

# **RULES AND PROCEDURES FOR IMPORTS FROM THIRD COUNTRIES**

**Whereas** by order of the Royal Government the responsibility for regulating imports from third countries has been entrusted to the Ministry of Trade and Industry; and

**Whereas** it is necessary to frame Rules and Procedures to regulate such imports;

**Now Therefore**, the Ministry of Trade and Industry hereby adopt the following Rules and Procedures for Imports from Third Countries approved by the Royal Government.

## **Definitions:**

In these Rules and Procedures, unless otherwise requires:

- a) “Ad valorem duty” means duty calculated as a percent on the value;
- b) “Baggage” means personal belongings of a passenger either carried in hand or checked with a carrier and excludes motor vehicles and goods for commercial purpose;
- c) “Bank” means a bank authorized by the RMA to deal in foreign exchange;
- d) “DRC” means the Department of Revenue and Customs and its branches;
- e) “Department” means the Department of Trade, Ministry of Trade & Industry;
- f) “Foreign exchange” means an amount payable or receivable in any foreign currency other than the Indian Rupee;
- g) “Goods” means movable property and include aircraft, vehicle, baggage, currency notes and negotiable instruments;
- h) “Import license” means a document permitting the import of goods issued by the Ministry of Trade and Industry under these Rules and Procedures;
- i) “Plant, machinery and equipment” means such machinery or equipment peculiar to and directly related to an industry;
- j) “RMA” means the Royal Monetary Authority of Bhutan;

- k) “Third country” means any foreign country other than India;
- l) “Valuation” means the process of determining monetary value of the goods for the purpose of assessing tax or duty; and
- m) “UCPDC” means Uniform Customs Practice for Documentary Credit.

## **SECTION A**

### **1. General Rules**

- (i) Import of goods from third countries shall be regulated by the Department of Trade, Ministry of Trade and Industry;
- (ii) Import of goods from third countries, other than those brought as baggage by travelers, shall require Import Licenses issued by the Department;
- (iii) Sale of foreign exchange by banks towards payment for import of goods into Bhutan shall be made only against valid Import Licenses in accordance with Clause 11 of the Foreign Exchange Regulations of Bhutan 1997 and such other rules and regulations that may be prescribed by the Royal Monetary Authority from time to time;
- (iv) Any person who obtains an Import License and draws foreign exchange against the license for import of any goods into Bhutan, but does not bring such goods, or brings goods of a value, kind, quality or quantity different from that specified in the Import License shall be liable to a fine of twice the amount of the foreign exchange drawn and confiscation of such goods imported by him; and
- (v) All goods imported from third countries shall be declared at the customs point of entry into Bhutan.

### **2. Negative Goods**

The import into Bhutan of goods of the following nature shall be prohibited:

- a) Narcotics and psychotropic drugs and substances;
- b) Pornography and pornographic materials;
- c) Second hand or used vehicles other than those imported by privileged personnel of Diplomatic Missions and International Organizations under conditions specified under the Customs Act and such other categories of persons as may be specified by the Royal Government from time to time.

d) Any other goods specifically prohibited by law or regulation, or international conventions and treaties to which Bhutan is a signatory.

### 3. Restricted Goods

The import of the following categories of goods is restricted and application for license to import restricted goods shall be accompanied by a special permission (in original) issued by the concerned agency listed against the categories of goods.

- |   |   |
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| a) Live animals and their products or by products                           | - Ministry of Agriculture   |
| b) Plants and plant materials   | - -do-  |
| c) Arms and ammunition  | - Royal Bhutan Army   |
| d) Explosives and explosive devices   | - Ministry of Home Affairs  |
| e) Drugs and pharmaceutical products  | -Ministry of Health & Education/Ministry of Agriculture.                      |
| f) Chemicals and fertilizers  | -Ministry of agriculture.   |
| g) Industrial and toxic waste and residues                                  | -National Environment Commission (NEC)/ Ministry of Trade and Industry (MTI). |
| h) Gold and silver in excess of free allowance                              | - Royal Monetary Authority of Bhutan  |
| i) Wireless and remote sensing telecommunication and broadcasting equipment | -Bhutan Telecommunications Authority  |
| j) Used machinery, equipment and parts thereof                              | -MTI  |
| k) Scraps   | - NEC   |
| l) Plastic packing materials  | -MTI  |
| m) Goods for which there is no market within the country                    | -MTI  |
| n) Any other goods which are restricted by any                              | -MTI  |

#### 4. Imports by Manufacturing Industry and Assembly Units

- (i) **Plant, machinery and capital equipment:** The import of plant, machinery and other capital equipment shall be subject to the following conditions:
- (a) The importer must be a licensed manufacturing unit or service sector unit;
  - (b) The plant, machinery or equipment must be for the importer's own use and not for re-export to any other country; and
  - (c) The import of the plant, machinery and equipment must result in clear advantages in terms of price or technology.
- (ii) **Raw materials and components :** The import of raw materials, whether in primary or semi-processed form, and assembly components shall be subject to the following conditions:
- (a) The importer must be a licensed manufacturing unit or assembly unit;
  - (b) The raw materials or assembly components must be for the importer's own use and not for re-export to any other country or sale in the country.
  - (c) The import of the raw material or assembly components must be justifiable in terms of availability, price, or quality or availability in local market.
  - (d) The final product must have a value addition of a minimum of 40 percent and the value shall be calculated as per the formula given in Annex-I. The Value addition would be reviewed in line with the SAARC Preferential Trading Arrangement (SAPTA).

#### 5. Commercial import for trading

Only registered Import Houses shall be granted Import Licenses to import goods from third countries for trading purposes. The rules in respect of Import Houses shall be as follows:

- (i) **Registration:** Any person intending to import goods from third countries for trading purposes shall apply to the Department for registration as an Importer.
- (ii) **Eligibility Criteria:** Registration of Import House shall be based on the following criteria:

- a) The applicant must be a Bhutanese national, or a company registered in Bhutan;
- b) The applicant must have a valid Trade License issued by the Ministry of Trade and Industry, and a Business Identification Code issued by the Department of Revenue & Customs; and
- c) The application must be accompanied by a tax clearance certificate indicating no dues for any taxes including income tax, sales tax, customs duties, penalties, etc.

(iii) **Type of goods that may be imported** An Import House shall be permitted to import only the goods in respect of which it has registered as an Import House.

(iv) **Terms and conditions of import:** Import Houses shall be allowed to import goods from third countries on the condition that the goods shall be brought into Bhutan and sold/used only within the territory of Bhutan. An Import House found in violation of this condition and any other regulations shall have its registration revoked.

## **6. Individual Import**

No import license shall be issued for imports made by any other individuals except for those individuals eligible under these rules and returning on transfer or shifting of residence. Such cases shall be governed by the Customs rules and regulations.

## **7. Government Import**

- a) Imports by the Royal Government, its departments and agencies, and imports by projects arranged by the Royal Government under foreign loans and grants are eligible for automatic issue of import licenses. However, application for such imports shall be routed through the Department of Budget & Accounts, Ministry of Finance. Such applications shall be accompanied by Form attached at Appendix I.
- b) Import by the Government agencies directly or through import houses shall be permitted in accordance with the specifications and guidelines of the Ministry of Finance from time to time.

## **8. Imports by Diplomatic Missions, International agencies and their privileged staff**

Imports by the Diplomatic Missions, International agencies and their privileged staff shall be governed by the Customs Rules and Regulations.

## **9. Import of goods on behalf of an exempt organization**

In case of imports by the Import Houses on behalf of duty exempt organization, Import License will be issued in the name of the import houses. For such imports, the importer shall be required to pay the duties and taxes at the time of clearance of goods which shall be refunded later by the Department of Revenue Customs to the exempt organization. Import Duty Exemption Certificate where applicable shall be issued by the Ministry of Finance.

## 10. Valuation

Valuation of imported goods shall be based on the cost, insurance and freight (c.i.f. entry point in Bhutan) and Customs duty levied on ad valorem basis.

## SECTION B

### 11. Import License

- (i) **Application:** Applications for Import Licenses must be submitted to the Department in the prescribed form (Annex II), along with a copy of the supplier's pro-forma invoice or any other documentary evidence, such as correspondence with the supplier indicating the cost of the goods. In case the goods to be imported are on the list of restricted items, the original copy of the permit issued by the relevant agency must be attached with the application.
- (ii) **Separate License required for each consignment:** A separate Import License is required for each consignment of goods to be imported. However, a consignment authorized under one license may be imported into Bhutan in separate batches within the validity period of the license.
- (iii) **Import Licenses to be issued for c.i.f. value:** Import Licenses shall be issued for the c.i.f. value of the goods to be imported in the prescribed form as given in Annex III. Therefore, the amount shown on the Import License cannot be used to the full amount in cover of f.o.b. value of the goods leaving insurance, freight and commission to be paid in addition to the amount specified in the Import License.
- (iv) **Copies of import license:** Import Licenses shall be issued in the requisite number of copies depending on the customs point of entry into Bhutan as shown in the Annex IV to these Rules and Procedures.
- (v) **Validity period :** The validity of Import Licenses shall normally be 12 months in the case of goods of a capital nature, such as plant, machinery and raw materials, and three months in case of other goods. Where an importer is unable to import the goods within the validity period, the importer's copy of the Import License must be surrendered to the Department. If an extension of the validity period is required, an application must be submitted to the Department giving the reasons for the delay in importing the goods. The Department shall grant such extension if it is satisfied about the bona fides of the circumstances leading to the delay in

importing the goods. The validity of the import license shall not be extended more than once.

## SECTION C

### 12. **Import Payments**

(i) **Application for making payments:** Banks have been permitted to make payments towards imports authorized by valid Import Licenses without further reference to the RMA. Therefore, applications for making payments towards imports from third countries must be submitted to a bank in the prescribed form (Appendix II) along with the following:

(a) **Exchange Control Copy of Import License-** Every Import License which involves payment in foreign exchange shall invariably have one copy marked “Exchange Control Copy”. The importer’s application to a bank for making payment towards the imports must be accompanied by this copy of the Import License.

(b) **Supplier’s Invoice** – Banks will open letters of credit or make remittances on behalf of importers against the Supplier’s Invoice or other documentary evidence showing the c.i.f. value of the goods, but only up to the amount specified in the Import License. As such, a copy of the supplier’s invoice or other documentary evidence showing the c.i.f. value of the goods must be attached with the application.

(ii) **Method of Payment :** Payments towards imports shall normally be made by letters of credit in accordance with normal banking procedures and UCPDC provisions. However, payment by other means, such as electronic funds transfer will be permitted subject to the following conditions:

- a) The importer furnishes documentary evidence such as his contract with the supplier showing the terms of payment;
- b) The remittance is made direct to the supplier; and
- c) Under no circumstances payment shall be released in cash or travelers cheques to the importer.

(iii) **Advance remittances:** Advance payments towards goods to be imported into Bhutan will be subject to the following conditions:

(a) The importer must furnish documentary evidence of the cost of the goods and the terms of payment. A copy of the importer’s contract with the supplier, or any other evidence of the terms of payment must be submitted.

(b) Remittance is made direct to the suppliers; and

(c) If the amount of advance remittance exceeds US\$ 10,000, a guarantee from a reputed international bank must be obtained.

(iv) **Surrender of Exchange Control copy of Import License:** The Exchange Control copy of the Import License submitted by importers for opening letters of credit or making remittances shall be retained by the authorized bank and forwarded to the RMA after it has been fully utilized.

(v) **Evidence of Import:** It is obligatory on the part of importers to submit to the bank through whom the remittance was made, a copy of the Import Declaration Form endorsed by the Customs authorities as evidence that the goods for which payment was made have actually been imported into Bhutan. Banks will forward to the RMA on a quarterly basis, the list of importers who have defaulted in submission of Import Declaration Form within the stipulated period, and the banks will not entertain any further requests for opening letters of credit or making remittances in respect of such importers.

(vi) **Attestation of Invoices by banks :** It shall be obligatory on the part of importers to submit to Customs authorities at the time of clearance of goods, a copy of the invoice attested by the bank through whom the payment was made, as evidence of the value of the goods declared on the Import Declaration Form. In order to comply with this requirement, on request by the importer, the paying bank will provide him a duly attested copy of the invoice.

## SECTION D

### 13. Customs Clearance

(i) **Documentation :** The importer or his authorized agent shall, prior to the arrival of the imported goods, submit the following documents to the Revenue and Customs Office in the country or the Bhutanese Revenue and Customs Liaison and Transit Office in Calcutta, India, and any loss suffered by the importer because of delay in clearance of goods caused by failure to submit the documents in time shall be entirely at the risk of the importer.

(a) Customs copy of Import License

(b) Bill of Lading/Airway Bill/Shipping Bill duly endorsed by the importer and the concerned bank;

(c) Invoice attested by the bank through whom payment has been made;

(d) Packing List;

(e) Certificate of Origin;

(f) Marine/Air/Transit insurance policy.

(ii) **Time limit for clearance of goods from Customs:** Within seven working days of issuance by the Customs authorities of intimation of the arrival of the goods, the importer or his duly authorized agent, shall clear the goods from the Customs. Beyond this time limit the goods shall be dealt with as per Customs rules and regulations.

(iii) **Import Declaration Form :** At the time of clearing the goods from the Customs, the importer or his duly authorized agent shall present to the Customs in the Import Declaration form (Annex V) the following information:.

(a) The Import Declaration form shall contain the full particulars of the imported goods and shall bear a declaration by the importer as to the truth of its contents which must be supported by a duplicate copy of the shipping documents and the invoice attested by the bank;

(b) Wherever necessary, the Customs Officer shall carry out a physical verification of the goods; and

(c) If satisfied with the verification, the Customs Officer shall make an order permitting clearance of the goods on realization of Customs duty and sales tax as per the Customs Tariff and Bhutan Sales Tax schedules and any other applicable charges.

14 (a) Import licenses shall be issued on pre-printed and pre-numbered Forms. The Department shall maintain full chronological inventory of such printed forms and import licenses issued in two separate records containing amongst other information on to whom import license issued, license number, date, type of goods to be imported, value, date and particulars of actual import.

b) The Department of Revenue & Customs shall submit monthly reports to the Department of Trade on actual imports coming into the country.

15. Any difference in the interpretation of these rules and procedures with the existing or future Laws and Acts, the relevant provisions of such Laws or Acts shall prevail.

16. These Rules and Procedures shall be reviewed by the Royal Government from time to time.