UNIT-2

CUSTOMS DUTY

MEANING OF CUSTOM DUTY

Customs Duty is a type of indirect tax levied on goods imported into India as well as on goods exported from India. Taxable event is import into or export from India. India includes the territorial waters of India which extend upto 12 nautical miles into the sea to the coast of India. In India, the basic law for levy and collection of customs duty is Customs Act, 1962. It provides for levy and collection of duty on imports and exports, import/export procedures, prohibitions on imports and exports of goods, penalties, offences, etc. The Central Board of Excise & Customs (CBEC) is the apex body for customs matters.

Custom duty besides raising revenue for the Central Government also helps the government to prevent the illegal imports and illegal exports of goods from India. The Central government has emergency powers to increase import or export duties whenever necessary after a notification in the session of Parliament.

CUSTOM DUTY – OBJECTIVES

The customs duty is levied, primarily, for the following purpose:

- Restricting Imports for conserving foreign exchange.
- Protecting Indian Industry from undue competition.
- Prohibiting imports and exports of goods for achieving the policy objectives of the Government.
- Regulating exports.
- Prevent Smuggling.
- Facilitate implementation of laws relating to Foreign Trade Act, Foreign Exchange Regulation Act, Conservation of Foreign Exchange, Prevention of Smuggling Act, etc.

TYPES OF CUSTOM DUTY

- **Basic Customs Duty:** All goods imported into India are chargeable to a duty under Customs Act, 1962. The rates of this duty, popularly known as basic customs duty, are indicated in the First Schedule of the Customs Tariff Act, 1975.

- **Additional (Countervailing) Duty:** This countervailing duty is leviable as additional duty on goods imported into the country and the rate structure of this duty is equal to the excise duty on like articles produced in India.
- **Export Duties:** Under Customs Act, 1962, goods exported from India are chargeable to export duty. The items on which export duty is chargeable and the rate at which the duty is levied are given in the customs tariff act, 1975. However, the Government has emergency powers to change the duty rates and levy fresh export duty depending on the circumstances.
- **Protective Duties:** Tariff Commission has been established under Tariff Commission Act, 1951. If the Tariff Commission recommends and Central Government is satisfied that immediate action is necessary to protect interests of Indian industry, protective customs duty at the rate recommended may be imposed under section 6 of Customs Tariff Act. The protective duty will be valid till the date prescribed in the notification.
- **Countervailing Duty on Subsidized Goods:** If a country pays any subsidy (directly or indirectly) to its exporters for exporting goods to India, Central Government can impose Countervailing duty up to the amount of such subsidy under section 9 of Customs Tariff Act.
- **Anti-Dumping Duty on Dumped Articles:** Large manufacturers from abroad may export goods at very low prices compared to prices in their domestic market. Such dumping may be with the intention to cripple domestic industry or to dispose of their excess stock. In order to avoid such dumping, Central Government can impose, anti-dumping duty up to the margin of dumping on such articles.
- **Safeguard Duty:** Central Government is empowered to impose 'safeguard duty' on specified imported goods if Central Government is satisfied that the goods are being imported in large quantities and under such conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is permissible under WTO agreement. Safeguard duty is to provide need-based protection to domestic industry for a limited period, with the objective of restoring free and fair competition.
- **National Calamity Contingent Duty:** A National Calamity Contingent Duty (NCCD) of customs is imposed under section 129 of Finance Act, 2001.
- **Education cess on customs Duty:** The Education Cess of 2% and Secondary & Higher Education Cess of 1% of the aggregate duty of customs excluding safeguard duty, countervailing duty, Anti-Dumping Duty is applicable w.e.f. 01.03.2007.

VALUATION OF GOODS UNDER CUSTOM DUTY

- **Method 1: Transaction value**
- **Method 2: Transaction value of identical goods**
- **Method 3: Transaction value of similar goods**
- **Method 4: Deductive method**
- **Method 5: Computed method**
- **Method 6: Fall-back method**

Method 1: Transaction value

Customs valuation is generally based on the actual price of the goods, which is usually shown on the invoice. This price, plus adjustments for certain elements, equals the transaction value. This constitutes the first and most important method of valuation referred to in the Customs Valuation Agreement.

The Customs value equals the transaction value if the following conditions are met:

- **Evidence of sale:** There must be evidence of a sale for export to the country of importation, like commercial invoices, contracts, or purchase orders.
- **No restrictions:** There cannot be any restriction on the disposition or use of the goods by the buyer other than restrictions that are:
  - Required by law in the country of importation
  - Limited to the geographic area in which the goods may be resold
  - Do not substantially affect the value of the goods

Method 2: Transaction value of identical goods

The transaction value is calculated in the same manner on identical goods if the goods are:

- The same in all respects including physical characteristics, quality, and reputation
- Produced in the same country as the goods being valued
- Produced by the producer of the goods being valued

To use this method, identical goods must be imported into the same country as the goods being valued. The goods must also be exported around the same time as the goods being valued.

Method 3: Transaction value of similar goods

Transaction value can be calculated using similar goods if:

- Goods closely resemble the goods being valued in terms of materials and characteristics

- Goods perform the same functions and are interchangeable with the goods being valued
- Goods are produced by the same producer of the goods being valued, and the goods are sold to the same country of importation as the goods being valued. The goods must also be exported around the same time as the goods being valued.

Method 4: Deductive value

When the Customs value cannot be determined using the transaction value of the imported goods or identical or similar goods, it will be determined by the unit price that the imported goods or identical or similar goods are sold to an unrelated buyer in the greatest aggregate quantity in the same country of importation.

Method 5: Computed value

Computed value, the most challenging and rarely used method, determines the Customs value using the cost of production of the goods being valued, plus the profit and general expenses reflected in sales of similarly classified goods.

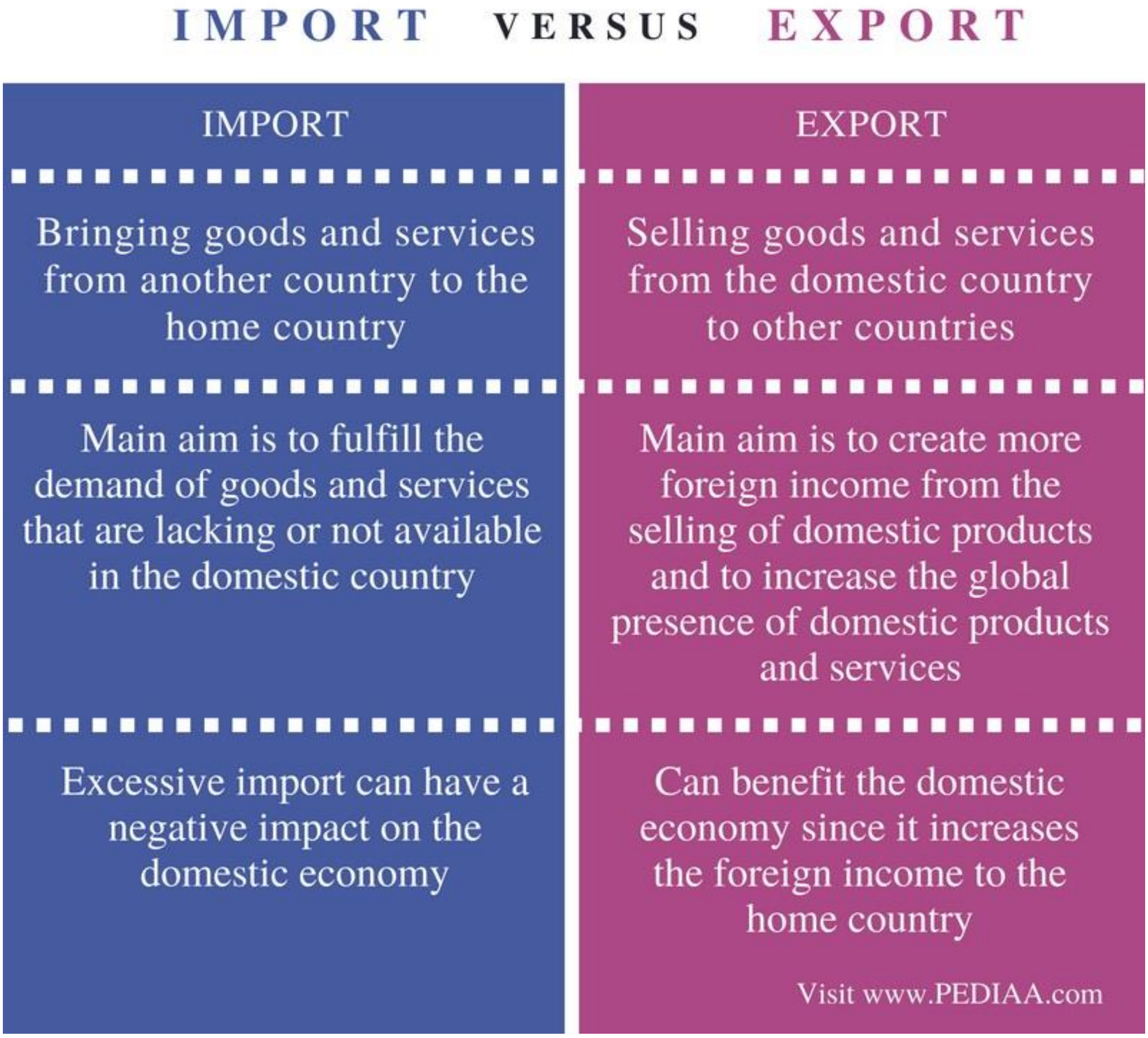
The computed value is the sum of the following elements:

- **Production cost:** The value of materials, fabrication, and other processing involved in producing the imported goods.
- **Materials:** raw materials, costs to get the raw materials to the place of production, subassemblies, and prefabricated components that will eventually be assembled.
- **Fabrication:** the cost of labor, assembly costs when there is an assembly operation instead of the manufacturing process, and indirect costs like factory supervision, plant maintenance, or overtime.
- Packing costs, assists, engineering work, or artwork undertaken in the country of importation would be added.

Method 6: Fall-back method

When the Customs value cannot be determined using any of the previous methods, it can be determined using reasonable means consistent with the principles and general provisions of the Customs Valuation Agreement and based on data available in the country of importation. This method must be based on previously determined values but has a reasonable degree of flexibility.

DIFFERENCE BETWEEN IMPORT AND EXPORT



IMPORT VERSUS EXPORT

IMPORT	EXPORT
Bringing goods and services from another country to the home country	Selling goods and services from the domestic country to other countries
Main aim is to fulfill the demand of goods and services that are lacking or not available in the domestic country	Main aim is to create more foreign income from the selling of domestic products and to increase the global presence of domestic products and services
Excessive import can have a negative impact on the domestic economy	Can benefit the domestic economy since it increases the foreign income to the home country

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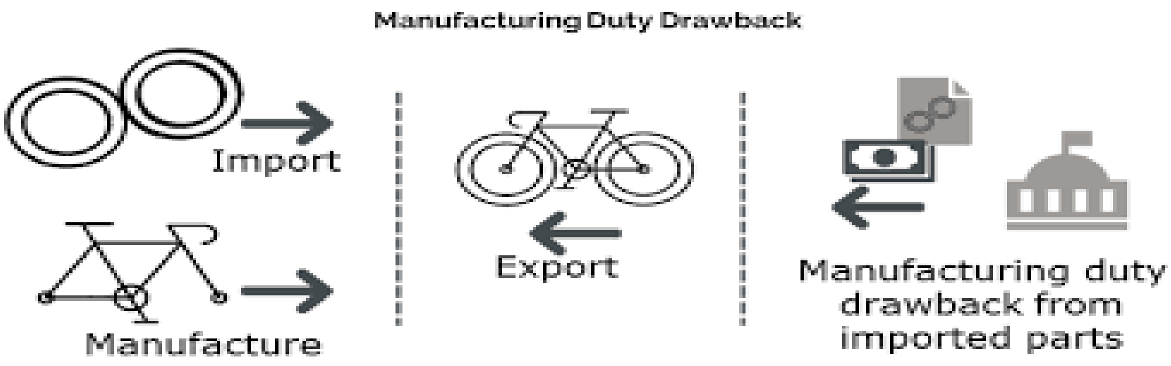
CUSTOM DUTY DRAWBACKS

MEANING:

Duty drawback is **the refund of customs duties, taxes and fees paid on imported items that are matched with exported or destroyed items**. This refund can be in part or the full amount paid by the trader against the import duty, which includes customs duty, sales tax, and any other refundable fee imposed.



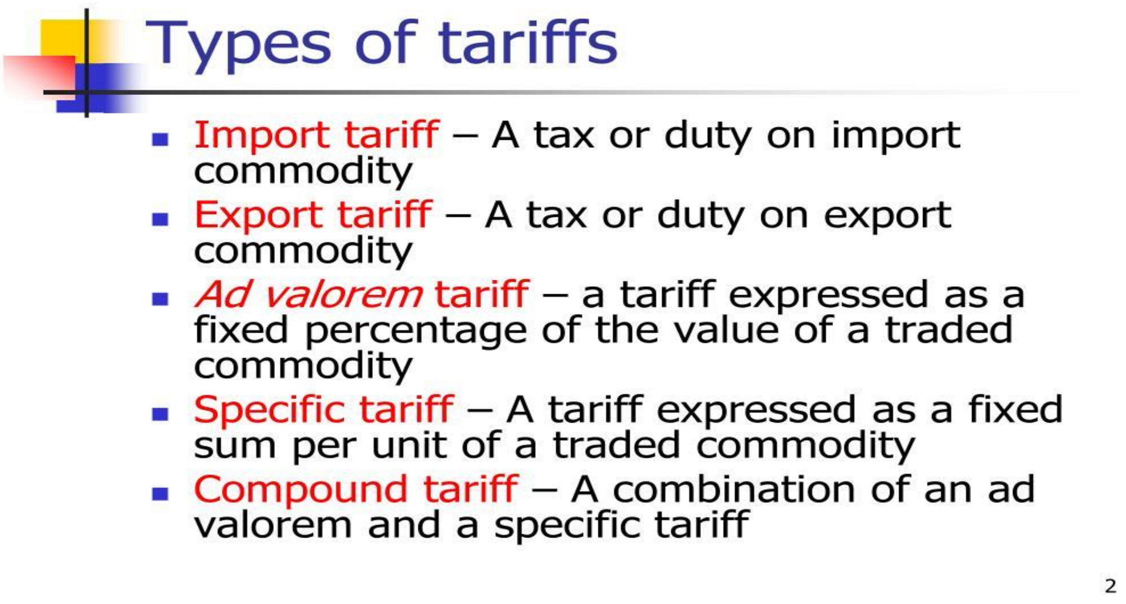
<u>TARIFF MEANING:</u>

A tariff is a tax imposed by a government on goods and services imported from other countries that serves to increase the price and make imports less desirable, or at least less competitive, versus domestic goods and services.

<u>HOW TARIFFS ARE CALCULATED:</u>

The simple way to calculate a trade-weighted average tariff rate is to **divide the total tariff revenue by the total value of imports**. Since these data are regularly reported by many countries, this is a common way to report average tariffs.

<u>TYPES OF TARIFFS:</u>



<u>LEVY AND COLLECTIONS OF CUSTOM DUTY</u>

<u>MEANING</u>: Custom duty is **a type of indirect tax that is levied on all the goods that are imported to the country as well as some goods exported from the country**. The duty levied on the former is referred to as import duty while that on the latter is referred to as the export duty.

Who Levies Custom Duty

The customs duty is imposed by **the Government of India** under the Indian Customs Act formulated in 1962 under the Constitution of India under Article 265.

DUTY DRAWBACK RATES:

Introduction: The term drawback is applied to a certain amount of duties of Customs and Central Excise, sometimes the whole, sometimes only a part remitted or paid by Government on the exportation of the commodities on which they were levied. To entitle goods to drawback, they must be exported to a foreign port, the object of the relief afforded by the drawback being to enable the goods to be disposed of in the foreign market as if they had never been taxed at all. For Customs purpose drawback means the refund of duty of customs and duty of central excise that are chargeable on imported and indigenous materials used in the manufacture of exported goods. Goods eligible for drawback applies to

a) Export goods imported into India as such;

b) Export goods imported into India after having been taken for use

c) Export goods manufactured / produced out of imported material

d) Export goods manufactured / produced out of indigenous material

e) Export goods manufactured /produced out of imported or and indigenous materials.

Abatement on damaged or deteriorated goods- Sec 22

- Damage should not be on account of any accident due to any willful act, negligence or default of the owner, his employee or agent
- Duty payable on damaged goods shall be:

Value of goods after damage * $\frac{\text{Duty Payable before Dam}}{\text{Value of goods before dam}}$

Abatement of Duty on Damaged or Deteriorated Goods

- (1) Where it is shown to the satisfaction of the Assistant Commissioner of Customs –
- (a) that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or
- (b) that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or
- (c) that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent, such goods shall be chargeable to duty in accordance with the provisions of sub-section (2).

CONT…

- **Remission of Duty on Lost, Destroyed or Abandoned Goods.** –
- (1) Without prejudice to the provisions of section 13, where it is shown to the satisfaction of the Assistant Commissioner of Customs that any imported goods have been lost (otherwise than as a result of pilferage) or destroyed, at any time before clearance for home consumption, the Assistant Commissioner of Customs shall remit the duty on such goods.
- (2) The owner of any imported goods may, at any time before an order for clearance of goods for home consumption under section 47 or an order for permitting the deposit of goods in a warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.