

## **STUDY REPORT OF DG LEVEL DELEGATION IN DECEMBER, 1993**

As per the Agreement on Trade and Commerce between Govt. of Bhutan and the Govt. of India, there is free trade and commerce between the two countries of goods produced in either country. There is a provision for placing restrictions so as to protect the indigenous goods industry, but by and large there has been free flow of goods between the two countries. To ensure that goods of third country origin are also not traded, the Agreement provides for annual consultation on this score.

2. In so far as the tariff barriers are concerned, Article V of the Agreement lays down that the goods shall not be subject to customs and excise duties. Article VIII of the Agreement provides that

“Each of the Government agree to provide appropriate refund to be mutually decided annually in respect of excise duties on goods of its origin exported to another.”

3. It is in the context of this provision that the Govt. of India has been annually paying refunds of excise duties collected on goods exported to Bhutan. Since there are no restrictions on the documents accompanying the transportation of goods from the factory, working out of the excise duty refunds becomes a difficult exercise. The difficulty is compounded by the fact the exemption has been conferred on large number of goods in the Central Excise Tariff (Indian) and the effective duty recovered is much less than the rate shown in the Tariff. Added to this is the fact that a large number of small scale units are not required to pay any excise duty if their annual turnover does not exceed certain limits. This apart there are slab rates depending on the production of a particular unit. The excise duty, refund worked out is therefore an adhoc one though care is taken to see that it approximates the actual duties collection in India.

4. The adhoc Excise duty refund was last fixed in 1990 at Rs.8.63 crores. It was based on trade statistics of that year. The methodology used for the calculation of the refund was the one worked out in 1988. This quantum of refund was paid by MEA for the years 1990-91 to 1992-93.

5. The Govt. of Bhutan furnished the import figures for the year 1991 to the MEA in Nov.'92 and requested for recalculation of adhoc excise duty refund. The figures were again supplied in Sept.'93 and it was noticed that there was variation in the two sets of figures. It was claimed by Govt. of Bhutan that goods valued at Rs.217 crores had been imported from India during 1991. Considering that the imports in the past were Rs.75 crores in 1987, Rs.80 crores in 1988, Rs.85 crores in 1989 and Rs.118 crores in 1990, it was felt that an error had crept in the figures. The Govt. of Bhutan requested that a delegation from India visit Bhutan to discuss and arrive at the quantity of refund for the year 1993-94. It was also felt that though the refunds are determined in an adhoc manner, the starting point

i.e. the data base should be accurate. It was accordingly decided by the Govt. of India to send a delegation of the following officers to Bhutan to study the data collection system in Bhutan and to have a dialogue with the officials of Govt. of Bhutan for clarification of certain matters.

- 1) Shri R.K.Thawani, Director General of Inspection,  
Customs & Excise
- 2) Shri Ashok Kumar, Dir(North), MEA
- 3) Smt. Deepa Das Gupta, DS(Excise)
- 4) Shri M.B.Sundas, Addl.Collector,Customs and Excise,Siliguri

6. The delegation arrived in Phuentsholing by a land route via Siliguri on 12<sup>th</sup> December evening and studied the system of data collection on 13<sup>th</sup> December. They had discussions with the Custom officials at Phuentsholing on 13<sup>th</sup> December and with the officials of the Ministry of Finance and other Custom officials of Govt. of Bhutan at Thimphu on 14 and 15 Dec., 1993. At the request of officials of Govt. Of Bhutan, certain other allied matters relating to procedure for export of goods from Bhutan to Bangladesh & Nepal, Training of the revenue officials of Bhutanin Customs & Central Excise and holding of meetings between the senior customs officials of either country were also discussed.

7. At Phuentsholing, we also studied the data which is fed in to the computer. This shows the invoice number, the value of goods as shown in the invoice, the quantity of goods, mode of transport and vehicle number, names of exporter and importer in India and Bhutan, the sale tax (of Bhutan) collected etc. The value of goods shown is the transaction value i.e. the money received or quoted by the exporter and this is inclusive of various elements like the Central Excise duty, sale tax, profit margin of wholeseller and retailer, transportation costs from factory to wholeseller and then to retailer, the insurance charges, octroi etc. Quite a large number of goods are exempt from BST (Bhutan Sale Tax). (This tax is levied at the point of entry of goods and is not levied as third country goods and is not levied as third country goods subject to customs duty. This matter is being discussed separately by MEA and Ministry of Commerce with the RGoB). We also noticed that the movement of a significant quantity of goods was through handcarts i.e. Thelas) when the goods are sold by retailers in Jaigaon and to this effect the Bhutanese Customs have been giving Certificates to these dealers in Jaigaon that the goods are meant for bonafide consumption in Bhutan so as to enable the dealer to get sale tax exemption. The possibility of transactions taking place on paper only without physical movement of goods cannot be ruled out and we expressed this apprehension to the Bhutanese Customs officials.

8. At Phuentsholing, we obtained checkpoints wise import data for the year 1991 and were informed that the total value of imports was Rs.132 crores (Rs.132115600) and not Rs.217 crores as earlier reported. The error was detected in the import data of Gomtu checkpost and was under the heading "Articles of iron and steel and base metal." The figure of Rs.132 crores can be held to be

more realistic, particularly since the imports of the preceding year were Rs.118 crores (Rs.114 crores shown in the published data) and this tallies with the estimate that approx. 70% of the goods move through Phuentsholing.

9. When the discussions were continued at Thimphu on 14<sup>th</sup> and 15<sup>th</sup> Dec., the senior officers admitted the computed errors. However, the added imports worth Rs.32 crores stating that these have been left out from the data compiled earlier from which it can be seen that the value declared earlier was Rs.19.37 crores and the revised value is Rs.51.29 crores. By the addition of Rs. 32 crores the total imports during 1991 works out to Rs.160 crore, we informed them that motor vehicles are normally purchased directly from the factories and they should substantiate their claim with the help of gatepasses or such other documents in respect of ATF, they clarified that the ATF picked up by Druk Air in New Delhi airport had earlier not been accounted for. This ATF had not been received by them free of duty and hence their claim for refund. (Excise duty exemption on ATF is a separate issue and Department of Revenue is processing the matter separately). We have, therefore, worked out the adhoc excise duty refund on the import figure of Rs.1.2 crores.

10. In this context, the Bhutanese Team made a suggestion that the ATF should be supplied to them at international rates particularly since they are willing to pay the same in Dollars. They were informed that the decision on their request will soon be considered. The Indian team suggested that the method of adhoc calculation of refund could be dispensed with and a new system be evolved so that the goods move straight from the factory of production in India to Bhutan under the special invoices so-called DRP (Duty Refund Procedure) invoices. In such cases, the refund will be restricted to the actual amount of duty collected in India. A revised DRP Scheme could be worked out and discussed with the Bhutanese at a later date. This would entail shifting of the Jaigaon checkpoint on the Indian side to a point closer to Bhutan gate in order for any streamlined procedure to operate effectively.

11. The Bhutanese pressed for increased institution tie-ups for HRD programmes for their revenue officials. They stated that they had in 1990 made a request for such a tie-up with NACEN. They also expressed interest in revenue officials visiting Bhutan to organize incountry training programmes and visits by Bhutanese revenue officials for training in custom houses in India.