



THE CUSTOMS ACT 1962

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Customs is an authority or agency in a country responsible for collecting tariffs and for controlling the flow of goods, including animals, transports, personal effects, and hazardous items, into and out of a country. Traditionally, customs has been considered as the fiscal subject that charges customs duties tariffs, and other taxes on import and export. In recent decades, the views on the functions of customs have considerably expanded and now cover three basic issues taxation, security, and trade facilitation.

¹Each country has its laws and regulations for importing and exporting goods into and out of a country, enforced by their respective customs authorities; the import/export of some goods may be restricted or forbidden entirely. A wide range of penalties is faced by those who break these laws.

Privatization of customs

Customs is part of one of the three basic functions of a government, namely:

- 1). Administration;
- 2). Maintenance of law, order, and justice; and
- 3). Collection of revenue.

Many countries have partly privatized their customs. This has occurred by way of contracting pre-shipment inspection agencies, which examine the cargo and verify the declared value before importation. The country's customs are obliged to accept the agency's report to assess duties and taxes at the port of entry. Privatization of customs has been viewed as a fatal remedy. Import and export data are issued based on national laws (Transparency Laws). While engaging a pre-shipment inspection agency may appear justified in a country with an inexperienced or inadequate customs establishment, the measure cannot plug the loophole and protect revenue. It has been found that evasion of customs duty escalated when pre-shipment agencies took over.

¹ Customs - Wikipedia., <https://en.wikipedia.org/wiki/Customs> (last visited on Dec 18,2021).

Customs Duty in India

Customs duty in India is defined under the Customs Act, 1962 and enables the government to levy duty on exports and imports, prohibit export and import of goods, procedures for importing/exporting and offenses, penalties, etc. All matters related to customs duty fall under the Central Board of Excise & Customs (CBEC). The CBEC, in turn, is a division of the Department of Revenue of the Ministry of Finance. CBEC formulates policies that concern the collection or levying of customs duties, customs duty evasion, smuggling prevention, and administrative decisions related to customs formations.

CBEC has various divisions that take care of the fieldwork including Commissionerate of Customs, Customs, Customs (preventive and Central Excise Zones, Central Revenues Control Laboratory and Directorates, etc. CBEC also oversees proper tax administration for foreign and inland travel.

Customs Duty Update in Union Budget 2021

Finance Minister Nirmala Sitharaman has recently announced the Union Budget 2021 on 1 February 2021. In the latest budget speech, the finance minister has announced a few changes concerning customs duty. The following proposals have been made:

- The elimination of outdated exemptions through the rationalization of the structure of customs duty.
- Decrease in the customs duty charged on precious metals like gold and silver. The rate has been cut down to 7.5% from the current rate of 12.5% for both metals.

CUSTOMS DUTY

Customs duty refers to the tax imposed on goods when they are transported across international borders. In simple terms, it is the tax that is levied on the import and export of goods. The government uses this duty to raise its revenues, safeguard domestic industries, and regulate the movement of goods. The rate of Customs duty varies depending on where the goods were made and what they were made of. Customs duty in India is defined under the Customs Act, 1962, and all matters related to its fall under the Central Board of Excise & Customs (CBEC).

- The Budget estimate of the government's customs revenue for the year 2020-2021 is **1,38,000cr**
- The revised estimates of customs for the 2019-2020 Budget came at **Rs 1,25,000 cr**
- while the actuals for the 2018-19 Budget stood at **Rs 1,17,812.85 cr**.

Types of custom duty

- Basic Customs Duty (BCD)
- Countervailing Duty (CVD)
- Additional Customs Duty or Special CVD
- Protective Duty,
- Anti-dumping Duty

➤ **Basic Customs Duty:**

Basic customs duty is applicable on imported items that fall under the ambit of Section 12 of the Customs Act, 1962. These duties are levied at the rates prescribed in the First Schedule to Customs Tariff Act, 1975, under the terms specified in Section 2 of the act. The levied rates may be standard or preferential as per the country of import.

➤ **Additional Customs Duty (Countervailing Duty (CVD):**

This duty is levied on imported items under Section 3 of the Customs Tariff Act, 1975. It is equal to the Central Excise Duty that is levied on similar goods produced within India. This duty is calculated on the aggregate value of goods including BDC and landing charges.

➤ **Protective Duty:**

Protective duty may be imposed to shield the domestic industry against imports at a rate recommended by the Tariff Commissioner.

➤ **Education Cess:**

This duty is levied at 2% and higher education cess at another 1% of the aggregate of customs duties.

➤ **Anti-dumping Duty:**

Anti-dumping duty may be imposed if the good being imported is at below fair market price, and is limited to the difference between export and normal price (dumping margin).

➤ **Safeguard Duty:**

Safeguard duty is levied if the government feels that a sudden increase in exports can potentially damage the domestic industry.

Tariff structure applicable to electronics hardware manufacturing Sector

- ²Basic Customs Duty (BCD) on 217 tariff lines covered under the Information Technology Agreement (ITA-1) of WTO is 0%.
- Most of the inputs required in the manufacture of ITA-1 goods are exempted from BCD subject to actual user conditions.
- Peak rate of BCD for most of the non-ITA electronic goods is 10% except goods inter-alia including Cellular Mobile Handsets, Set Top Box for Television, Colour Television, Microwave Ovens, Digital Video Recorder (DVR)/ Network Video Recorder (NVR), CCTV Camera/ IP Camera, Light Emitting Diode (LED) Lamps, Smart Meters on which BCD is 15% / 20%.
- BCD on specified raw materials/ inputs used for the manufacture of electronic components is 0%.
- BCD on specified capital goods used for the manufacture of electronic goods is 0%.
- The Goods and Services Tax (GST) rates for most of the goods and services are 5%, 12%, 18%, and 28%. Electronic goods are mostly at 18% GST.

Custom Duty Payment Online

- 1). Custom duty can be paid online by following the steps given below:
- 2). Access the ICEGATE e- payment portal.
- 3). Enter import/export code or login credentials supplied by ICEGATE.
- 4). Click on e-payment.
- 5). You can now see all the unpaid challans in your name.
- 6). Select the challan you want to pay and select a bank payment method.
- 7). You will be redirected to the particular bank's payment gateway.
- 8). Make the payment.
- 9). You will be redirected to the ICEGATE portal, click print to save payment copy.

How Customs Duty is calculated

All goods imported into India are subject to duty. Several factors go into calculating customs duty, including Basic Customs Duty (BCD)

This duty is levied either as

- 1) A specific rate based on the unit of the item (weight, number, etc.), or more commonly,

² What is Customs Duty, Customs Duty Definition, Customs ..., <https://www.business-standard.com/about/what-is-customs-duty> (last visited on Dec. 19,2021).

2) Ad-valorem, based on the assessable value of the item.

In some cases, a combination of the two is used.

- 1). Social Welfare Surcharge
- 2). Social Welfare Surcharge introduced in the Budget 2018 is levied in place of education Cess.

The rate is 10% of the value of goods.

Integrated Goods and Services Tax (IGST)

GST is applicable on all imports into India in the form of a levy of IGST.

1). **IGST is levied on**

The value of imported goods

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Any customs duty chargeable on the goods.

Value of imported Goods

(+)

Basic Customs Duty

(+)

Social Welfare Surcharge

2). **Value on which IGST is calculated**

Value (x) IGST Rate = IGST Payable

3). **GST Compensation Cess**

GST Compensation Cess is a levy that will be applicable in addition to the regular GST taxes.

GST Cess is levied on the supply of certain notified goods

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mostly belonging to the luxury and demerit category.

Anti-dumping Duty

This is levied on specified goods imported from specified countries, including the United States, to protect the indigenous industry from injury.

Safeguard Duty

The Indian government may by notification impose safeguard duty on articles after concluding that increased imported quantities and under current conditions will cause or threaten to cause serious injury to a domestic industry.

Customs Handling Fee

The Indian government assesses a 1% customs handling fee on all imports in addition to the applied customs duty.

Total Duty, for most goods, total duty payable = BCD + Customs Handling Fee.

³Role of Customs

There is very little manufacturing activity in Dominica, and as a result, the economy is heavily dependent on Taxes, Agriculture, and Tourism.

The Commonwealth of Dominica's "Customs and Excise Division" is one of the Government's oldest departments

Trade Administration and Trade Facilitation is also a key role for the CED, ensuring a level playing field for business by ensuring that duties and taxes are paid as required. Finally but perhaps most importantly, the CED protects Dominica and its citizens from the effects of smuggling and contraband and is a partner in the fight against crime, money laundering, and terrorism.

The goals of the CED includes, among others:

- 1). Collection of revenue
- 2). Protection of revenue
- 3). Facilitation of Trade
- 4). Safeguarding society through border control
- 5). Provision of import and export data
- 6). Sustenance of an efficient Risk Management System
- 7). Conducting Post Audits

Carrying out agency functions on behalf of other government departments and agencies to include detention of agricultural products, firearms and ammunition, wildlife, pornographic materials, and other prohibitions

³ The Role of Customs Broker in Global Trade World., <https://www.morethanshipping.com/the-role-of-customs-broker-in-global-trade-world/>, (last visited on 18th Dec,2021)

and restrictions. Playing a pivotal role in combating the illicit drug trade and related criminal activity including money laundering by the presence of Customs Officers at the border.

United Nations Commission on International Trade Law

The United Nations Commission on International Trade Law (UNCITRAL) was established in 1966 as an association of nations committed to the modernization and harmonization of laws that regulate international trade. UNCITRAL activities include helping governments coordinate to achieve mutually beneficial economic goals, promoting and facilitating the unification of disparate legal systems, and collecting and disseminating information on case law and other legislative activity.

UNCITRAL⁴ is currently composed of over 50 member states. Members are elected to serve six-year terms by the United Nations General Assembly. UNCITRAL's work is carried out in annual sessions held alternately in New York City and Vienna.

The Role of Customs Broker in Global Trade World

In the global trade world, we always hear the term "customs broker". Customs brokers are private for-profit individuals, corporations, or associations that are licensed, regulated, and empowered by customs to assist the importing public in meeting federal requirements governing global trade. Like the freight forwarder for international shipping, customs brokers play an important role in the supply chain of trade.

Entries of foreign-made goods represent billions of dollars in duty collection by customs, and virtually almost all of them are prepared by customs brokers on behalf of importers. Some brokers operate as sole proprietors at one entry port, while others can be large corporations with branches in different entry ports. However, regardless of the company size, customs brokers are all licensed and regulated by the Department of Treasury.

Customs brokers are not only knowledgeable in customs regulations, but there are many well-experienced brokers on the market who have expertise on entering products that require Other Government Agencies (OGA) filings. Of course, every OGA has its regulations, requirements, and handling procedures which are different from other agencies.

Customs brokers can also play the role of a consultant to assist importers to conduct analysis rather the importing products can be entered under any preferential tariff treatments.

For example: One of the most commonly known free trade is NAFTA (North America Free Trade Agreement) is designed for Canada and Mexico-originated products. Another commonly known free trade agreement is GSP (Generalized System of Preferences) which is designed to promote economic growth in

developing countries. Every free trade agreement has different originating and import requirements, which the imported products must satisfy to be qualified to enter U.S commerce duty-free.

Each year, there are more than 1,000 individuals throughout the country who take the broker license exam, and yet the passing rate is only five to 10 percent. Customs have high requirements for those who wish to become a broker as they are the bridges between customs

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