<td></td>
<td></td>
<td></td>
<td>Through E-Auction</td>
<td>13 (a)</td>
</tr>
<tr>
<td>4</td>
<td>Wood Timber and Forest Products</td>
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<td></td>
<td>Through E-Auction</td>
<td>13 (a)</td>
</tr>
<tr>
<td>5</td>
<td>Yarn and Textiles</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
</tr>
<tr>
<td>6</td>
<td>Precious Stones / Metals</td>
<td></td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
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<tr>
<td>7</td>
<td>Base Metals</td>
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<td></td>
<td>Through E-Auction</td>
<td>13 (a)</td>
</tr>
<tr>
<td>8</td>
<td>Waste and Scrap</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
</tr>
<tr>
<td>9</td>
<td>Machinery</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
</tr>
<tr>
<td>10</td>
<td>Electronic / Communication goods</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
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<td>Vehicles and vessels</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
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<td><strong>TOTAL</strong></td>
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<td>Through E-Auction</td>
<td>13 (a)</td>
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</tbody>
</table>