Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

(Unofficial English Translation)

Study Report
On Facilitating Customs Clearance
For Relief Consignment
(June, 2015)

Government of Nepal
Ministry of Finance
Department of Customs
Tripureswor, Kathmandu
Nepal
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

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Executive Summary

Nepal suffered grave physical and human losses due to devastating earthquake of 25th April 2015 and several subsequent aftershocks. The earthquake directly hit Kathmandu valley and nearly 14 districts. Government of Nepal mobilized with its full strength immediately for an early rescue and relief efforts after earthquake to reduce casualties and loss of properties. Cabinet decision dated 25 April 2015 declared state of emergency in the affected districts and arranged Customs clearance of relief consignment and equipment accompanied with or without rescue personnel that were sent by different countries as per UN Model Agreement. International organizations, non-governmental organizations, governments from around the world rendered immediate support to Nepal by providing rescue and relief materials. Department of Customs has constituted a Task Force on 6 May 2015 led by Deputy Director General of Customs to facilitate the ongoing clearance process of rescue and relief materials in a systematic way and to better manage the task in future. 

Government of Nepal made several decisions as and when it was required to facilitate import of relief consignment in the absence of the laid down procedure for rescue and relief. In this context Department of Customs constituted one task force to submit a report regarding rescue and relief consignment by reviewing existing legal provisions, international treaties, standards and best practices, and the decisions made by Government of Nepal for speedy and simplified clearance of rescue and relief assistance received from bilateral and multilateral agencies during disaster and natural calamities in the country as there are no clear provisions in Customs Act 2007 and Customs Regulation 2007. This report is the product of the task force.

This report is presented in three sections and two Annexes. The first section covers background, task force structure, Terms of Reference, study methodology, timeframe and limitations of the study. Section two includes international best practices, Government of Nepal decision in respect of disaster management and Customs facilitation adopted in relief consignment. Section three incorporates conclusion and recommendation for way forward. The report includes proposed changes in Customs legislation in annex I and proposed procedure to deal with the relief consignment in Annex II. The report attaches all the references at the end section.
Section one: General Introduction

1.1. Background
Several studies have claimed that Nepal is a country of multidimensional disaster. Nepal is ranked at 11th for Earthquake disaster, 30th for water bound disaster, 4th for environmental disaster and 30th for multidimensional disaster. Disaster has three dimensions. These are – pre-disaster awareness, rescue and relief during disaster and post disaster rehabilitation and reconstruction. Supply chain management plays crucial role in all these stages. In this regard, the import management seeks as simple, easy and effective mechanism for rescue, relief and reconstruction. The Customs is required to play an effective role in relief management and ensuring trade recovery and continuity.

Nepal suffered grave physical and human losses due to devastating earthquake of 25th April 2015 and several subsequent aftershocks. The earthquake directly hit Kathmandu valley and nearly 14 districts. Government's main responsibilities were to launch rescue operation for human and cattle from the debris and to construct houses and temporary sheds for rehabilitation. There was no possibility that Nepal a landlocked, least developed and country with difficult terrain would have been able to manage this unprecedented grave situation alone. International organizations, non-governmental organizations, governments from around the world rendered immediate support to Nepal by providing rescue and relief materials.

As the earthquake is unpredictable, immediate attention has to be given for an early rescue and relief efforts after earthquake to reduce casualties and loss of properties. In this context, Cabinet decision dated 25 April 2015 declared state of emergency in the affected districts and arranged Customs clearance of relief consignment and equipment accompanied with or without rescue personnel that were sent by different countries as per UN Model Agreement. But, Government of Nepal made several decisions as and when it was required to facilitate import of relief consignment in the absence of the laid down procedure for rescue and relief. Department of Customs has constituted a Task Force on 6 May 2015 led by Deputy Director General of Customs to facilitate the ongoing clearance process of rescue and relief materials in a systematic way and to better manage the task in future.

1.2. Task force structure, terms of reference and study methodology
Department of Customs has decided to form a Task Force on 6 May 2015 led by Deputy Director General of Customs in order to submit a report on Customs clearance, transit and transshipment of relief consignment along with draft procedure in the event of disaster by reviewing existing international conventions, treaties and best practices. The structure, terms of reference and study methodology are as per below;

1.2.1. Formation of Task Force:
Mr. Damodar Regmi, Deputy Director General, Department of Customs - Convener
Mr. Achyut Prasad Siwakoti, Director, Department of Customs - Member
Mr. Kula Raj Jnawali, Director, Department of Customs - Member
Mr. Mimangsa Adhikari, Director, Department of Customs - Member
Mr. Gyanendra Raj Dhakal, Chief Customs Auditor, PCA Office - Member
Representative (Officer level) as designated by Chief Customs Administrator, Tribuvan Airport Customs Office - Member
Mr. Gopal Prasad Bhattarai, Section Officer, Department of Customs - Member Secretary.

Invited Members:
Mr. Shyam Prasad Dahal, National Trade Facilitation Specialist, ADB
Mr. Sarad Bikram Rana, National Customs Procedure Expert, ADB

1.2.2. Task Force Terms of Reference (ToR)

The Task Force’s ToR specified to submit a report as per below regarding rescue and relief consignment by reviewing existing legal provisions, international treaties, standards and best practices, and the decisions made by Government of Nepal for speedy and simplified clearance of rescue and relief assistance received from bilateral and multilateral agencies during disaster and natural calamities in the country as there are no clear provisions in Customs Act 2007 and Customs Regulation 2007.

- Prepare Draft Procedure for Customs clearance of relief consignment.
- Recommend for the improvement of Customs Website to provide more access to information on the Customs Clearance of relief consignment.
- Submit report along with work plan to Department of Customs within fifteen days from the date of Task Force Formation.

1.2.3. Study Methodology

The Task Force followed the following procedures to accomplish its assignment.
1. Studied the international treaties, agreements, standards, guidelines and best practices in Customs clearance of relief consignment.
2. Studied the existing policies on Relief and decision taken by Government of Nepal after 25 April 2015.
3. Studied the declaration processing steps adopted by few Customs offices for relief consignment after the earthquake of 25 April 2015.
4. Consultation and interaction with stakeholders were held.
5. Studied the policy adopted in Sri Lanka and the Philippines in disaster relief and important points are included in the report.

1.2.4. Task force timeframe

Task force was given 15 days. It commenced work from 8 May 2015. The task force works were disrupted due to the second biggest earthquake on 12 May 2015 and subsequent aftershocks and it could not complete works within specified fifteen days. The Department of
Customs extended additional 15 days’ Timeframe as per the decision dated 24 May 2015. The report has been prepared after convening five task force committee meetings and four task force sub-committee meetings.

1.3. Limitation of the study
This report has been prepared based on the Terms of Reference. This report is confined to the decisions taken by Government of Nepal following the devastative earthquake of April 2015. It excludes earlier decisions and efforts made in respect of natural disaster. Field studies with respect to clearance procedure adopted for relief and rescue materials were limited to three Customs offices. The report covers rescue and relief consignments by Nepal Customs for import from other countries and re-export to other countries. However, this report does not include rescue and relief consignments from Nepal to other countries, re-import, transit and transshipment except the facilitation measures extended by Government of India on 19 May 2015. Further, this study confines to Nepal Customs in disaster management.
Section two: Study of reference materials

2.1. International provisions on relief consignment
Studies were conducted to review international practices on rescue and relief consignments during the report preparation. The following provisions, which have direct linkages to relief consignment, were reviewed.

1. Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance of Red Cross and Red Crescent Societies (March 2013)
2. Resolution of the Customs Cooperation Council on the Role of Customs in Natural Disaster Relief (June 2011)
5. Revised Kyoto Convention, Specific Annex J, Chapter 5 (February 2006) and its related guidelines
6. Recommendation of the Customs Co-operation Council to expedite the forwarding of relief consignments in the event of disasters (June 1970)
7. Istanbul Convention on Temporary Admission (June 1990)
8. The SAFE Framework of Standards – Key Principles and Trade Continuity and Resumption (Section VII)
9. WCO Trade Recovery Guidelines

The following is the summary presentation of the above reference documents;

1. Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance of Red Cross and Red Crescent Societies (March 2013)

This Model provides a reference tool for voluntary use for disaster management officials and/or legislators who wish to develop domestic legislation, regulation, and/or procedures in their countries for managing potential future international disaster assistance. Model Act is prepared after series of consultation among International Red Cross Society, UN Office for the Coordination of Humanitarian Affairs (UN-OCHA) and experts' consultation with the assistance of Inter Parliamentary Union. This Model Act is grouped under nine chapters and seventy-one articles. All these articles are not related to Customs. This report has taken into reference those articles, which are related to Customs.

- Article 29: Relates to providing Customs Facilitation, Priority Treatment and special attention in clearance for Relief Consignment.
- Article 30: Relates to declare that the relief consignment are exclusively for disaster purposes and comply with national law and packaging and classify and marked as directed by Customs.
- Article 31: Relates to representation to Customs by themselves or through a
designated person on their behalf.

- **Article 32**: Relates to exemption from Import Duties, waiver of Taxes and waiver of economic prohibitions and restrictions except provision under article 37 to 40. This also relates to clearance without regard to the country of origin or country of last destination.

- **Article 33**: Relates that the Customs will provide the following facilities for simplification of documentation requirements;
  
  a. Clear or release relief consignments on the basis of a provisional declaration providing the minimum information necessary for the Customs to identify the Goods and Equipment and subject to completion of a detail information within a specified period;
  
  b. Allow a single goods declaration for all imports of relief consignment;
  
  c. Allow the goods declaration and any supporting documents relating to relief consignments to be lodged electronically and without any fee;
  
  d. Allow the lodging and registering or checking of the goods declaration and supporting documents prior to the arrival of relief consignment to facilitate their release upon arrival; and
  
  e. Waive any requirement of translation of details in documents relating to relief consignments unless it is absolutely necessary for the purposes of release or clearance.

- **Article 34**: Relates to provide extended hours for clearance. This provision allows relief consignment clearance beyond designated Customs hours and without additional charges. It also includes provision to coordinate with related agencies for joint clearance.

- **Article 35**: This relates to Inspections and Customs Security provisions to facilitate the relief consignment by Customs. The provisions under this article are as follows;
  
  a. Minimum level of physical verification of relief consignment based on risk analysis to the extent deemed necessary to comply with the law,
  
  b. Use risk analysis, preferably on the basis of advance information,
  
  c. Waive, as feasible, any customs security in respect of relief consignments that would normally be required. Take undertakings where absolutely necessary on exceptional cases of general Customs security.

- **Article 36**: This article recommends to enter into an agreement with stakeholders to extend above facilities for pre-positioning of stock in preparation for potential disaster, or after a specific disaster warning.

- **Article 37, 38 and 39**: The telecommunication equipment (Article 37), medication (Article 38) and food (Article 39) recommend placing provisions of these articles in the respective laws.
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- Article 41: This article refers to search dogs to be admitted temporarily under specified conditions and requirements.
- Article 42: This article sets out the disposition of relief goods imported on exemption. The disposition may take a form of retaining for humanitarian purpose, re-export, donation, destroy on its own cost or sale after paying applicable duties.
- Article 43: This article sets out permission to re-export any equipment or unused goods within specified period without duties and taxes. But documentary evidence provided at the time of import has to be provided with for correlation and identification.
- Article 44: This article provisions relief materials left behind after disaster to be donated within specified period without imposition of duties and taxes subject to providing documentary evidence of purchase or import provided that the beneficiary is non-profit-making organization.
- Article 45: This article provision for facilitation of ground, air and water transport vehicles to transport international and locally engaged personnel, goods, or equipment for the purpose of disaster relief or initial recovery assistance. This shall include high priority for passage, exempt from any applicable taxes, levies, duties, fees or charges and exempt for any prohibition, limitations or restrictions in respect of their arrival, over flight, landing, stay and departure.
- Article 61: This article sets out that Customs should facilitate the speedy transit or transshipment across its national territory for the movement of relief consignment in the event a disaster in other country.
- Article 62: The article sets out the beginning and termination of the transit and transshipment after seeking the views of the disaster affected country. This article also sets the provision to provide prior information of the termination period.
- Article 65: Model Act sets out the provisions of imports, restricted imports and equipment imports under relief consignments and applies to relief consignment when placed under customs transit or transshipment to an affected country.

2. Resolution of the Customs Cooperation Council on the Role of Customs in Natural Disaster Relief (June 2011)

The resolution adopted by Customs Cooperation Council in the context of natural disaster has invited the members to implement the following provisions;

1. Implement Revised Kyoto Convention Chapter 5 of Specific Annex J and sign the UN Model Agreement,

2. Plan for incorporating procedure for relief consignment in national legislation and/or regulations and, wherever possible, in national emergency plan. These procedures, including the list of entry/exit Customs point, should be made available to the public, using website and/or the Directory managed by the UN-OCHA.

3. Carry out diagnostics on the procedures introduced for the Customs processing of
emergency humanitarian assistance and their capacity to put those procedures into operation in the event of a natural disaster; and simulation exercises to test their level of preparedness and capacity to manage emergency situations and possibly to verify the quality of national emergency plans;

4. Draw up and implement a training plan to ensure that Customs staff are qualified and able to manage disaster;

5. Manage borders in an efficient, simplified and coordinated manner, including sharing of information, with the other national authorities involved in the handling of relief consignments, disaster relief personnel and their possessions, while using existing clearance systems in order to provide for rapid, efficient and centralized processing of these consignments;

6. Review and, where necessary, update bilateral mutual administrative assistance arrangements between Customs administrations in order to manage emergencies; and

7. The resolution instructs WCO secretariat to compile an inventory of existing tools and instruments, organize seminars, study other relevant key principles to further facilitate process, create a dedicated Web page on the WCO Public Web site, introduce measures to control cultural artifacts that may be smuggled or exported illegally and provide capacity building.


The emergency response plan drafted to implement the UN Model Agreement between Government of Nepal and the UN. Emergency response plans accommodate different aspects of Customs procedure to be adopted in the context of natural disaster. It covers all relevant government agencies, communication mechanism, information flow, Standard Operating Procedure, prohibited and restricted goods, UN Certificate, re-export procedure, time release and gaps identification, appealing process, dissemination plan and awareness program and updating mechanism. The relevant subjects covered under the Emergency Response Plan are as under;

- The Government of Nepal declares the State Emergency and appeals for external assistance in case of the major disasters. Central Disaster Relief Committee (CDRC) coordinates with national and international communities for humanitarian assistance. The secretariat of the CDRC is in the MOHA.

- Customs Officer will adopt one window policy for Customs clearance. Customs Officer in charge is automatically empowered to clear the goods without requiring any further consultation with other government departments or ministries or seeking an instructions from higher authority. However for this purpose, state of emergency has to be declared, the organization requesting the Customs clearance should possess a United Nations Certificate, the organization should present all the required documents as specified and the organization should import only through designated Customs.

- The required documents for Customs clearance are specified as under;
  a. Cover letter requesting Customs clearance (with list of attached documents);
b. UN Certificate duly signed by the United Nations Humanitarian Coordinator’s (HC) Office or designated officials,
c. Customs Declaration Form;
d. Bill of Lading/Airway bill;
e. Invoice; and
f. Packing list.

• Provisional submission of copies of the documents is permitted and pre-release may be granted when all the documents are ready in advance.

• When the intervention of a Customs agent or clearing and forwarding agent is going to delay the process, the organization themselves can submit the Customs declaration. Customs will accept incomplete Customs declaration as long as the most relevant fields are completed.

• Emergency Response Plans specify the following goods will be prohibited completely from importation, transit or exportation:
  g. Unlicensed drugs, such as heroin, morphine, cocaine, amphetamines, barbiturates, LSD and cannabis;
  h. Offensive weapons, such as flick knives, butterfly knives;
  i. Firearms, explosives and ammunition;
  j. Indecent and obscene material featuring children, such as books, magazines, films, videos, DVDs and software;
  k. Pornographic material, other than that which depicts the type of consensual sexual activity between adults which can be legally sold and purchased in Nepal;
  l. Obscene material, depicting extreme violence;
  m. Counterfeit and pirated goods, and goods that infringe patents when brought into Nepal from outside Nepal;
  n. Goods bearing misleading official emblems, designs, markings, etc.;
  o. Cultural property in the sense of the UNESCO Conventions on the matter;
  p. Any of the species protected by CITES and any specific Nepalese legislation on the matter;
  q. Items that may be a health risk;

• Goods subject to quarantine checks are not prohibited, but these will be restricted goods.

• Accomplish physical examination of cargo on a sampling or selective basis and carry out such examination as rapidly as possible.
• Once the state of emergency is declared, government will immediately notify the UNOCHA/Humanitarian Coordinator or UN designated official. The UN body will issue the UN Certificate to bonafide organizations and the certificate is to be presented to Customs at the Customs office for Customs clearance.

• Government will facilitate temporary import of goods intended for re-export and such re-export is allowed after verification with the earlier declaration. However the Emergency Response Plan also recommends that a procedure be formulated to allow such re-export in cases where the earlier declaration cannot be produced.

• The plan recommends establishment of a mechanism to study the time release of export, import and transit and identify weaknesses. In the benchmarking methodology for bottleneck identification, the plan recommends to include compilation of legal framework and agreement, outline import processes, establish time indicator between processing steps, take a sample of relief consignment and measure performance and elaborate final report.

• The report highlights that there is no formal Appeal Committee established in Nepal.

• The plan identifies eleven agencies at policy level and eight Customs offices at field office to disseminate the agreement.

• The Ministry of Home on behalf of the Central Disaster Relief Committee updates the focal point details in every three months and conducts a lesson learning workshop among the humanitarian agencies.


• Model Agreement was signed on 31 May 2007 between Government of Nepal and the United Nations to adopt measures for speedy clearance of relief and rescue materials and personnel on import, export and transit in disaster and emergency state. The Permanent Technical Committee of the World Customs Organization has approved the Model of Agreement Concerning Measures to expedite the Import, Export and Transit of Relief Consignments and possessions of relief personnel in April 1996. This agreement contains seven articles and one annex.

• Article One covers definition. It gives definitions of disaster, disaster relief personnel, possessions of disaster relief personnel, relief consignment, United Nations relief operation and emergency.

• Article Two explains the organizations involved in the UN relief operation. The agencies involved in the UN relief operation are specified as (i) the United Nations, (ii) UN Agencies, (iii) UN certified Governmental (GOV), Intergovernmental (IGO) and Non-Governmental (NGO) organizations, and (iv) transport carriers contracted by these agencies for transportation of relief consignment(s) and/or possessions of disaster relief personnel as bona fide participants within the framework of a UN relief operation and transport carriers contracted by the UN, a UN Agency or a UN certified...
GOV/IGO/NGO for transportation of relief consignment(s) and or possessions of the disaster relief personnel.

- Article Three contains facilitation measures for UN relief operations. These include export, transshipment and transit facilitation provisions.
  - With respect to export:
    - The agreement sets provision to waive economic export prohibition or restriction on export duties for relief consignment destined to disaster-affected countries. This also covers the possession of the disaster relief personnel.
    - Acceptance of written summary declaration.
    - Expeditiously examine only when necessary for security or narcotics/contraband control purposes by applying sampling or selective techniques and certify the result on the declaration, affix seal where such actions are likely to avoid delays in transiting, give permission to prior clearance of the relief consignment in stockpile state from designated Customs offices in advance of the need for actual export and permit to place relief consignment in Customs warehouse for subsequent export.
  - With respect to transshipment and transit:
    - Allow operators, under supervision of public authorities to disassemble transshipment cargo except for reason of security or in special circumstances and subject only to simple documentation,
    - Facilitate as far as possible the carriage of relief consignment and possessions of disaster relief personnel in Customs transit.
  - With respect to import:
    - Allow import free of duties and taxes and economic import prohibition of restrictions in respect of:
      - All relief consignment imported by the UN, or its agencies, or organization involved in the UN disaster relief operations for distribution free of charge by them or under their control to victims of disaster consisting of foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses or other goods of prime necessity.
      - Possessions of disaster relief personnel.
    - Facilitate the temporary admission of any equipment required by the UN or its agencies or organizations involved in disaster relief, with conditional relief from import duties and taxes accepting an undertaking given by them to re-export such equipment. The equipment generally covers;
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- transmission and communication equipment;
- water purifying and water storage items;
- all equipment, machinery, tools and electronic devices required by technical specialists, such as doctors, engineers, communications technicians, logisticians, community workers, etc. to perform their duties;
- equipment not directly involved in relief operations but used to fight and eliminate the consequences of natural and similar disasters, e.g. for elimination of pollution of all types, decontamination of buildings and territories, inspection of industrial structures, etc.;
- administrative support items such as office equipment (e.g., computers, photocopiers and typewriters), expendable supplies, staff security items and administrative manuals and documents;
- tents, prefabricated and mobile staff accommodation units and associated materials including cooking and dining equipment and supplies, sanitation requirements and compound safety/security items;
- possessions of disaster relief personnel;
- means of transport and spare parts and equipment for their repair;
- animals for rescue operations, e.g. specially trained dogs.

It also provides for operators and importers to submit manifest and entry details to Customs prior to arrival of the relief consignments in order to facilitate immediate release, subject to complete fulfilment of Customs and other requirements within a specified time limit and prescribes physical examination of cargo, when required, on a sampling or selective basis, as rapidly as possible

- Article Four delegates authority to Customs at entry or exit point to apply the measures specified in article 3 for clearance of relief consignment whether or not they have been informed by their superior administration.
- Article Five provides facility to conclude ad-hoc adjustment to the agreement.
- Article Six provisions for non-waiver of immunity from suit or legal process, or of any privilege, exemption or other immunity enjoyed or which may be enjoyed by the United Nations and its personnel by virtue of the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly on 13 February 1946.
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- Article Seven sets entry date, amendment and termination of the agreement.
- The annex to the agreement provides the UN Certificate format to be issued by the UN to the organization involved under UN relief operation. The format contains name of issuing organization, the UN body, bona fide participants, nature of the disaster and the validity period of such UN Certificate.

5. *The Revised Kyoto Convention, Specific Annex J, Chapter 5 (February 2006)*

Revised Kyoto Convention is a convention adopted by World Customs Organization members for simplification of Customs procedure in 1994. This was revised and released on 1999 and has been effective from 3 February 2006. Revised Kyoto Convention contains General and Specific annexes. Contracting party to the convention has to incorporate all the General Annex in the national legislation, while the adoption of the Specific Annex solely depends on the member country. Chapter 5 of Annex J under the Specific Annex deals with relief consignment, which is as follows;

- Defines “relief consignments” as “(i) goods, including vehicles and other means of transport, foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, water purifying and water storage items, or other goods of prime necessity, forwarded as aid to those affected by disaster; and (ii) all equipment, vehicles and other means of transport, specially trained animals, provisions, supplies, personal effects and other goods for disaster relief personnel in order to perform their duties and to support them in living and working in the territory of the disaster throughout the duration of their mission.”

- The following standards sets provisions for relief consignment;
  - Standard 1: Clearance of relief consignments shall be governed by provisions of Chapter 5 and, insofar as applicable, by provisions of the General Annex. Contracting Parties should particularly note Standard 1.2 of the General Annex and ensure that their national legislation specifies the conditions to be fulfilled and the formalities to be accomplished for Relief consignments.
  - Standard 2: Clearance of relief consignments for export, transit, temporary admission and import shall be carried out as a matter of priority.
  - Standard 3: In case of relief consignments the Customs shall provide for:
    - Lodging of a simplified declaration of goods or of a provisional or incomplete declaration of goods subject to completion of the declaration within a specified period;
    - Lodging and registering or checking of the declaration of goods and supporting documents prior to the arrival of the goods, and their release upon arrival;
    - Clearance outside the designated hours of business or away from Customs offices and the waiver of any charges in this respect; and
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- Examination and/or sampling of goods only in exceptional circumstances.
  - Standard 4: Recommended Practice: Clearance of relief consignments should be granted without regard to the country of origin, the country from which these arrived or country of destination.
  - Standard 5: Recommended Practice: In the case of relief consignments, any economic export prohibitions or restrictions and any export duties or taxes otherwise payable should be waived.
  - Standard 6: Recommended Practice: Relief consignments received as gifts by approved organizations for use by or under the control of such organizations, or for distribution free of charge by them or under their control, should be admitted free of import duties and taxes and free of economic import prohibitions or restrictions. In relation to this Recommended Practice, relief consignments consisting of equipment loaned free of charge, e.g., water purifying, transmission and communication equipment, etc., to approved organizations should be granted temporary admission without the requirement of security and with minimum delay. However, an undertaking to re-export such equipment may be required from the approved organization. It sometimes happens that certain items of heavy equipment (e.g., trucks), after having been cleared by the Customs and entered into free circulation, are subsequently purchased by approved organizations for use in relief work in the event of a disaster occurring within a country. Although such a situation is not specifically covered by this Chapter, individual countries are urged to consider, at the domestic level, all of the alternatives available to ensure that such equipment is treated as liberally as possible.

Nepal has submitted a proposal to Parliament to accede to the RKC and its General Annex.

6. Recommendation of the Customs Co-operation Council to expedite the forwarding of relief consignments in the event of disasters (June 1970)

- Customs Co-operation Council has recommended the following measures to expedite the forwarding of relief consignment in the event of disaster;
  - Waive any economic export prohibitions or restrictions, and any export duties or taxes, in respect of goods contained in relief consignments destined to countries having suffered disasters;
  - Accept at exportation, as a general rule, the written declarations made out by the exporters of relief consignments as evidence of the contents and of the intended use of such consignments;
  - Take such steps as may be necessary in order that, on application being made by the persons concerned, the Customs authorities of the exporting country may be in a position to examine on random basis where appropriate and certify the result on...
the declaration, affix seal on the relief consignment where such action is likely to
avoid delays in the forwarding of goods.

- Facilitate as far as possible the carriage of relief consignments in Customs transit;
- Allow admission free of import duties and taxes and free of economic import
  prohibitions or restrictions in respect of all relief consignments received as gifts
  by organizations approved by the competent authorities, for distribution free of
  charge by such organizations or under their control to the victims of a disaster in
  their territory, in particular where such consignments consist of foodstuffs,
  medicaments, clothing, blankets, tents, prefabricated houses, or other goods of
  prime necessity;
- Facilitate the temporary admission, with conditional relief from import duties and
taxes, of any equipment loaned free of charge to organizations approved by the
  competent authorities to be used under the control of such organizations in action
  undertaken to alleviate the effects of a disaster; and wherever possible not require
  security but be content with an undertaking given by the approved organization to
  re-export such equipment;
- Authorize as far as possible, relief consignments to be cleared outside the hours
  and places normally prescribed, and, in such circumstances, waive, if possible,
  any charges for Customs attendance;
- Include both natural disasters and similar catastrophes in the term “disaster”.
- Recommendation shall not apply in respect of alcohol, alcoholic beverages or
  tobacco goods;
- The provisions of this Recommendation shall not preclude the application of
  prohibitions or restrictions imposed under national laws and regulations on
  grounds of public morality or order, public security, public hygiene or health or
  based on veterinary or psychopathological considerations;
- This Recommendation does not prevent the application of greater facilities which
  certain Members grant or may grant in future by unilateral provisions or by virtue
  of bilateral or multilateral;
- This Recommendation invites members to approve national organizations, which
  would be responsible for the receipt and distribution of relief consignments, and to
  issue instructions to Customs for the immediate implementation of the provisions
  of this Recommendation.

7. **Istanbul Convention on Temporary Admission (26 June1990)**

Annex B.9 of the Convention on temporary admission relates to the goods imported
for humanitarian purposes. This annex defines relief consignment as all goods, such
as vehicles and other means of transport, blankets, tents, prefabricated houses or

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1The Administrative Committee of the Istanbul Convention on Temporary Admission is currently
considering amendments to the Annex B9 submitted by Turkey.
other goods of prime necessity, forwarded as aid to those affected by natural disaster and similar catastrophes. This annex sets the provision that goods imported for humanitarian purposes shall be granted temporary admission. Provisions set for the relief consignment for humanitarian purpose are given as:

. goods imported for humanitarian purposes must be owned by a person living outside the territory of temporary admission and must be loaned free of charge;
. medical, surgical and laboratory equipment must be intended for use by hospitals and other medical institutions which, finding themselves in exceptional circumstances, have urgent need of it, provided this equipment is not available in sufficient quantity in the in the country of natural disaster;
. relief consignments must be dispatched to persons approved by the competent authorities in country of natural disaster.
. an inventory of the goods together with a written undertaking to re-export, may be accepted for medical, surgical and laboratory equipment, in lieu of a Customs document and security
. Temporary admission of relief consignments shall be granted without a Customs document or security being required.
. The period for the re-exportation of medical, surgical and laboratory equipment shall be determined in accordance with the needs.
. The period for the re-exportation of relief consignments shall be at least twelve months from the date of temporary admission.

8. The SAFE Framework of Standards – Key Principles and Trade Continuity and Resumption (Section VII)

World Customs Organization member countries adopted SAFE Framework of standards in June 2005 to secure and facilitate global trade. The SAFE Framework has been updated and improving at regular interval. The SAFE Framework sets principles and standard to secure and facilitate the international trade in supply chain presents its members for adoption as a minimal threshold. The SAFE Framework rest on three pillars - Customs-to-Customs network arrangement, Customs-to-Business Partnership and Customs-to-other Government Agencies. These three pillars have specific standards, which will ensure Customs administration to achieve the higher level of facilitation while securing security in supply chain. The Section VI of the SAFE Framework highlight the need of mechanism, plan and processes for trade continuity and resumption of trade in the event of disruption. The Customs Administration should work together with other government agencies and private sectors to identify the their respective roles to draw a mechanism, plan and process in this respect. Section VI also suggests to work with other Customs administration, AEO and business organization to develop the information sharing mechanism. It mentions, "Cooperation among all relevant Stakeholders will enable rapid trade recovery in a holistic and coordinated manner." (Page 35).

9. WCO Trade Recovery Guidelines

World Customs Administration has released "WCO Trade Recovery Guidelines" intended to resume flow of trade following the disruption in global supply chain in as soon as possible and minimizes economic cost of disruption. Effective Trade Recovery is supported by the

2 SAFE Framework of Standards to secure and facilitate global trade, World Customs Organization (June 2015).
Customs-to-Customs and Customs-to-Business pillars of SAFE Framework. WCO Trade Recovery Guidelines consist of the following three components:

"(a) Plan of Action - A logical sequence of steps taken prior to and following disruption;

b) Actions by Customs – Appropriate actions that Customs administrations could take that are consistent with industry best practices;

c) Communication - The exchange of information necessary for Customs administrations and Businesses to facilitate trade recovery activities."\(^3\)

The guidelines included six phases in Plan of Action components, four phases under "Action by Customs" and channels of communication under these three components.

2.2. Experiences of other countries in respect of relief consignment clearance

2.2.1. Policy adopted by Sri Lanka in disaster management:
Sri Lanka suffered from Tsunami in 2004, landslide on Koslanda in 2014 and floods on Pollonaruwa in 2014 and has borne heavy civilian death and physical damage to property. Department of Customs established a centralized agency called “Relief Facilitation Unit”. The main purpose of the unit was to facilitate speedy and easy clearance of relief consignment. A simplified declaration of goods for clearance for relief consignment was introduced and the Unit provided round the clock service. The General Treasury in consultation with relevant agencies issued several circulars containing instructions as to how the relief cargo should be cleared. The instructions contained the provision that the relief consignment need not be examined and in exceptional situation they should be subjected to a random cargo examination to satisfy minimum Customs requirement maintaining proper balance between enforcement and facilitation.

2.2.2. Policy adopted by Philippines on disaster management:
Philippines also faces natural disaster such as Tsunami, Flood and Landslide every year and bear heavy civilian death and physical damage to property. Philippines has also constituted an institution and adopted different measures to minimize the losses by providing immediate relief to victims. These measures include import procedure for relief consignment, clearance procedure, duty exemption including information dissemination to donors. In addition, One Stop Shop (OSS) has been formed with inter-agency involvement for the management of relief consignment.

2.3. Summary of the measures included in international conventions, resolutions and agreements

- **Agreement:** Nepal has signed the UN Model Agreement. There is no written commitment so far in respect of any other convention, recommendation, resolution and model act.

\(^3\)WCO Trade Recovery Guidelines.
• **Coverage of Relief Consignments:** The WCO RKC Specific Annex J, Chapter 5, the Istanbul Convention on Temporary Admission, Annex B9, the WCO Recommendations and Resolution covers export, transit, transshipment and temporary admission. The UN Model Agreement covers export, transit, import and temporary import except transshipment. Emergency response plan contains provision for import and temporary import. Model Act of the International Federation of Red Cross and Red Crescent Societies (IFRC) contains provisions for import and transit only.

• **Definition:** Definitions of certain terms are included in the UN Model Agreement, the Revised Kyoto Convention, Specific Annex J, Chapter 5 relating to relief consignment, the Model Act of the IFRC cross and the Istanbul Convention on Temporary Admission, Annex B9.

• **Temporary Admission:** The general provisions set out for the temporary admission in different documents cover permit for temporary admission can be granted keeping relief consignment on record and re-export can be permitted subject to verification with the import declaration. The documents recommend formulating procedure for re-export, when the declaration is not submitted for re-export.

• **Priority and speedy clearance:** Documents focuses on providing priority to relief consignment and suggest to assign due attention to the movement of relief consignment. Sample collection and/or physical verification of goods will be done in exceptional case. Selectivity based on risk management has to be adopted for speedy clearance.

• **Service Hours:** Customs should provide clearance for relief consignment beyond office hours and on holiday without charging any additional fee for such service.

• **Quarantine Check:** Goods subject to quarantine checks are not prohibited, but these will be restricted goods. With respect to the telecommunication equipment, medication and food, when an emergency is declared, recommendation is made for incorporating provisions in the respective laws of the concerned bodies to grant speedy permission and ensure fast quarantine checks and speedy clearance.

• **Joint Clearance:** Coordination among the agencies is desirable and joint inspection of relief consignment is recommended to the extent possible.

• **Agencies involved in relief operation:** The agencies involved in the UN relief operation are specified as (i) the United Nations; (ii) UN Agencies; (iii) UN certified Governmental (GOV), Intergovernmental (IGO) and Non-Governmental (NGO) organizations; and (iv) transport carriers contracted by these agencies for transportation of relief consignment(s) and/or possessions of disaster relief personnel as bona fide participants within the framework of a UN relief operation and transport carriers contracted by the UN, a UN Agency or a UN certified GOV/IGO/NGO for transportation of relief consignment(s) and or possessions of the disaster relief personnel.

• **Conditions for clearance:** Conditions may be applied for all the goods and
equipment imported exclusively for Disaster Relief and that they comply with any relevant standards under national law. Relief consignment may need to be packed, classified and marked as per Customs requirements.

- **Relief Consignments**: The relief consignments may generally include foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, or other goods of prime necessity.

- **Relief consignments for temporary admission**: The relief consignment for temporary admission may generally include transmission and communication equipment, water purifying and water storage items, all equipment, machinery, tools and electronic devices required by technical specialists, equipment used to fight and eliminate the consequences of natural and similar disasters, administrative support items, possessions of disaster relief personnel, means of transport and spare parts and equipment for their repair and specially trained dogs.

- **Single window and automatic delegation of authority**: Customs point will adopt one window policy for clearance. Customs Officer in charge will automatically be empowered to clear the goods without requiring any further consultation with other government departments or ministries or seeking instructions from higher authority in case of emergency declared by the government.

- **Document requirement**: The required documents for Customs clearance in the stage of disaster are specified in the Emergency Response Plan in Case of Major Disasters, which are as follows;
  
  o Cover letter requesting Customs clearance (with list of attached documents);
  o UN Certificate duly signed by the United Nations Humanitarian Coordinator’s (HC) Office or designated officials,
  o Customs Declaration Form;
  o Bill of Lading/Airway bill;
  o Invoice; and
  o Packing list.

- **Simplified declaration**: It is recommended that a simplified declaration is adopted and declaration can be submitted with minimum or incomplete information on condition of submitting the detailed information within specified period.

- **Advance declaration**: In order to release the relief consignment on arrival at Customs point, facility can be provided to submit, register declaration, verify and approve the declaration in advance of arrival of relief consignment.

- **Electronic submission**: Facilities can be extended to lodge declaration and documents electronically without any additional cost for relief consignment.

- **Copies of documents and clearance**: Copies of the document can be accepted and Customs officer can clear consignment in advance provided all the copies of the
documents are intact.

- **Customs Agent:** The agency responsible for the relief consignment can submit the declaration with the assistance of Customs.

- **Tax exemption:** To the extent possible, Waive duties, taxes and fee and free of economic import prohibitions or restrictions for all relief consignment received as donation for distribution free of charge by approved organization or under their control.

- **Restriction and prohibition:** Government can specify the prohibited and restricted goods keeping in view the need for rescue and relief and subsequent rehabilitation requirements.

- **Unused relief materials:** Unused relief materials can be disposed in the form of retaining for humanitarian purposed, re-export, donation, destroyed on its own cost or sale after paying applicable duties.

- **Advance storage facility:** Legal facilities can be extended to warehouse such goods to respond to potential disaster situation.

- **Experiences from other countries:** Special arrangement has been made in different countries such as Sri Lanka and the Philippines in the event of disaster. Single window clearance, One Stop Shop, clearances beyond office hours, physical verification in exceptional cases are some of the measures adopted in those countries.

### 2.4. Government of Nepal Decision and Customs Facilitation

#### 2.4.1. Government of Nepal Decisions (Customs related portion extracted):

*a* Government of Nepal, Council of Ministers declared state of emergency on 25 April 2015 and decided the followings for immediate clearance and tax exemption for relief consignment and possession of relief materials with the team including dogs for search in disaster situation and earthquake management.

10. Following arrangements will be made for the Customs facilitation for timely clearance of equipment used for search and rescue work and the relief materials imported by various countries, international organizations and institutions without paying customs duty and other taxes:

a) Article 2 of the United Nations model agreement on measures to expedite the import, export and transit of relief consignments and possessions of relief personnel in the event of disasters and emergencies signed by Government of Nepal on 31 May 2007 will be applied to emergency relief consignments and possessions of disaster relief personnel and exempted accordingly. Article 3.3 of this agreement will be applied to organizations involved in United Nations relief operation and other government, non-government, semi government organization certified by United Nations Department of Humanitarian Affairs as per the annex of the agreement. The same provision will also be applied to their authorized transport agents.
b) A Joint Working Level Team is to be formed consisting of a representative from the Ministry of Finance and Ministry of Foreign Affairs at Joint Secretary level, the Chief of Immigration Office of Tribhuvan International Airport, and a representative form the Nepal Army in coordination of Joint Secretary of Ministry of Home Affairs, to accept and coordinate rescue and relief support from bilateral, governmental institutions as well as other organizations. This team is authorized to provide pre-approval for the support considering its rationale and accept support accordingly, and

c) The team will make necessary decisions on rescue and relief goods imported without pre-approval, or goods other than stated in pre-approval letter, as per sub para (b), considering its rationale.

(b) Ministry of Finance issued instructions on 26 April 2015 to exempt Customs duty, VAT and other duties on the import of rescue and relief materials as received from other countries and international organizations in accordance with the Cabinet decision dated 25 April 2013.

(c) The following decisions were taken in the presence of Honorable Prime Minister by the Central Natural Disaster Relief Committee on 30 April 2015 to further simplify and facilitate the disaster management process;

(1) To prepare a list of relief materials essential for earthquake victims before 30 April 2015 by the Secretaries of Home, Commerce, Industry, Agriculture, Finance, and Urban Development ministries and distribute after getting approval from the convener of Central Natural Disaster Relief Committee. Publish notices to the public of the approved list and inform foreign missions that the Government of Nepal would accept the relief materials as per the list.

(13) In order to implement the decision no. 10 of the Cabinet, the Central Natural Disasters Relief Committee and Government of Nepal have made following clarifications on 25th April 2015 decision for rescue and relief materials received from the development partners:

a) Tribhuvan Airport Custom Office should clear all the rescue materials and equipment of the rescue team and foodstuffs received from the international development partners and Non-Governmental Agencies through the international airport, recording all the levied taxes, duties and fee in an account of local offices of Nepal of concerned agencies.

b) Customs offices, other than Tribhuvan International Airport, by forming a Relief Materials Recommendation Committee in coordination with the Chief District Officer of the respective district, consisting of Local Development Officer, heads of the Security offices and the chief of the respective Customs office, and in accordance with the recommendations of the committee, should clear all the materials, imported for the purposes of rescue and relief, recording all the levied taxes, duties and fee. Chief District Officer should immediately
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

send details of goods imported for this purpose to the Central Natural Disasters Relief Committee.

c) Medicines, drinking water, food and rescue equipment, received from an individual for rescue and relief purposes should be cleared by recording all the levied taxes, duties and fees, in the recommendation of above stated committee completing specified criteria. If such rescue and relief material are deposited in a central or district level warehouse established by the Government of Nepal or distributed by the international agencies residing in Nepal or certified non governmental agencies or foreign agency in a coordination with Central Natural Disasters Relief Committee or District Natural Disasters Relief Committee, organizations and individuals of this kind should certify the declaration and places of distribution along with a registration Certificate of an organization, contact number, name and address of the authorized person of an organization at the time of declaration of goods in custom office.

d) Custom office will make necessary adjustment in the records, if such goods are distributed as per the criteria set by the Government of Nepal that is certified by the Chief District Officer and reported to the respective Custom office within 30 days. If not certified and reported within specified period in the respective Custom office, Chief Custom Officer will charge all the applicable duties, taxes, fees and penalties and can take other action as per the law.

(d) The following decision has been made to provide duty exemption to tarpaulin falling under HS Code 63.06 in order to protect citizens residing in the disaster-affected area.

- As per the decision of Government of Nepal (Finance Minister Level), Customs duty and all other taxes will be exempted on import into Nepal of tarpaulin falling under HS Code 63.06 until 3 June 2015 under article 18 of Fiscal Act 2015 keeping in view of high duties on import, and shortage in Nepal, which may be used as roof to protect victims from weather due to the fact that large population have been turned homeless and houses have been damaged following the earthquake of 25 April 2015.

(e) As per decision taken on 30 April 2015 to prepare a list of relief materials essential for earthquake victims by 30 April 2015 by the secretaries of Home, Commerce, Industry, Agriculture, Finance, Urban Development Ministries, such priority list of relief materials was prepared and transmitted by Ministry of Home to Ministry of Finance on 17 May 2015 to provide tax exemption to those items for 10 days. The list is attached in annex.

2.4.2 Customs Facilitation

2.4.2.1. Immediate administrative measures adopted by MOF and Customs:

- Deputy Director General of Customs was deputed as a member of a committee formed in Tribhuvan International Customs Office dedicated to clear rescue and relief consignment promptly at the Tribhuvan International Airport Customs Office.
• Department of Customs deputed a team of two directors, 5 Customs officers and fifteen Customs staffs to Tribhuvan International Customs office for the prompt clearance of rescue and relief consignments.

• Arrangement made to clear relief and rescue consignments from the Airport Apron for the fast clearance. Simplified declaration is introduced and the Customs officials are instructed to help to fill-up the simplified declaration.

• For field Customs offices, a team of Chief Customs Officer and Customs Officer has been formed to clear the rescue and relief consignments promptly. The office hours were extended beyond office hours including holidays as well.

• Director General of Customs made available his mobile number to access to all seeking help and keep the media informed about the Customs arrangements for the clearance of rescue and relief consignment. Information was published in the national newspaper along with the contact names and mobile numbers of the Directors of Department of Customs and Chief Customs officers of main Customs offices.

• Ministry of Finance as per the decision dated 3 May 2015, deputed joint secretaries and other officials to monitor, evaluate and recommend for immediate reform on rescue and relief operation.

• Department of Customs constructed online simplified declaration on its webpage. Online declaration included information such as sending agency, country, receiving agency, address of receiving agency, contact number, goods description, quantity, value, classification, destination of relief materials, declarant and contact number. The system was designed to submit the simplified declaration to the respective Customs Offices, generate system registration number to the declaration and facilitating approval by respective Customs offices. The total number of declarations submitted by 2 June 2015 were 3637 out of which 3113 were approved. The detailed information of relief consignments was arranged to upload on Customs and Ministry of Finance websites. A technical note on the design of Web Portal for relief consignment and challenges are included in Annex.

2.4.2.2. Declaration Processing steps adopted by Customs offices

The simplified declaration processing steps adopted by different Customs Offices are as under;

2.4.2.2.1. Declaration Processing Steps adopted in Tribhuvan International Customs Office:

Scenario 1: Tribhuwan International Customs Office released relief consignments from the Apron, Airport Cargo warehouse and passengers’ lane. Preliminary estimate suggests that 80 percent of the total relief consignment were cleared from the apron. Relief and rescue materials imported from the World Food Program, United Nations, Red Cross and other international organization and countries were cleared from the Airport apron. The declaration-processing step adopted for the World Food Program relief and rescue materials are observed as follows;

• Packaging List and Airway Bill were to be submitted to Customs at the Airport Apron
Area by Security Agency or Liaison Official.

- Simplified Declaration to be filled up by Customs for Agency. Single Administrative Document (BPP) was prepared by Customs and got signed by the agency.
- Identification of Cargo by Customs at Airport Apron.
- Cargo Clearance by Customs at Airport Apron
- Handingover of Cargo was done to Security or Airport Ground Handling Agency
- Movement of Cargo was done to WFP Warehouse
- Uploading of Cargo was done at WFP Warehouse
- Record Keeping was done by filling two forms in WFP Warehouse.
- Exit of Cargo was done from WFP Warehouse

Scenario 2: Relief materials as received from different countries and released from the Airport apron have followed the above processing steps. There have been instances that the relief consignments were directly taken by security agency to the warehouse.

Scenario 3: The declaration processing for the relief cargo to be cleared from the Cargo complex has to follow the sequence of deposit in the warehouse of Nepal Transit and Warehouse Company, submit the declaration by Customs Agent, undergo minimum physical inspection based on selectivity and exit of the cargo from Customs.

Scenario 4: The declaration processing steps for the cargo arriving at passengers terminal has to submit the declaration at the passenger counter and clear the cargo for exiting form Airport terminal.

The processing steps followed in the Tribhuvan International Airport Customs office is given at annex.

2.4.2.2.2. Declaration Processing steps adopted in Dry port Customs

- Relief consignment collected at different places in India are transported through Railway Parcel Van up to Raxual India, which is checked by Indian Customs and released for onward transportation to Sirsia, Dry port at Nepal.
- The details of the relief consignment is arranged to submit to the Indian Consulate General Office at Birgunj in advance.
- Indian Consulate General Office submits the details to District Natural Disaster Relief Committee. The District Natural Disaster Relief Committee forwards the details to Customs Office with recommendation for clearance.
- Importers submit the declaration based on the details and Customs releases the relief consignment.
- Arrangement has been made for the presence of a representative from the District Quarantine Office to complete the quarantine formalities at the Customs point.
• Indian Vehicles are used to move the cargo from Customs Office to victims’ areas without any temporary admission fee based on the recommendation of the Indian Consulate General Office specifying the number plate of such vehicle.

2.4.2.2.3. Declaration Processing steps adopted in Birgunj Customs

• Scenario 1: The relief materials received from the international organizations and on individual basis are cleared on the recommendation of District Natural Disaster Relief Committee.

• Scenario 2: Relief materials received from India on bilateral basis are cleared by Customs on the recommendation of Consulate General Office of India in Birgunj.

• Clearance of relief consignment was facilitated from passengers' clearance terminal. The Assistant Chief District Officer was deputed in Birgunj Customs together with 10 Customs officials to provide recommendation and release of the relief consignment.

2.5. Decisions of Government of India on import of relief materials from third countries

Government of India has made available Kolkata/Haldia port as gateway port for Nepal bound cargo under Treaty of Transit. To effectively move the relief consignment to Nepal, India has extended facilities to other Indian airports, Dryport and Customs offices. Government of India made special arrangement as per 19 May 2015 decision to simplify, facilitate, transship and transit to Nepal border of relief materials received from different countries and arriving at Airport and Ports of India. The main provisions were as under;

• Provision has been made to use airports of Delhi, Lucknow, Banaras, Patna, Kolkata and Bagdogra and dry ports of Delhi and Kanpur in addition to exiting Kolkata port for transshipment, transit and movement of relief cargo upto the Nepal Border as received from third countries. The provision has waived the Bond and Guarantee conditions to be complied by importer in Indian Customs while the cargo transiting to Nepal.

• Simplified declaration has been introduced and CTD has been simplified. Clearance procedure has been simplified by allowing the submission of recommendations from the diplomatic missions of Nepal in India and organization involved in the relief operation for clearance of relief consignment. It is also arranged to clear the relief consignment using simplified declaration and there is no mandatory use of agent for clearance.

• The Customs clearance is allowed beyond the normal office hours. Raxual, Jogbani, Sunauli, Panitanki and Nepalgunj Road have been designated as the transit points for relief consignments.

• The time period has been provided for six months and provision is set out to extend the period further on mutual agreement.
2.7. Gaps in current provisions

The current procedure allows to exempt duties and taxes, minimum physical verification for prompt clearance, clearance beyond the office hours and at different locations, and clearance from the passengers' terminal. In field Customs offices, arrangement is made to submit the declaration by internet, Customs agent is not mandatory etc. These are the provisions adopted in the current situation as referred in the Agreement and guidelines. However, there have been few weaknesses in the clearance of relief consignment.

Nepal Customs Act and Regulations do not contain any specific Customs procedure, transit and transshipment procedure which can be reapplied in the state of disaster. While reviewing international standards and practices on Customs clearance, transit and transshipment procedure in the state of disaster, the Government of Nepal has taken several ad-hoc decisions to respond to the disaster situation. There are gaps identified in legal and procedural aspects to manage the disaster in providing fast clearance compared to normal customs procedure on imports and re-exports during the natural disaster for rescue and relief operation and even for the rehabilitation phase.

There has been confusion in some instances due to inadequate legal provisions in national legislation for tax exemption and prompt clearance of relief consignments and accompanied or unaccompanied relief materials of relief personnel after the earthquake, as the provisions of Model Agreement between Government of Nepal and the UN have not been transformed in the respective laws and procedures.

In addition, the gaps are identified in several areas such as the agencies under the UN. As provisioned in the UN Model Agreement, there was no reference of re-export of relief materials in the government decision. Presently relief materials are limited to import consignment only. There was a lack of ready availability of relief items schedule and items schedule for temporary admission, and also there was a lack of identification of documents required for Customs clearance. There was inadequate arrangement for the treatment of restricted goods, and goods liable for quarantine checks. Additionally, there was lack of joint inspection, ineffective interagency coordination and communication and absence of transshipment. Apparently, there are no specified measures in place for controlling illicit export/or smuggling of cultural artefacts during such disasters.

Therefore, there is a necessity to include Customs clearance process, tax exemption and other related provisions in the legislation and procedure for swift clearance covering relief materials such as direct assistance received on bilateral basis, received from UN affiliated Agencies or other international agencies to Government of Nepal or UN Agencies, received from other international organization or individual to Government of Nepal or UN agencies and in possession of relief personnel.
Section Three: Conclusions and recommendations

3.1. Conclusions:

Natural disaster and crisis is unpredictable. It can be at any place and at any time. Preparedness is necessary to minimize the impact of natural disaster on citizens and property. Nepal suffered heavy casualty and physical damage due to earthquake of 25 April and aftershocks. In order to minimize the losses on earthquake victims, there was urgent need to start rescue and relief, but there was not adequate level of preparation considering the intensity and magnitude of the impact. Government of Nepal requested the international community for rescue and relief.

To provide rescue and relief to victims and for that purpose, it is necessary to arrange swift Customs clearance of relief materials beyond normal customs procedure to ensure that the relief consignments can be reached to victims as soon as possible. But, there were gaps in legal and procedural aspects to provide simplified Customs procedure for clearance and tax exemption on imports of relief consignments in Nepal’s context.

The study of relevant materials and their review and assessment as presented in the earlier chapters of this report highlights that the clearance of the relief consignments is practiced providing special provisions for import and export of relief consignments and materials related to relief personnel, duty exemptions, import permitted for relief except prohibited goods, separate procedure for prompt clearance, temporary admission, transshipment, transit and simplification of export and submission of partial declaration subject to furnishing of details at later stage.

National legislation has to be updated/adjusted in Nepal and a new procedure has to be formulated for the management of rescue and relief consignment to comply with the international practices. In order to replace the practice of ad-hoc decision to be taken after a disaster by a systematic robust mechanism and with a view to develop national system to the international standards taking inspiration from international practices, this report includes draft proposals in the Customs Act for legal reform and a draft procedure. If the proposed changes in the legislation and procedure are implemented, future disaster situation can be responded in a systematic and timely manner rather for an efficient relief and rescue operations. This will provide effective delivery of rescue and relief operation to affected victims in timely manner.

3.2. Recommendations

Immediate rescue and relief is required in a disaster situation. Disaster may be managed through internal resources and strength to the extent it is within the capacity of country itself. But, if the disaster situation cannot be dealt within the national capacity, international support is also warranted for the rescue and relief operation. When there is a need of international support, support for relief materials, exemption on relief materials, special procedure beyond normal Customs procedure for prompt clearance are seen to be practiced at international level.
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

Customs Offices are facilitating prompt release of rescue and relief consignments as per the Government of Nepal decision dated 26 April 2015, decision of Central Disaster Relief Committee in the Prime Minister’s presence, Ministry of Finance decision on tax exemption and Department of Customs’ instructions after the devastating earthquake.

To provide simplification on imports of rescue and relief materials, and consequent Customs offices facilitated prompt clearance of rescue and relief consignment as per the instructions after the devastating earthquake, the policy and administrative decision taken by Government of Nepal intended to respond the immediate situation, however a long-term reform seems essential for seamless flow of relief and rehabilitation materials. In the Nepalese context, the following suggestions are proposed for the management of relief and rehabilitation consignments to include in Customs Act, regulation and Fiscal Act and a separate procedure needs to be adopted for the clearance of such consignments on import, export and overall management.

3.2.1. Recommendations for reform in legislation

- Legislation should provide power to Director General of Customs to designate particular site outside Customs territory as a temporary location and even beyond normal working hours for carrying out Customs clearance.
- Provision should be in the legislation to declare the value of the relief consignment in a simplified way.
- Legislation should provide power to Department of Customs to formulate regulations/procedures on relief consignments.
- Legislation should provide for a simplified declaration for rescue and relief consignment to facilitate the clearance.
- Legislation should provide the facility for temporary import of rescue and relief consignment of specified goods without duties and under record and re-export thereof.
- Legislation should provide tax exemption for specified rescue and relief materials for specified period.
- Proposal to amend the Customs Act 2007, Customs Regulation 2007 and Fiscal Act 2072 are included in a three column schedule annex at 1 for the management of rescue and relief consignment. The proposed provisions need to be included in the act and put into implementation.

3.2.2. Recommendations for reform in Customs clearance procedure.

- Separate procedure has to be devised for prompt clearance of relief and rescue materials and for rehabilitation materials even after completion of the relief and rescue operation.
- Separate location has to be designated within customs territory for the prompt clearance of imported relief consignment.
- There should not be mandatory provision to declare the country of origin.
- Simple procedure has to be adopted to ascertain the value of the relief goods on import for record purpose.
• Provision has to be set out to clear the relief consignment on import promptly beyond office hours and assigning high priority.
• Provision has to be incorporated for setting up an effective risk assessment, use of selectivity/targeting criteria and prompt sampling for physical verification of the relief consignment, if needed.
• Provision of an efficient exchange of information between and among Customs, other government agencies and stakeholders.
  It is suggested to study the envisaged pilot project on trade recovery – ‘Global Trade Recovery Information Platform’ (G-TRIP), being developed in collaboration with the WCO, APEC and US CBP, to facilitate the exchange of critical information by using the WCO CENComm during major disruptions or natural disasters. It was noted that such information (e.g. infrastructure conditions, priority goods and added security constraints) supports emergency decision making by governments, carriers and shippers, aiming to facilitate consignments of humanitarian relief and national priorities.
• Single Window System should be devised to complete quarantine check, security checks and other government agencies’ requirements during the Customs clearance of rescue and relief consignment.
• Provision should be set out for temporary admission of accompanied or unaccompanied goods by relief personnel without duty and under record subject to the condition to re-export such goods on return of the relief personnel. The re-export procedure of such import should be simple.
• Separate Customs Procedure has to be adopted for relief consignment. The proposed procedure is given at annex 2. The procedure has to be approved and implemented.

3.2.3. Other Recommendations for relief materials management.
• The list of relief goodshas to be specified and disseminated and made available to the international community by the government. Such specified goods should only be accepted for rescue and relief.
• The National Committee should consists of Ministry of Home, Ministry of Foreign Affairs, security agencies, Department of Customs in Kathmandu and other relevant agencies/stakeholders. The districts committees formed after the earthquake of April 2015 to facilitate tax exemption and other issues on import and export have been effective. Therefore, it is better to incorporate the provision of such committees and their obligations/charter of duties in the respective legislation/regulation.
• Recommend referring the simplified Customs procedure in respective regulations/procedures of other Government agencies responsible for disaster management.
• Recommend to incorporate the facilitation provisions adopted by the Government of India for transit/transshipment cargo for relief consignment in the Treaty of Transit on permanent basis.
• Configure system to provide simplified declaration and advance cargo information submission for relief consignments under the automated customs clearance system.
known as ASYCUDA World to be developed by Department of Customs in near future.

- Develop web portal of Department of Customs for relief consignments and arrange to post all the Government of Nepal regulations/decisions and related procedures in English and Nepali on the web portal related to relief consignment.

- Recommend to have intensive interaction among the stakeholders on this report and draft procedure, translate this report in English and invite formal comments for improvement from the World Customs Organization, the UNOCHA, the Nepal Red Cross, the Asian Development Bank and other organization.

- Regular awareness raising and sensitization programs e.g. seminars and workshops together with other government agencies, stakeholders and international organizations should be carried out.

- Simulation exercises with relevant government agencies, stakeholders and international organizations should be conducted.

- Regular training, and capacity building should be provided to the Customs officials and stakeholders on the information of international best practices and for effective implementation of legal and procedural provisions on the clearance of rescue and relief consignments.

- Government of Nepal should review the WCO SAFE Framework of Standards – Key Principles and Trade Continuity and Resumption (Section VII) and WCO Trade Recovery Guidelines for consideration to include in legislative provision to resume flow of trade following the disruption in global supply chain as soon as possible and minimizes economic cost of disruption.
**Annex 1: Proposed changes in legislation**

1. Proposed changes to Customs Act 2007

<table>
<thead>
<tr>
<th>S.N.</th>
<th>Existing Provision</th>
<th>Addition and proposed changes</th>
<th>Reasons of addition and proposed changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Article 2 (2) g (New addition)</td>
<td>“Disaster” means earthquake, Fire, Tsunami, Flood, Hurricane, Landslide, cyclones, excessiverainfall/deluge, aridity/aridness/drought, famine, epidemic and similar disaster. This term also refers industrial accident, incidents caused by explosion and poisonous and similar type of disaster. <strong>Customs Act Change - Section 2 (n1)</strong></td>
<td>To explain disaster in any areas due to natural or manmade cause and provide legal base.</td>
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<tr>
<td>2</td>
<td>Article 2 (2) h (New addition)</td>
<td>“Relief Materials” means materials as specified and provided for rescue and relief to disaster victims as a humanitarian assistance in disaster situation. <strong>Customs Act change - Section 2 (ab1)</strong></td>
<td>Need to define the relief materials.</td>
</tr>
<tr>
<td>3</td>
<td>Article 2 (2) j (Amendment) &quot;prescribed&quot; or &quot;as prescribed&quot; means prescribed or as prescribed in the Rules Manual or Procedure framed under this Act.</td>
<td>&quot;prescribed&quot; or &quot;as prescribed&quot; means prescribed or as prescribed in the Rules <strong>Manual or Procedure</strong> framed under this Act.</td>
<td>Necessary to provide legal base to any provision as prescribed in Manual and Procedure.</td>
</tr>
</tbody>
</table>
| 4 | Article 2 (2) (x) (Amendment)  
"customs area" means the customs area prescribed by the Government of Nepal pursuant to Section 3. | "Customs area" means the customs area prescribed by the Government of Nepal pursuant to Section 3. This term also refers to the temporary Customs area designated by Director General of Customs for the purpose of clearance of relief materials.  
**Customs Act change in Section 4 (2)** | Relief Materials may need to be cleared from outside of the Customs areas and currently there is no legal base to designate the temporary Customs area. Therefore this amendment is proposed. |
| 5 | Article 9 (8) New Addition | Government of Nepal can exempt all duties, taxes and other charges levied at Customs point on relief materials. The details of the materials and period of such exemption have to be specified.  
**Customs Act change in Section (9) (8)** | Need to create base to exempt duty on import of relief materials. |
| 6 | Article 13 (14) (Amendment)  
Notwithstanding anything contained elsewhere in this Section, if the owner of the goods imported under the Luggage and Baggage Order for personal purposes or the goods received as a gift or specimen/model and imported from a foreign country makes an application for the valuation of such goods, showing the reason for failure to indicate the transaction value thereof and if the Customs Officer considers the matter to be appropriate, he or she may determine a reasonable customs value of such goods. **In addition, if the value** | Notwithstanding anything contained elsewhere in this Section, if the owner of the goods imported under the Luggage and Baggage Order for personal purposes or the goods received as a gift or specimen/model and imported from a foreign country makes an application for the valuation of such goods, showing the reason for failure to indicate the transaction value thereof and if the Customs Officer considers the matter to be appropriate, he or she may determine a reasonable customs value of such goods. **In addition, if the value** | Need to value the goods to be imported for rescue and relief for customs purpose and statistics. |
thereof and if the Customs Officer considers the matter to be appropriate, he or she may determine a reasonable customs value of such goods

<table>
<thead>
<tr>
<th>S.N.</th>
<th>Existing Provision</th>
<th>Addition and proposed changes</th>
<th>Reasons of addition and proposed changes</th>
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<tbody>
<tr>
<td>1</td>
<td>Fiscal Act 2072  article 19 (6) of Annex 1 On the recommendation of the concerned Embassy or the Ministry, the government may grant permission to industries, person, institutions or foreign citizen to import goods on keeping book of record for</td>
<td>Fiscal Act 2072  article 19 (6) of Annex 1 On the recommendation of the concerned Embassy or the Ministry, the government may grant permission to industries, person, institutions or foreign citizen to import goods on keeping book of record for specific purpose, (except for commercial purpose) on the condition that</td>
<td>Need to make provision to provide tax exemption for temporary admission keeping duty on record.</td>
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</table>
specific purpose, (except for commercial purpose) on the condition that such goods shall be re-exported within a period of three months. In case of no recommendation, Customs Office may grant permission on reasonable ground on the condition that such goods are re-exported in maximum time period of one year and cash equivalent to customs duties and other duties is deposited. If such goods are not re-exported within the specified time period, the deposit amount will not be refunded. But,

(1) Temporary importation of Crane for a maximum period of 3 months in one time for the purpose of load/unload of commodity in area of the Customs Offices of Nepal is allowed with a duty of Rs.700 (Seven hundred) per day. In this type of importation only for work in the customs area should be mentioned in the declaration (pragyapan) form.

(2) Combine thrasher may be allowed entry into Nepal temporarily for a maximum period of one month with a duty of Rs.1,500 (One Thousand Five hundred) per day.

(3) Temporary admission can be granted to the following goods to be used in rescue and relief for disaster victims and goods necessary to the relief personnel on the condition of re-export and keeping details on record;

(a) transmission, communication and other information technology equipment;
(b) water purifying and water storage items;
(c) all equipment, machinery, tools and electronic
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<td></td>
<td>devices required by technical specialists, such as doctors, engineers, communications technicians, logisticians, community workers, etc. to perform their duties;</td>
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<td></td>
<td>(d) equipment not directly involved in relief operations but used to fight and eliminate the consequences of natural and similar disasters, e.g. for elimination of pollution of all types, decontamination of buildings and territories, inspection of industrial structures, etc.;</td>
</tr>
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<td></td>
<td>(e) administrative support items such as office equipment (e.g., computers, photocopiers and typewriters), expendable supplies, staff security items and administrative manuals and documents;</td>
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<td></td>
<td>(f) tents, prefabricated and mobile staff accommodation units and associated materials including cooking and dining equipment and supplies, sanitation requirements and compound safety/security items;</td>
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<td>(g) means of transport and spare parts and equipment for their repair;</td>
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<td></td>
<td>(h) animals for rescue operations, e.g. specially trained dogs</td>
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<td></td>
<td>(i) possessions of disaster relief personnel;</td>
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<td></td>
<td>(j) Other Goods as decided and specified by Government of Nepal.</td>
</tr>
</tbody>
</table>
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

| Fiscal Act change | Annex I (19) | Miscellaneous (6) (3) |
Annex II: Customs Clearance Procedure for Relief Materials

Preamble:
Whereas, it is expedient to clear the relief materials promptly in a disaster situation, Department has framed the following procedure in exercise of the powers conferred by Article 93 of Customs Act 2007.

Chapter I
Preliminary

1. Short title and commencement:
(a) This procedure is cited as “Customs Clearance Procedure for Relief Materials”.
(b) This Procedure shall commence immediately.
(c) This Procedure is applicable to imports of relief materials intended to be used in emergency area as declared by Government of Nepal in a disaster situation.

2. Definition
(a) “Ministry” means Ministry of Finance.
(b) “Department” means Department of Customs.
(c) “Director General” means Director General of Customs.
(d) “Act” means Customs Act 2007.
(f) “Office” means Customs offices under the Department of Customs.
(g) “Importer” means individual, organization or office that brings the goods into Nepal from foreign countries.
(h) “Export” means individual, organization or office that takes goods out of Nepal to a foreign country.
(i) "Declaration" means the statement by the exporter or importer containing the details of goods to be exported or imported in the declaration form or transmitting the same, as prescribed, through any electronic media.
(j) “Simplified declaration form” means simplified form as prescribed for import of goods for declaration in disaster situation.
(k) "Customs area" means the customs area prescribed by the Government of Nepal pursuant to Section 3. This term also refers to the temporary Customs area designated by Director General of Customs for the purpose of clearance of relief materials.
(l) “Disaster” means earthquake, Fire, Tsunami, Flood, Hurricane, Landslide, cyclones, excessive rainfall/deluge, aridity/aridness/drought, famine, epidemic/famine, epidemic and similar disaster. This term also refers industrial accident, terrorist attack, incidents caused by explosion and poison and similar type of disaster.

(m) “Rescue and relief personnel” means individual, group of individual, and organized entity arriving to provide humanitarian assistance for victims in a disaster situation and the term also refers to individuals involved in relief operation under UN Model Agreement.

(n) “Relief Materials” means materials as specified and provided for rescue and relief to victims in a disaster situation as a humanitarian assistance.

(o) “Emergency area” means the area demarcated by Government of Nepal as a disaster affected area or potential disaster area published in Gazette Notification.

(p) “Donation Letter” means a letter issued in favor of Government of Nepal by the foreign country or organizations containing goods description, name, quantity, value and forwarded as aid for rescue and relief for those affected by disaster.

Chapter II
General procedures for import of relief materials

3. Relief materials can be imported:

   1. The following relief materials can be imported for the immediate need for rescue and relief to those affected by disaster.
      (a) Food,
      (b) Medicine,
      (c) Clothing,
      (d) Blanket,
      (e) Pre-fabricated house,
      (f) Tent, Mattress, beds,
      (g) Nets,
      (h) Water purifying medicines, equipment and storage items,
      (i) Other goods of prime necessity.

   But,
Notwithstanding the provision made in sub clause 1 above, used or old goods can not be imported as relief materials except as specified in sub-clause 1 of clause 12 for the import under condition of return.

2. Government of Nepal can list the relief materials or can amend the list to add or delete items keeping in view of the affected area and nature of the disaster.

4. Prohibited Goods for import as relief materials:

1. The following goods are prohibited to import as relief materials.
   a. Unlicensed drugs, such as heroin, morphine, cocaine, amphetamines, barbiturates, LSD and cannabis;
   b. Offensive weapons, such as flick knives, butterfly knives;
   c. Firearms, explosives and ammunition;
   d. Indecent and obscene material featuring children, such as books, magazines, films, videos, DVDs and software;
   e. Pornographic material, other than that which depicts the type of consensual sexual activity between adults which can be legally sold and purchased in Nepal;
   f. Obscene material, depicting extreme violence;
   g. Counterfeit and pirated goods, and goods that infringe patents when brought into Nepal from outside Nepal;
   h. Goods bearing misleading official emblems, designs, markings, etc.;
   i. Cultural property in the sense of the UNESCO Conventions on the matter;
   j. Any of the species protected by CITES and any specific Nepalese legislation on the matter;
   k. Hazardous waste
   l. Items that may be a health risk;

2. No economic prohibition or restriction would be imposed on imports of goods except as referred in sub-clause 1 above.

5. Duty exemption provision on relief materials:

Duty shall be exempted on import of relief materials as per Article 9 (8) of Customs Act 2007.

6. Designating of separate area for clearance of relief materials:

1. Chief Customs office of the particular Customs office can designate a separate place within the Customs area in case of need to clear the goods promptly.

2. Director General can designate a separate area outside of Customs area as a temporary Customs area, if such arrangement is deemed appropriate to promptly clear the goods.

But,

No other goods can be cleared except relief materials in the designated area. Director General can lift such designated temporary Customs area at any time.
7. Designation of Customs offices for the import of rescue and relief materials:

1. Rescue and relief materials can be exported and imported from the following Customs offices in general;
   (a) Tribhuvan International Customs Office, Gauchar, Kathmandu.
   (b) Mechi Customs Office, Kakarvitta, Jhapa.
   (c) Biratnagar Customs Office, Rani, Morang.
   (d) Birgunj Customs Office, Birgunj, Parsa.
   (e) Dry port Customs Officer, Sirsiya, Parsa.
   (f) Bhairahawa Customs Office, Belahiya, Rupandehi.
   (g) Krishnanagar Customs Office, Krishnanagar.
   (h) Nepalgunj Customs Office, Nepalgunj, Banke.
   (i) Kanchanpur Customs Office, Mahendranagar, Kanchanpur.
   (j) Tatopani Customs Office, Liping, Sindhupalchowk.

2. Director General can increase or reduce the number of Customs offices as specified under sub-clause 1 above on valid grounds.

8. Agencies eligible to import relief materials:

Only the following agencies are eligible to import relief consignments:

(i) the United Nations,
(ii) UN Agencies,
(iii) UN certified Governmental (GOV), Intergovernmental (IGO) and Non-Governmental (NGO) organizations,
(iv) transport carriers contracted by these agencies for transportation of relief consignment(s) and/or possessions of disaster relief personnel as bona fide participants within the framework of a UN relief operation and transport carriers contracted by the UN, a UN Agency or a UN certified GOV/IGO/NGO for transportation of relief consignment(s) and/or possessions of the disaster relief personnel.
(v) International humanitarian organizations, institutions and agencies under agreement with Government of Nepal.
(vi) Government agencies of a foreign country.
(vii) Organizations forwarding relief materials intended to deposit in Government specified warehouse.
(viii) Any other agency as specified by Government of Nepal.
Chapter III

Customs Clearance of relief materials

9. Relief materials to be declared to the Customs:

1. The declaration as per Annex (a) has to be filled or submitted electronically by the importer or by an authorized person as per sub clause 3 below along with the following documents;

(a) Invoice or Donation Letter with details.
(b) Packing list.
(c) Bill of lading or Airway bill.
(d) Authorization Letter addressed to Customs to release the goods on behalf of importer.
(e) CTD Form.

However, The Customs officer can release the goods declared with the minimum available documents in case of relief materials to be handed over to Government agency and in cases where the recipient is not identified and Government of Nepal receives such relief materials.

2. In addition to above, UN Certificate duly signed has to be submitted for import from the UN and UN related agencies.

3. When importer or recipient of the goods has given authority to an individual to release the goods, the copy of the identification of such individual showing picture needs to be attached.

4. If required, Customs Officials of the Customs office should provide assistance for preparing the Customs declaration when an importer has not authorized any individual or agent to file the goods declaration on his behalf.

5. Provision is available for submission of the declaration along with manifest and other required documents prior to the arrival of the goods at the Customs office to facilitate the prompt clearance of the relief materials.

6. Country of Origin will not be mandatory for relief consignments.

7. When the relief materials are not claimed for 3 days after arrival at the Customs office and the goods cannot be cleared, the Customs office should place those goods in a Warehouse designated by Government of Nepal.

8. When the prescribed original documents cannot be submitted, the copies of such documents can be accepted.

10. Customs valuation of relief materials:

1. Customs valuation of the relief materials will be as declared by the importer.

2. When the Customs valuation is not declared by the importer and the submitted documents do not reflect the value, Customs officer can determine the approximate value of such goods for Customs purposes.
11. Customs clearance provisions of relief consignment:

1. Clearance of relief consignment should be accorded high priority.

2. A separate area is designated in each designated Customs Office for the prompt release of goods.

3. Clearance of relief materials will be carried out round the clock by reallocating the existing staff deputed for normal Customs processes or adding extra staff, if required.

4. The clearance process will be initiated after ascertaining the goods imported as relief materials are intended for same purpose.

5. Customs release will be done with priority, when relief materials are declared or documents are submitted prior to the arrival of relief materials.

6. When physical verification is required on exceptional basis, such clearance shall be based on drawing of necessary samples or will be selectivity for prompt clearance of relief materials. In cases where physical verification of the goods is necessary for clearance of goods, such verification will be based on either use of selectivity or drawing of samples as may be necessary.

7. Relief consignments should be cleared from the designated areas and relief materials in possession of passengers should be cleared from the passenger terminal as soon as possible.

8. When immediate release of the goods is required for the relief materials imported by the UN or its specialized agencies or have been imported on the recommendation of Ministry of Foreign Affairs or imported by Government, the same shall be permitted even if temporary or incompletely declaration is made, provided the required documents are submitted and the necessary Customs procedures are complied with, within 30 days of the release of the goods.

9. Where relief materials are required to be subjected to quarantine checks such as foods and drinking products, relief materials of nature that are subject to security checks and other regulatory requirements, quarantine, security and other checks will be arranged in course of Customs clearance implementing Single Window System and exchange of information between and among Customs and other government agencies.

Chapter III

Temporary import or export provisions for rescue and relief materials

12. Temporary imports of relief materials:

1. Temporary import of the goods referred below for use in rescue and relief operation or required for foreign relief personnel is granted on condition of re-export of such goods and maintaining a record of the details of such goods.
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

(a) transmission, communication and other information technology equipment;
(b) water purifying and water storage items;
(c) all equipment, machinery, tools and electronic devices required by technical specialists, such as doctors, engineers, communications technicians, logisticians, community workers, etc. to perform their duties;
(d) equipment not directly involved in relief operations but used to fight and eliminate the consequences of natural and similar disasters, e.g. for elimination of pollution of all types, decontamination of buildings and territories, inspection of industrial structures, etc.;
(e) administrative support items such as office equipment (e.g., computers, photocopiers and typewriters), expendable supplies staff security items and administrative manuals and documents;
(f) tents, prefabricated and mobile staff accommodation units and associated materials including cooking and dining equipment and supplies, sanitation requirements and compound safety/security items;
(g) means of transport and spare parts and equipment for their repair;
(h) animals for rescue operations, e.g. specially trained dogs
(i) possessions of disaster relief personnel;
(j) Other Goods as decided and specified by Government of Nepal.

2. The period of the temporary import should be specified on record for the above goods specified in sub clause 1 in possession of foreign relief and rescue personnel or relief materials received before or after arrival.

3. Goods temporarily imported as per records maintained should be re-exported within specified period. The initial import declaration has to be presented and such re-export should be permitted after goods are tallied against the initial import declaration.

But, goods temporarily imported as per records maintained can be handed over to any Government agency, if permitted by the Government of Nepal.

4. The record of the temporary imports should be nullified on the basis of proof of export or handed over to any Government agency.

5. Domestic sale of such goods is allowed, wherever appropriate, on payment of applicable duties and taxes on depreciated value, in the event of goods not being re-exported.
Chapter V

Miscellaneous

13. As prescribed by the existing law

Customs clearance procedure for relief materials will be governed by this procedure and in cases not covered by this procedure, other provisions will be in accordance with Customs Act, Customs Regulation and other existing law.

14. Power to Remove Difficulties

If any confusion or any conflict on subject contained in this procedure arises during implementation and interpretation, the decision of the Director General will be final.
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

## Attachment 1 related to Annex II (3): Customs Clearance Declaration for Relief Materials

### Declaration Form for Relief materials

<table>
<thead>
<tr>
<th>HS Code</th>
<th>Goods Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Bill Amount/Value</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td></td>
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</tbody>
</table>

These relief materials are brought to distribute to the victims in disaster area in coordination with district administrative office / District Disaster Relief Committee. The certified copy of relief materials will be submitted to this customs office within 30 days. Otherwise, I agree to pay the applicable duty as per the existing rules and regulations.

**Jilalko / District:**  
**N.p./G.Vis.:** (Municipality/VDC):  
**Sthan/Address:**

---

**Karyalay Prayojan Kola (Office Use Only):**  
**Hastakshar (Signature):**  
**Pratipadpan (Declaration Number):**  
**Mit (Date):**

**Sthanakopritiminidhi Kona (Representative Name):**
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

(Designation):

सम्पर्कमोवाइलन (Mobile Number):

(Date):

सस्थाकोछप (Office Stamp):
Comment from PNP(WCO), Ms. KS, Ms. SS comment adopted as per DOC advice.

Reference Documents

1. Concept Paper on Relief Consignment
2. DPP Airport Relief Consignment
3. Red Cross Model Act
4. WCO Resolution on disaster Relief
5. Emergency Response Plan 2007 Nepal
6. UN Model Agreement
7. WCO Specific Annex Relief Consignment Guidelines
8. WCO recommendation to expedite relief consignment, 1970
9. Istanbul Convention on Temporary Admission, June 1990
10. Experiences of Sri Lanka
11. Experiences of Philippines (Donation procedure)
12. Experiences of Philippines (One stop shop)
13. List of Relief materials approved by Central Disaster Relief Committee 2072/2/03
14. The SAFE Framework of Standards – Trade Continuity and Resumption (Section VI
15. WCO Trade Recovery Guidelines