

NO. SW-15011/2/2016-MG
Government of India
Ministry of Shipping

Transport Bhawan
New Delhi, Dated 21st May 2018

General Order No. 1 of 2018

Subject: Relaxation under Section 407 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 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 feeding cost (c) shifting of India 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 and reliability of time-bound services 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 407 of Merchant Shipping Act, 1958, the foreign flag container lines are not allowed to (a) transship EXIM container and (b) empty containers from a port of India to another port in India without a license, as a result of which large amount of EXIM container cargo is being transshipped through foreign ports.
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 waters 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 in India's EXIM trade 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 numbers, size and type. Thus, there is a requirement of movement of empty containers, of the apt numbers, 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 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 407 of the Merchant Shipping Act, 1958.

20. 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.

21. Whereas transportation of the transshipment containers up to the final destination needs to be facilitated to make Indian ports as major transshipment hubs.

22. 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 containers through foreign ports and reduce the cost for repositioning of the empty containers.

23. Now, therefore, the Central Government, in exercise of the powers conferred upon it under sub-section (3) of Section 407 of the Merchant Shipping Act, 1958, directs as under:

23.1 The provisions of sub-section (1) of Section 407 shall not apply to the following category of ships, which may be engaged for the coasting trade of India:

- a. Foreign flag ships engaged, in full or in part, for transportation of EXIM laden containers for transshipment; and
- b. Foreign flag ships engaged, in full or in part, for transportation of empty containers

23.2 This relaxation for ships at Para 23.1 (a) shall be subject to the conditions that:

- a. the laden container is 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 is loaded or unloaded at a port in India for transshipment only; and

- c. the laden container is covered by the arrival manifest or departure manifest, as the case may be, for transshipment.

23.3 The relaxation for ships at Para 23.1 (a) and (b) shall further be subject to the conditions that the information will be submitted to the Director General of Shipping. The prescribed format for submitting the information is provided in Annexure 1 and must be shared with the Director General of Shipping by e-mail at sd1-dgs@nic.in at least 24 hours prior to sail of ship from the port in India. The prescribed format should be either digitally or otherwise signed by an authorized signatory of either the shipping line or the operator.

23.4 The relaxation for ships at Para 23.1 (b) shall only be subject to the conditions under Para 23.3, and would qualify for ships carrying empty containers.

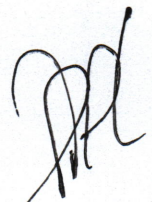
23.5 Indian law enforcement agencies including inter alia Indian Navy, Coast Guard, State Maritime Police and Customs, shall be allowed to board such ships any time in the sea for ascertaining the bonafide credentials of the said ships/crew.

24. The forgoing relaxation has been put in place in public interest and without prejudice to the right of the Central Government, whatsoever, to alter/modify any of the provisions of this order, going forward.

25. The General Order No. SW-15011/8/2015-CS, dated 07th March 2016 has been rescinded with immediate effect.

26. This order shall come into force with immediate effect, and continue to be valid till further order, unless otherwise amended or withdrawn.

27. This issues with the approval of competent authority.



(P.K. Sharma)

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ANNEXURE 1**Format for information to be shared with
Director General of Shipping**

1.	Ship details				
1.1	Name of owner/ operator				
1.2	Name of ship with IMO No.				
1.3	Flag of the ship				
2.	Container wise details				
Type of the containers (empty/ laden)	Quantity in TEUs	Load port in India	Discharge port in India	Ultimate destination	Date of pick-up and discharge
1					
2					
.					
.					
.					
Total					