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MINISTRY OF SHIPPING
NOTIFICATION

New Delhi, the 21st May 2018

Subject: Relaxation under Section 406 of the Merchant Shipping Act, 1958, for coastal movement of (a)EXIM Transshipment Containers and (b)Empty Containers

1. Whereas the Merchant Shipping Act was enacted in 1958 at a time when container cargo was in a nascent stage (ISO standards for containers were fixed in 1956). In India, container shipping started only in the year 1980 and thus the Act predates the business of containers in India. Transshipment of cargo was not a major issue at the time of enactment, in fact the Act did not envisage such an eventuality.
2. Whereas the movement of cargo by containers has been rising continuously and is presently more than 20% of India's total EXIM trade volumes, and whereas in a dynamic international business situation where international shipping tariff is highly competitive, in order to achieve better economies of scale, container business has rapidly evolved from point-to-point to hub-and-spoke model. Thus the containers from smaller ports are shipped via feeder vessels and then aggregated at a transshipment port from where they are loaded in a bigger container liner for another transshipment or mainline port. Such a model has not fully evolved in India and this has resulted in almost 33% of Indian container cargo getting transshipped at foreign ports. The extent of transshipment is increasing year on year and has increased from 26% in 2007-08 to 33% in 2016-17 (Indian Ports Association).
3. Whereas the business model for container shipping has firmly stabilized for the hub and spoke model and has resulted in the formation of transshipment hubs worldwide.
4. Whereas the advancement in shipping and container handling technology is leading to the deployment of ever increasing size of vessels (in excess of 18,000 TEUs) as mother vessels and development of deeper draft transshipment ports.

5. Whereas the currently established transshipment ports across the globe are investing further in developing themselves as modern ports of the future to retain their pre-eminence as transshipment ports.
6. Whereas India is yet to develop a robust eco-system of large, modern international transshipment ports/hubs with policy structures and cost advantages to compete with regional hub ports.
7. Whereas transshipment of Indian cargo at foreign transshipment ports leads to traffic growth at foreign ports and hence, job creation in other countries, loss of revenue from Indian shippers/ consignees or exporters/importers to foreign ports in terms of port and logistics charges, and loss of foreign exchange to foreign ports as the transshipment revenues and charges are collected from Indian exporters/importers by foreign ports.
8. Whereas promoting transshipment ports in India would lead to (a) higher competition amongst shipping lines and a level playing field would reduce freight rates making Indian trade more competitive (b) time and distance efficient logistics between Indian ports versus foreign ports would also contribute to lowering in feedering cost (c) shifting of Indian container cargo from foreign ports to Indian ports would lead to higher port profitability and employment (d) upon establishment of transshipment ecosystem including ports and logistics sector, enabling small and medium enterprises, service providers to the ports and the shipping sector, Indian ports can potentially attract cargo originating from and destined to foreign ports, adding to further cargo growth at major Indian ports and (e) retention of foreign exchange in India.
9. Whereas the supply chain lag time and transshipment at a foreign port increases cost to the EXIM trade adversely impacting the competitiveness of Indian traders and manufacturers in the global market.
10. Whereas there is a requirement to enhance feeder capacity to support movement of EXIM containers by sea between Indian ports and the Indian transshipment ports.
11. Whereas availability, time-bound port operations and ease of access to container vessels for feeders and transshipment of containers within India is a prerequisite for development of transshipment ports in India.
12. Whereas providing for two-way cargo movement has the potential of reducing the cost of transport, improving cargo volumes and facilitating investment in shipping fleet.

13. Whereas sea borne transportation has the potential of simultaneously reducing the per tonne-km cost of transporting goods as well as reducing the greenhouse gas emission per tonne-km of transporting the goods over long distances by one-third, compared to rail and road based transportation.
14. Whereas as per Section 406 of Merchant Shipping Act, 1958, no Indian ship and no other ship chartered by a citizen of India or a company incorporated in India or a co-operative society registered in India shall be taken to sea from a port or place within or outside India except under a license granted by the Director General, Shipping under this section.
15. Whereas to deal with the business model of transshipment of containers, various countries have taken steps to allow vessels from foreign flags to trade on their coastal water for transshipment cargoes by relaxing provisions of their domestic law(s) to boost international trade volume and reduce transportation cost.
16. Whereas, due to the gradual increase in the share of containerized cargo and imbalance in the imports and exports from a particular port, there is a perennial problem of empty containers accumulating at some ports and shortage of containers at others, in terms of size and type. Thus, there is a requirement of movement of empty containers, of the apt size and type, from one port to another along the Indian coast without adding substantially to the cost of repositioning of the empty containers.
17. Whereas persistence of unidirectional demand leads to insufficient investment in the fleet and, as a result, there is a requirement of movement of empty containers from one port to another along the Indian coast, without adding substantially to the cost for repositioning of the empty containers.
18. Whereas as per Notification No. 38 / 2018 - Customs (N.T.) dated 11th May 2018, the Central Board of Indirect Taxes and Customs has allowed authorized sea carriers for carrying imported goods, export goods, coastal goods or goods meant for foreign transit or foreign transshipment subject to delivery of an integrated departure and arrival manifest to the proper officer electronically.
19. Whereas as per existing regulatory framework a foreign ship chartered by a citizen of India or a company incorporated in India or a registered society registered in India can load an empty or laden container from one place or port in India and discharge at other place or port in India, only under a license issued by the Director General of Shipping under Section 406 of the Merchant Shipping Act, 1958.

20. Whereas transportation of the transshipment of containers up to the final destination needs to be facilitated to make Indian ports as major transshipment hubs.
21. Whereas Indian ships by virtue of the registration of ships at designated ports of registry are deemed approved for license under Section 406, and have transshipment allowance.
22. Whereas other ships which may be chartered by citizens of India or a company incorporated in India or a corporate society registered in India still require to be granted license under Section 406 to be taken to sea from a port or place within or outside India.
23. Whereas promotion of trade and ease of doing business in India is one of the major thrust areas of the Government of India, and there is a need to simplify processes for shipping of cargo and operation of vessels.
24. Whereas considering the above facts, it is necessary to put in place effective policy measures in public and national interest to reduce/eliminate transshipment of Indian EXIM container/empty cargo through foreign ports and reduce the cost for repositioning of the empty containers.
25. Now, therefore, the Central Government, in exercise of the powers conferred under sub-section (1) of Section 406 of the Merchant Shipping Act, 1958, directs as under:

25.1 The provisions of sub-section (1) of Section 406 shall not apply to the following category of ships, which may be engaged for the coasting trade of India:

- a. Ships chartered by citizen of India or a company incorporated in India or a cooperative society registered in India which satisfies the requirements specified in clause (b) of section 21 in the Act engaged, for transportation of EXIM laden containers for transshipment; and
- b. Ships chartered by citizen of India or a company incorporated in India or a cooperative society registered in India which satisfies the requirements specified in clause (b) of section 21 in the Act engaged for transportation of empty containers from one port of India to another port of India.

25.2 This relaxation for ships at Para 25.1 (a) shall be available for:

- a. the laden container consigned on a through Bill of Lading to or from a port outside India for the purposes of transshipment at an Indian port;

- b. the laden container loaded or unloaded at a port in India for transshipment only; and
- c. the laden container covered by the arrival manifest or departure manifest, as the case may be, for transshipment.

25.3 The Charterer shall submit information of the chartered vessel to Directorate General of Shipping. The prescribed format for submitting the information is provided in Annexure I and must be shared with Directorate General of Shipping by e-mail at sd2-dgs@nic.in within 24 hours of the charter of the vessel. The prescribed format should be either digitally signed or otherwise signed by an authorized signatory of either the shipping line or the operator.

25.4 Indian law enforcement agencies including inter alia Indian Navy, Coast Guard, State Maritime Police and Customs, shall be allowed to board such ships any time in the sea for ascertaining the bonafide credentials of the said ships/crew.

26. This notification shall come into force with immediate effect, and continue to be valid till it is amended or withdrawn.

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ANNEXURE 1

Format for information of chartered vessel to be shared with Director General of Shipping

(i)	Name of the charterer	
(ii)	Name of ship with IMO No.	
(iii)	Flag of the ship	
(iv)	Period of charter	

Note: the document so shared with Directorate General of Shipping by e-mail at sd2-dgs@nic.in within 24 hours of the charter of the vessel should be either digitally signed or otherwise signed by an authorised signatory of either the shipping line or the operator.