

GENERAL EXEMPTION NO. 2

Article V, Section 19 shall also be accorded to the President of the Council of the International Civil Aviation Organisation, Deputy Director General of the International Labour Office and any Assistant Director General of the International Labour Office and to the Deputy Director General of U.N.E.S.C.O., his spouse and minor children.

Article VI, Section 22(f) shall not apply to the International Civil Aviation Organisation, W.H.O., I.L.O., F.A.O., U.N.E.S.C.O., I.M.F., International Bank for Reconstruction, the Universal Postal Union, International Telecommunication Union and World Meteorological Organisation.

Note 1. The concession in respect of the Joint Enterprise Aid in Mass Vaccination against T.B. in India *vide* Item (v) above, shall remain in force until the work of the team is deemed to have been completed by mutual agreement of the Government of India and the Joint Enterprise.

Note 2. Articles imported by the United Nations Information Centre, New Delhi, for its official use may be granted exemption from customs duty and other customs formalities as may be admissible under the United Nations (Privileges and Immunities) Act, 1947.

World Health Organisation — Agreement between World Health Organisation and the Government of India :

The Government of India have decided that —

- (1) Medical supplies or any other articles or goods imported or exported by the World Health Organisation for its official use and the publications of the said organisation shall be exempt from customs duties, prohibitions and restrictions on imports and exports.
- (2) Officials of the World Health Organisation shall —
 - (a) have the right to import free of duty their furniture and effects at the time of taking up their posts in India or upon their permanent appointment to it, and
 - (b) once in every three years have the right to import free of duty a motor car, it being understood that the duty will become payable in the event of the sale or disposal of such a motor car to a person not entitled to this exemption within three years upon its importation.
- (3) In addition to the immunities and privileges specified in (2) above, the Director General, the Deputy Director General, the Assistant Directors General, the Regional Director in India and if the Director General should so desire and communicate their names to the Government of India certain officials, of a Director's status, shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law.

Asian Development Bank. — The Government of India *vide* Notification No. S.O. 772(E), dated 25-8-1994 has declared that the provisions of Article I (section 1), Article II (sections 2, 3, 4, 5, 6, 7 and 8), Article III (sections 9 and 10), Article IV (sections 11, 14, 15 and 16), Article V (sections 17, 18, 20 and 21) and Article VI (sections 22 and 23) of the Schedule to the United Nations (Privileges and Immunities) Act, 1947, shall apply *mutatis mutandis* to the Asian Development Bank and to its representatives officials w.e.f. 10-12-1992.

DEPARTMENTAL CLARIFICATIONS / CASE LAW

Examination of goods - Imports by United Nations and its agencies. — Exemption from customs duty is granted only to such imports which are directly by the United Nations and for its Official use notwithstanding the production of any exemption certificate issued by the Ministry of External Affairs. It is the responsibility of the Customs to ensure the correctness of the grant of duty exemptions in terms of the UN (P & I) Act, 1947. — *Based on C.B.E. & C. Circular No. 79/95, dated 6-7-1995 - 1995 (78) E.L.T. (T111). Also clarified in 67/97-Cus., dated 2-12-1997. — 1998 (97) E.L.T. (T21) and 4/2001-Cus., dated 18-1-2001 — 2001 (128) E.L.T. (T10).*

GENERAL EXEMPTION NO. 2

Exemption to imports by United Nations or International organisation for execution of projects in India. — In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with sub-section (4) of section 68 of the Finance (No. 2) Act, 1996 (33 of 1996), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts ¹[all the goods imported into India for execution of projects financed by the United Nations or an International Organisation] and approved by the Government of India, from the whole of the duty of customs leviable thereon under First Schedule to the Customs Tariff Act, 1975 (51 of 1975), ²[* * *] and the whole of the special duty of customs leviable under section 68 of the Finance (No. 2) Act, 1996 (33 of 1996) :

³[Provided that the importer, at the time of clearance of the goods, produces before the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, having jurisdiction, -

1 Substituted by Notification No. 85/99-Cus., dated 6-7-1999.

2 Omitted (w.e.f. 1-7-2017) by Notification No. 44/2017-Cus., dated 30-6-2017

3 Substituted by Notification No. 85/99-Cus., dated 6-7-1999.

- ¹[(i) in case the said goods are -
- (a) Imported by an international organisation listed in the Annexure appended to this notification and intended to be used in a project that has been approved by the Government of India and financed (whether by a loan or a grant) by such an organisation, a certificate from such organisation that the said goods are required for the execution of the said project and that the said project has duly been approved by the Government of India; or]
 - (b) imported for use in a project that has been approved by the Government of India and financed (whether by a loan or a grant) by an international organisation listed in the said Annexure, a certificate from an officer not below the rank of Deputy Secretary to the Government of India, in the Ministry of Finance (Department of Economic Affairs) that the said goods are required for the execution of the said project and that the said project has duly been approved by the Government of India;]
- (ii) in case the said goods are intended to be used in a project financed (whether by a loan or a grant) ²[by the World Bank, the Asian Development Bank or any other international organisation other than those listed in the Annexure,] and the said project has been approved by the Government of India, a certificate from the executive head of the Project Implementing Authority and countersigned by an officer not below the rank of a Joint Secretary to the Government of India, in the concerned Line Ministry in the Government of India, that the said goods are required for the execution of the said project and that the said project has duly been approved by the Government of India, and
- (iii) in case the said goods are intended to be used in a project financed (whether by a loan or a grant) ³[by the World Bank, the Asian Development Bank or any other international organisation, other than those listed in the Annexure] and the said project has been approved by the Government of India for implementation by the Government of a State or a Union Territory, a certificate from the executive head of the Project Implementing Authority and countersigned by the Principal Secretary or the Secretary (Finance), as the case may be, in the concerned State Government or the Union Territory, that the said goods are required for the execution of the said project, and that the said project has duly been approved by the Government of India for implementation by the concerned State Government.]

⁴[2. Where the goods are imported prior to the 1st March, 2008, the importer may -

- (a) transfer the goods to a new project subject to the condition that the importer produces before the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, having jurisdiction over the port of import, a certificate from the officer concerned of the Central Government, State Government or Union territory Administration, as the case may be, that the goods are no longer required for the project and a declaration from the United Nations, the World Bank, the Asian Development Bank or any other international organization listed in the Annexure to the said notification that the said goods are required for the said new project which has duly been approved by the Government of India; or
- (b) re-export the goods when the goods are no longer required for the existing project subject to the condition that the identity of the goods is established and no export incentive is claimed against such re-export; or
- (c) pay the duty of customs which would have been payable but for the exemption contained herein on the depreciated value of the goods subject to the condition that the importer produces before the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, having jurisdiction over the port of import, a certificate from the officer concerned of the Central Government, State Government or Union territory Administration, as the case may be, that the goods are no longer required for the project. The depreciated value of the goods shall be equal to the original value of the goods at the time of import reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of clearance of the goods, namely :-
 - (i) for each quarter in the first year at the rate of 4 per cent;
 - (ii) for each quarter in the second year at the rate of 3 per cent;
 - (iii) for each quarter in the third year at the rate of 2.5 per cent; and
 - (iv) for each quarter in the fourth year and subsequent years at the rate of 2 per cent,

subject to the maximum of 70%.]

⁵[**Explanation 1.**] - For the purposes of this notification, -

- (a) "international organisation" means an international organisation to which the Central Government has declared, in pursuance of section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), that the provisions of the Schedule to the said Act shall apply;

1 Substituted by Notification No. 119/99-Cus., dated 2-11-1999.

2 Substituted by Notification No. 85/99-Cus., dated 6-7-1999.

3 Substituted by Notification No. 119/99-Cus., dated 2-11-1999.

4 Inserted by Notification No. 22/2014-Cus., dated 11-7-2014.

5 Substituted by Notification No. 85/99-Cus., dated 6-7-1999.

6 Renumbered by Notification No. 24/2008-Cus., dated 1-3-2008.

- (b) "Line Ministry" means a Ministry in the Government of India, which has been so nominated with respect to a project, by the Government of India, in the Ministry of Finance (Department of Economic Affairs).]

¹[**Explanation 2.** - For the removal of doubts, it is hereby clarified that the benefit under this notification, in the case of goods supplied to the projects financed by the United Nations or an international organisation, is available when the goods brought into the project are not withdrawn by the supplier or contractor and the expression "goods are required for the execution of the project" shall be construed accordingly.]

²[ANNEXURE

1. United Nations Development Programme,
2. United Nations International Childrens' Fund,
3. Food and Agricultural Organisation,
4. International Labour Organisation,
5. World Health Organisation,
6. United Nations Population Fund.]
- ³[7. United Nations World Food Programme.]
- ⁴[8. United Nations Industrial Development Organisation.]

[**Notification No. 84/97-Cus., dated 11-11-1997 as amended by Notifications No. 85/99-Cus., dated 6-7-1999; No. 119/99-Cus., dated 2-11-1999; No. 75/2001-Cus., dated 6-7-2001; No. 107/2001-Cus., dated 12-10-2001; No. 24/2008-Cus., dated 1-3-2008; No. 22/2014-Cus., dated 11-7-2014 and No. 44/2017-Cus., dated 30-6-2017.]**

DEPARTMENTAL CLARIFICATIONS / CASE LAW

Capital goods imported by United Nations or other international organizations for execution of project approved by Govt. of India - Non-production of certificate at time of clearance of goods being procedural cannot be fatal to substantive right of importer for benefit of exemption under Notification No. 84/97-Cus. — *Commissioner v. Compagnie General Des Eaux* — 2005 (192) E.L.T. 201 (Tri. - Chennai).

Customs Duty Exemption Certificate (CDEC). - Since the issue of such certificate is a time consuming exercise, for National Highways Authority of India, the exemption under said notification would be available even when the certificate is signed not by the Chairman, NHAI but by Member (Finance), NHAI. — *M.F. (D.R.) Letter F.No. 463/5/2007-Cus. V*, dated 17-9-2007 — 2007 (216) E.L.T. (T5).

Import on behalf of international organization. - Benefit of Notification No. 84/97-Cus., could not be denied on the ground that organization was not listed therein. — *Sigma Aldrich Foreign Holding Co. v. Commissioner*. — 2005 (189) E.L.T. 477 (Tri. - Bang.).

GENERAL EXEMPTION NO. 3

Exemption to imports by Governors. — The following articles if imported or purchased out of bond by the Governors on appointment or during their tenure of office will be **exempt from duty** :

- (a) articles for the personal use, wear or consumption of the Governor or any member of his family;
- (b) food, drink and tobacco for consumption by members of the Governor's household or by his guests, whether official or not;
- (c) articles for the furnishing of any of the Governor's official residences; and
- (d) motor cars provided for the Governor's use.

[**Clause 9 of the G.O.I. (Governor's Allowances and Privileges) Order, 1950, dated 1-1-1950.**]

GENERAL EXEMPTION NO. 4

[Omitted]

1 Inserted by Notification No. 24/2008-Cus., dated 1-3-2008.
 2 Inserted by Notification No. 119/99-Cus., dated 2-11-1999.
 3 Inserted by Notification No. 75/2001-Cus., dated 6-7-2001.
 4 Inserted by Notification No. 107/2001-Cus., dated 12-10-2001.