

**F.No. 591 / 02 / 2010-- CUS (AS)****Government of India****Ministry of Finance****Department of Revenue****Anti-Smuggling Unit**

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**Hudco Vishala Building, 5th Floor, Bhikaji Cama Place  
R.K.Puram, New Delhi, dated 06 /09/2010**

All Chief Commissioner of Customs  
All Chief Commissioners of Customs (Preventive)  
All Chief Commissioner of Customs & Cen. Excise,  
Director General of Revenue Intelligence

Subject: Drawal of sample in cases of seizure of Narcotics – Regarding

Madam / Sir,

Standing Order S.O.No. 1/89 dated 13.6.1989 contains comprehensive guidelines on

**Govt. of India  
Ministry of Home Affairs  
Narcotics Control Bureau  
West Block No.1, Wing No.5,  
R.K.Puram, New Delhi-66.  
Fax No. 26185240**

F. No.XI/26/Misc/P&C/2010

Dated: 15<sup>th</sup> Oct, 2010.

To

All Zonal Directors, NCB Zonal Units:  
Delhi, Kolkata, Mumbai, Chennai, Guwahati,  
Jammu, Chandigarh, Jodhpur, Indore, Ahmedabad,  
Lucknow, Patna & RU Imphal.

Subject:- Procedure for sampling provided in Standing Order 1/1989: reg.

Sir,

Kindly find enclosed a copy of DoR, MOF Anti-Smuggling Unit letter dated 06.09.2010 and a copy of Standing Order S.O. No. 1/89 dated 13.06.1989 containing comprehensive guidelines on seizure of Narcotics and post seizure actions to be taken by the officer .

2. It is requested that while drawing samples of seized narcotic drugs & psychotropic substances, instructions contained in para 2.1 to para 3.0 of the above referred Standing Order may kindly be adhered to meticulously.

Yours faithfully,

*(Handwritten signature)*  
15/2/10

(Ashok Kumar Yadav)  
Deputy Director (P&C)

Encl: As above.

P.O. No. 691 / 02 / 2010-2011 (A)  
Government of India  
Ministry of Finance  
Department of Revenue  
Anti-Smuggling Unit

Harish Vaidya Building, 4th Floor, Baitoli, Conna Place,  
W K Murari, New Delhi, dated 06/02/2010

All Chief Commissioners of Customs  
All Chief Commissioners of Excise (Provisional)  
All Chief Commissioners of Excise, S. C. & T. Dept.,  
Director General of Revenue Intelligence

Subject: Removal of samples to court of records of Narcotics - Bangalore

Madam/Sir,

Standing Order No. No. 1785 dated 12.8.1982 contains comprehensive guidelines on  
removal of Narcotics and post seizure activities to be taken by the officers (copy enclosed for your  
reference).

1. Para 7.1 to Para 8.4 of the said standing order provides the manner / procedure of  
removal of samples and the manner in which the samples are to be sent for testing.

2. It has been brought to the notice of the Board that the provisions on removal of samples  
are not being followed properly. In some of the cases where sampling for testing was not  
done properly, orders/circulars issued by the High Courts have been required to be followed by the  
higher courts.

3. In the High Court of Madras in Criminal Appeal No. 495 of 2007 with Criminal  
Appeal No. 103 of 2007, Criminal Appeal No. 493 of 2007 and Criminal Appeal No. 494 of 2007  
(2008) have observed that samples from the seized packets and containers are not being drawn and only  
samples from one packet is being drawn as the representative sample. Directions of Bangalore  
provided in para 7 of the said Standing Order are being taken without giving due  
consideration to the directions issued by the High Courts.

4. Accordingly, it is directed to the effect that the provisions of the Standing Order  
should be strictly followed. The High Court of Madras in Criminal Appeal No. 495 of 2007 with Criminal  
Appeal No. 103 of 2007, Criminal Appeal No. 493 of 2007 and Criminal Appeal No. 494 of 2007  
(2008) have observed that samples from the seized packets and containers are not being drawn and only  
samples from one packet is being drawn as the representative sample. Directions of Bangalore  
provided in para 7 of the said Standing Order are being taken without giving due  
consideration to the directions issued by the High Courts.

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**Government of India**  
**Ministry of Finance**  
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Hudco Vishala Building, 5th Floor, Bhikaji Cama Place  
R.K.Puram, New Delhi, dated 06 /09/2010

All Chief Commissioner of Customs  
All Chief Commissioners of Customs (Preventive)  
All Chief Commissioner of Customs & Cen. Excise,  
Director General of Revenue Intelligence

Subject: Drawal of sample in cases of seizure of Narcotics – Regarding

Madam / Sir,

Standing Order S.O.No. 1/89 dated 13.6.1989 contains comprehensive guidelines on seizure of Narcotics and post seizure actions to be taken by the officers (copy enclosed for ready reference).

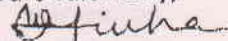
2. Para 2.1 to Para 3.0 of the said standing order provides the manner / procedure of drawal of sample and the authority to which samples are to be sent for testing.

3. It has been brought to the notice of the Board that the instructions on drawal of sample are not being followed properly. In some of the cases where sampling and testing were not done properly persons convicted in the trial courts have been released in Criminal Appeal by the higher courts.

4. Hon'ble High Court of Patna in Criminal Appeal (DB) No. 475 of 2007 with Criminal Appeal (DB) 553 of 2007, Criminal Appeal No. 392 of 2007 and Criminal Appeal No. 698 of 2007 (DB) have observed that samples from each packet and container are not being drawn and only sample from one packet is being drawn as the representative sample. Recourse of bunching provided in para 2 of the said Standing Order are being taken without ensuring that the conditions prescribed in para 2 are satisfied.

5. Accordingly, I am directed to say that it may be ensured that representative sample in duplicate is drawn from each packet or container of narcotics seized and test report obtained for each such sample. Drawal of samples after bunching of packets of 40 may only be taken recourse to only if the packets are identical in all respects i.e., identical size and weight, bearing identical marking and the contents of each packet give identical results on colour test by the drug identification kit. In case bunching is done, the panchnama should clearly describe the same in order to stand the test of judicial scrutiny.

Yours faithfully,

  
( S. K. Sinha )

Under Secretary to the Government of India

**STANDING ORDER NO. 1/89 Dated 13<sup>th</sup> June, 1989.**

Whereas the Central Government considers it necessary and expedient to determine the manner in which the narcotic drugs and psychotropic substances, as specified in Notification No.4/49 dated the 29<sup>th</sup> May, 1989 (F.No. 664/23/89-Opium, published as S.O. 381 (E), which shall, as soon as may be, after their seizure, be disposed of, having regard to their hazardous nature, vulnerability to theft, substitution and constraints of proper storage space:

**SECTION 1 – DRUGS MEANT FOR DISPOSAL**

<b>Drugs Specified in Notification No. 4/89 Drugs meant For disposal Specified</b>	1.	<b>Narcotic Drugs :</b>
		1) Opium
		2) Morphine
		3) Heroin
		4) Ganja
		5) Hashish (Charas)
		6) Codeine
		7) Thebaine
		8) Cocaine
		9) Poppy straw; and
		10) Any other manufactured drug as under clause (xi) Of section 2 of the Act.

**Psychotropic Substances :**

- 1) Methaqualone,
- 2) T.H.C.,
- 3) Amphetamine and
- 4) Any other psychotropic substance, as defined under Clause (xxiii) of section 2 of section 2 of the said Act.

**SECTION II – GENERAL PROCEDURE FOR SAMPLING, STORAGE, Etc.**

**Sampling Classification, Etc. of Drugs Drawal of Samples** 2.1 All drugs shall be properly classified, carefully, weighed and samples on the spot of seizure.

2.2 All the packages/ containers shall be serially numbered and kept in lots for Sampling. Samples from the narcotic drugs and psychotropic substances seized, shall be drawn on the spot of recovery, in duplicate, in the presence of search witnesses (Panchas) and the person from whose possession the drug is recovered, and a mention to this effect should invariably be made in the panchnama drawn on the spot.

**Quantity to Be drawn for the**

drawing

2.3 The quantity to be drawn in each sample for chemical test shall not be less than 5 grams in respect of all narcotic drugs and psychotropic substances save in the cases of opium, ganja and charas (hashish) where a quantity of 24 grams in each case is required for chemical test. The same quantities shall be taken for duplicate sample also. The seized drugs in the packages / containers shall be well mixed to make it homogeneous and representative before the sample (in Duplicate) is drawn.

**Method of drawal**

(a) Single Container / package

(b) Bunch of packages / Bunching for

(i) Hashish and ganja

(ii) Other drugs Drawal of representative samples:

2.4 In the case of seizure of a single package / container, one sample in duplicate shall be drawn. Normally, it is advisable to draw one sample (in duplicate) from each package / container in case of seizure of more than one package / container.

2.5 However, when the packages/ containers seized together are of identical size and weight, bearing identical markings and the contents of each package given identical results on colour test by the drug identification kit, conclusively indicated that the packages are identical in all respects the packages / containers except in the case of ganja and hashish ( charas), where it may be bunched in lots of, 40 Such packages / containers, one sample (in duplicate) may be drawn.

2.6 Where after making such lots, in the case of hashish and ganja, less than 20 packages/containers remain, and in the case of other drugs, less than 5 packages/containers remain, no bunching would be necessary and no samples need be drawn.

2.7 If such remainder is 5 or more in the case of other drugs and substances and 20 or more in the case of ganja and hashish, one more sample (in duplicate) may be drawn for such remainder/container.

2.8 While drawing one sample (in duplicate) from a particular lot, it must be ensured that sample are in equal quantity is taken from each quantity is taken from each package/container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

**Storage of samples - procedure**

2.9 The sample in duplicate should be kept in heat sealed plastic bags as it is convenient and safe. The plastic bag container should be kept in a paper envelope which may be sealed properly. Such sealed envelope may be marked as original and duplicate. Both the envelopes should also bear the S.No. of the package (s)/container (s) from which the sample has been drawn. The duplicate envelope containing the sample will also have a reference of the test memo. The seals should be legible. This envelope along with test memos should be kept in another envelope which should also be sealed and marked 'secret-drug' sample/Test memo', to be sent to the chemical laboratory concerned.

Despatch of samples for testing: To whom to be sent?

3.0 The seizing officers of the Central Government Departments, viz., Customs, Central Excise, Central Bureau of Narcotics, Narcotics Control Bureau, Directorate of Revenue Intelligence, etc. should despatch samples of the seized drugs to

one of the Laboratories of the Central Revenues Control Laboratory nearest to their offices depending upon the availability of test facilities. The other Central Agencies like BSF, CBI and other Central Director, Central Forensic Laboratory, New Delhi. All State Enforcement Agencies may send samples of seized drugs to the Director/Deputy Director/Assistant Director of their respective State Forensic Science Laboratory.

#### Preparation of Inventory

3.1 After sampling, detailed inventory of such packages/containers shall be prepared for being enclosed to the panchnama. Original wrappers shall also be preserved for evidentiary purposes.

### SECTION III – RECEIPT OF DRUGS IN GODOWN AND PROCEDURE

#### Custody of Drugs in Godowns – Storage Procedure

3.2 All the drugs invariably be stored in safes and vaults provided with double-locking system. Agencies of the Central and State Governments, may specifically designate their godowns for storage purposes. The godowns should be selected keeping in view their security angle, juxtaposition to courts, etc.

#### Maintenance of godowns and procedure for deposit of Drugs

3.3. Such godowns, as a matter of rule, shall be placed under the over-all supervision and charge of a Gazetted Officer of the respective enforcement agency, who shall exercise utmost care, circumspection and personal supervision as far as possible. Each seizing officer shall deposit the drugs fully packed and sealed in the godowns within 48 hours of such seizure, with a forwarding memo indicating NDPE Crime No. as per Crime and Prosecution (C & P Register) under the new law, name of the accused, reference of test memo, description of the drugs, total no. of packages/containers, etc.

#### Acknowledgement to be obtained

3.4 The seizing officer, after obtaining an acknowledgement for such deposit in the format (Annexure-I), shall had acknowledgement over such to the Investigating Officer of the case along with the case dossiers for further proceedings.

#### Action to be taken by Godown-in-charge before Acceptance of drugs for deposit Maintenance of godown register

3.5 The Officer-in-charge of the godown, before accepting the deposit of drugs, shall ensure that the same are properly packed and sealed. He shall also arrange the packages/containers (case-wise and lot-wise) for quick retrieval, etc.

3.6 The godown-in-charge is required to maintain a register wherein entries of receipt should be made as per format at Annexure-II.

#### Inspection by Inspecting Officer

3.7 It shall be incumbent upon the Inspecting Officers of the various Departments mentioned at Annexure-Ii to make frequent visits to the godowns for ensuring adequate security and safety and for taking measures for timely disposal of drug. The Inspecting Officers should record their remarks/observations against Col.15 of the Format at Annexure-II.

#### Prescription of periodical reports and returns

3.8 The Heads of the respective enforcement agencies (both Central and State Governments) may prescribe such periodical reports and returns, as they may deem fit, to monitor the safe receipt, deposit, storage, accounting and disposal of seized drugs.

**Pre-trial disposal of drugs**

3.9 Since the early disposal of drugs assumes utmost consideration and importance, the enforcement agencies may obtain orders for pre-trial disposal of drugs and other articles (including conveyance, if any) by having recourse to the provisions of sub-section (2) of section 52A of the Act.

**Follow-up action to be taken by Police and Empowered officers**

**SECTION IV - ACTION TO BE TAKEN BY POLICE AND OTHER EMPOWERED OFFICERS FOR PRE - TRIAL DISPOSAL**

4.0 Where any narcotic drug or psychotropic substance has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer, referred to in paragraph 3.3 .....of the order shall prepare an inventory of such narcotic drugs or psychotropic substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers of such other identifying particulars of the narcotic drugs or psychotropic substances of the packing in which they are packed, country of origin and such other particulars as may be considered..... relevant to the identity of the aforesaid drugs in any proceedings under the Act and make an application to any Magistrate for the purpose of -

**Application to Magistrate for pre-trial**

- (a) certifying the correctness of the inventory so prepared; or
- (b) taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs as true; or
- (c) allowing to draw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.

**Magistrate to allow Application**

4.1 Where an application is made under sub-section (2) of the section 52A of Act, the Magistrate shall, as soon as may be, allow the application.

**Courts to treat documents and list of samples certified by Magistrate as "primary evidence"**

4.2 Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs, or narcotic drugs or psychotropic substances and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.

**Grounds to be enumerated in application**

4.3 While preferring an application under section 52A to any Magistrate, emphasis may be laid on 'expediency of disposal'. The ground that may be high-lighted may pertain to -

- (i) risk of pilferage, theft and substitution;
- (ii) constraints of storage and hazardous nature;
- (iii) high potential and vulnerability of abuse;
- (iv) high temptations to traffickers;

diminution in the value of other articles (including conveyances) due to long storage, etc.

**Filing of Charge-sheet/Plaint**

4.4 Since the filing of charge-sheet/complaint is condition precedent for expeditious issue of orders for pre-trial disposal, for expeditious issue of orders for pre-trial disposal, complaints by the

respective enforcement agencies must be filed after completion of investigation within the stipulated period of 90 days of seizure/arrest, on a priority basis. This requires to be meticulously adhered to.

**Documents to accompany Application**

4.5 While moving the application under sub-section (2) of section 52A of the Act as above, production of all seized articles/drugs, etc. along with the panchnama (in original) and detailed inventory thereof is essential. The inventory shall be complete in all respects and contain such particulars, as may be relevant to establish nexus/identity of articles. The chemical analysis report should be simultaneously filed.

**Mode of disposal of drugs on which court's and orders obtained**

4.6 After the court orders are passed for pre-trial disposal of drugs, those drugs which have no legitimate value (excepting opium, morphine, codeine and the baine, which are required to be transferred to the Government Opium Alkaloid Works Undertaking at Ghazipur or Neemuch, as the case may be) are required to be destroyed consistent with the guidelines issued under this order and not repugnant to the court's order.

**Application of Customs Act ibid.**

4.7 As bulk of seizures of drugs relate to illicit import and are made at the points of entry or exit or in transit traffic, such drugs are liable to seizure under section 110 of the Customs Act, 1962 and confiscation under sections 110 or 113. In such cases, it would be appropriate to initiate proceedings under the Customs Act also.

**SECTION 5**

**CONSTITUTION & FUNCTIONS OF DRUG DISPOSAL COMMITTEE**

**Constitution of Drug Committee**

5.0 A three Members Committee of the respective enforcement agencies (both Central and States), known as the "Narcotic Drugs and Psychotropic Substances Disposal Committee" should be constituted to discharge its functions from the Headquarters of the respective Heads of Departments. The Committee will be headed by an officer not below the rank of -

(i) Deputy Collector of Customs and Central Excise with two Members of the rank of Customs and central Excise in the case of Customs and Central Excise Collectorate;

(ii) Deputy Narcotics Commissioner with two members of the rank of Assistant Narcotics Commissioner in the case of Narcotics Commissioner's organisation;

(iii) Deputy Director of Revenue Intelligence with two members of the rank of Assistant Director in the case of Directorate of Revenue Intelligence;

(iv) Deputy Director and two other officers, as may be authorised by the Director General, Narcotics Control Bureau in the case of that organisation;

(v) Deputy Inspector-General of Police with two members of the rank of Superintendent of Police in respect of State Police Organisations; and

(vi) Deputy Commissioner of Excise with two officers of the rank of Assistant Commissioners, in respect of State Excise Organisations.

5.1 The Committee will be directly responsible to the Head of the