

SMUGGLING IN INDIA REPORT 2019-2020



DRI

DIRECTORATE OF REVENUE INTELLIGENCE

63

Glorious Years

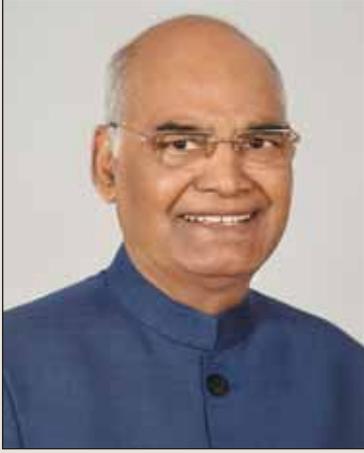
1957-2020





SMUGGLING IN INDIA REPORT 2019-2020

Directorate of Revenue Intelligence



श्री राम नाथ कोविंद
RAM NATH KOVIND



सत्यमेव जयते
राष्ट्रपति
भारत गणतंत्र

PRESIDENT
REPUBLIC OF INDIA

Message

I am happy to learn that the Directorate of Revenue Intelligence (DRI) is celebrating its 63rd Foundation Day on 4th December, 2020 and bringing out its annual report 'Smuggling in India Report, 2019-20' on the occasion.

Over the years, DRI has grown to be a formidable force, respected by the peers. Its officers have displayed dedication and astuteness which has led to booking of many cases, not only be it outright smuggling of Gold, Drugs, Wild life, fake currency, commercial fraud cases but also in terms of providing intelligence inputs to the government on matters relating to national security and it continues to add laurels.

The Directorate of Revenue Intelligence has consistently and effectively adapted to the new challenges brought in due to change in the economic scenario. In this challenging scenario, DRI Officers fulfill their responsibilities with great enthusiasm, without fear or favour.

I extend my warm greetings and felicitations to all officers and staff of DRI on the occasion of the 63rd Foundation Day and wish them all success in their future endeavours.

(Ram Nath Kovind)

New Delhi
November 05, 2020



श्री नरेन्द्र मोदी
SHRI NARENDRA MODI



प्रधान मंत्री
भारत

PRIME MINISTER
INDIA

Message

It is a pleasure to learn that the Directorate of Revenue Intelligence (DRI) celebrates its Foundation Day on December 4, 2020. The celebration of the 63rd Foundation Day is a proud occasion for DRI officers and personnel.

As an intelligence and investigative agency with utmost professionalism, DRI has been striving to strengthen the socio-economic foundations of the nation. The untiring efforts of the Directorate towards guarding our economic sphere by keeping a constant vigil on the matters relating to tax evasion and preventing violation of the Customs Act, is commendable.

In the last six and half years, the nation has marched ahead with an unprecedented pace of economic reforms, inculcating a new spirit and a fresh mindset in governance. Be it simplifying the taxation process or broadening the tax base, the emphasis is on ensuring a level-playing field and honouring the honest taxpayer.

We remain firmly committed to further enhance the Ease of Doing Business for a thriving entrepreneurship and trade. Institutions such as DRI have a pivotal role in helping realise this vision by adopting zero tolerance towards corruption and tax evasion. The organisation's endeavour to engage citizens as valued stakeholders towards this is appreciable.

Technology as an enabler has a force multiplier effect, rapidly transforming all spheres of activity. DRI must take leverage of latest technological advancements including various digital tools to constantly augment its efficiency, accuracy and speed.

The 63rd Foundation Day presents before the Organization an opportunity to reflect on ways to identify the challenges and prepare a roadmap for future needs, so as to shape itself into a robust partner in building a strong and prosperous nation.

May the occasion inspire DRI officers and personnel to re-dedicate themselves with renewed zeal and commitment in the service of the nation.

Best wishes for all-round success of the 63rd Foundation Day celebrations.

A handwritten signature in blue ink, consisting of a large, sweeping loop with a small 'X' mark inside, followed by a horizontal line and a few dots at the end.

(Narendra Modi

New Delhi
November 26, 2020



निर्मला सीतारमण
Nirmala Sitharaman



वित्त एवं कॉरपोरेट कार्य मंत्री
भारत सरकार
नई दिल्ली-110001
Minister of Finance
and Corporate Affairs
Government of India
New Delhi-110001

Message

Best wishes to Directorate of Revenue Intelligence (DRI) on the occasion of its 63rd Foundation Day on 4th December, 2020

DRI being the country's premier counter-smuggling agency, works in close cooperation with the Customs Administration and the law enforcement agencies of other countries. The Organisation has an extremely effective and efficient network for intelligence gathering around the world. DRI's coordination with international agencies such as INTERPOL, UNODC, WCO, CITES, etc. has helped the country in anticipating and countering the new modus operandi adopted by organized crime syndicate across the globe.

During 2019-20, DRI has made large seizure of narcotic drugs fake currency, illicit arms and ammunition and also explored some other significant cases of duty evasion which had country-wide implications. Thus, DRI has played a vital role in strengthening the economic and physical security of the country.

The sincerity, dedication and unwavering efforts of the officers of DRI is noteworthy. Wish the Directorate and its officers and staff all the best in their future endeavours.

(Nirmala Sitharaman)

October, 2020



अनुराग सिंह ठाकुर
Anurag Singh Thakur



वित्त एवं कॉरपोरेट कार्य राज्य मंत्री
भारत सरकार
नई दिल्ली-110001
Minister of State for Finance
and Corporate Affairs
Government of India
New Delhi-110001

Message

I extend my best wishes and heartiest congratulation to Directorate of Revenue Intelligence on the occasion of 63rd Foundation day.

Over the year, DRI has gone from strength to strength in preventing outright smuggling, escalation of black money, fake currency, commercial fraud and trade-based money laundering.

As India is a signatory to various treaties and conventions, DRI has always been the vanguard of these treaties and agreements, thereby playing an admirable role in the conservation and protection of the cultural heritage, ecology and environment of the country.

This comprehensive field of interest of DRI makes this organization all-encompassing and pre-eminent.

On this founding day, I take this opportunity to congratulate each and every officer and staff member of DRI for consistently upholding the benchmark of professionalism and determination.

Wishing you all the very best for the future endeavors.

(Anurag Singh Thakur)

New Delhi
November 05, 2020



डॉ. अजय भूषण पांडे भा.प्र.से.
राजस्व सचिव

Dr. Ajay Bhushan Pandey, IAS
Finance & Revenue Secretary



भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
Government of India
Ministry of Finance
Department of Revenue

Message

1. I am happy to learn that Directorate of Revenue Intelligence is celebrating its 63rd Foundation Day on 4th December, 2020.
2. The Directorate of Revenue Intelligence (DRI) has played a pivotal role in guarding both the national and economic security of India. DRI has been at the forefront of the enforcement efforts of CBIC for more than 60 years and with time DRI has adopted advanced methods in enforcement, investigation and intelligence gathering to tackle the challenges of outright smuggling of sensitive goods, black money, commercial frauds and money laundering. DRI has been instrumental in combating illegal trafficking of wildlife and environmentally hazardous products. The officers of DRI have done commendable work in the seizure of arms, ammunitions and narcotic drugs and psychotropic substances while putting their lives at stake. In the service of the nation DRI officers have worked without fear or favour and have even laid down their lives. I salute their valour and dedication to duty.
3. I applaud the officers and staff of DRI for putting in their passion and dedication for upholding the prestige of this apex organization and I congratulate all of them for their professionalism, courage and determination. I wish DRI every success in all its future endeavours.

(Ajay Bhushan Pandey)

November 11, 2020



एम. अजित कुमार

अध्यक्ष

M. Ajit Kumar

Chairman



भारत सरकार

वित्त मंत्रालय

राजस्व विभाग

केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड

नार्थ ब्लॉक, नई दिल्ली-110 001

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes & Customs

North Block, New Delhi-110 001

Message

I extend my heartiest congratulations to the Directorate of Revenue Intelligence on this 4th of December 2020, for completing 63 years of glorious service to the nation. As India's apex anti-smuggling agency, DRI has been one of most effective and efficient law enforcement agencies. It has established a reputation of being a professional organization due to its remarkable role in protecting the country's economic frontiers, sometimes even at the risk of life. It's performance has been appreciated by many of its peer agencies.

DRI with its presence across India and abroad has been carrying out its mandate of countering organized crime groups engaged in the smuggling of prohibited contraband goods such as arms, ammunition & explosives, narcotic drugs and psychotropic substances. Its role in dealing with the smuggling of gold & diamond, counterfeit currency notes, wild life items, hazardous & environmentally sensitive materials and antiques is laudable. Its expertise in unearthing commercial frauds, plugging leakage of Government's tax revenue and countering trade based money laundering and black money, has created a positive impact on the revenue of the country.

The anonymity provide by the increasing use of technology, a huge increase in transactions through e-com platform, use of crypto currencies have created new challenges for the organisation that calls for urgent attention. I am happy to note that DRI has been constantly striving to address these challenges by upgrading the skill set of its officers.

I have many happy memories of my own association with the organisation and in working with some very fine and dedicated officers. On this august day, I take this opportunity to congratulate and convey my regards to each and every officer and staff member of DRI and their families. Wish you all the very best for the future.

(M. Ajit Kumar)

New Delhi
November 04, 2020



Kunio Mikuriya
Secretary General
World Customs Organization



**WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES
DOUANES**

Established in 1952 as the Co-operation Council
Creee en 1952 sous le nom de Conseil de cooperation douaniere

Message

I am pleased to be writing this message in light of the Central Board of Indirect Taxes and Customs' (CBIC) publication of the 2020 edition of the "Smuggling in India Report"; which is being published on the occasion of the 63rd Foundation Day of the Directorate of Revenue Intelligence (DRI).

As a longstanding and valued Member of the World Customs Organization (WCO), the CBIC has had strong cooperation with the WCO in a number of enforcement related areas. For example, recently the CBIC hosted a week long national training as part of the WCO's Strategic Trade Control Enforcement (STCE) Programme which brought together 30 Indian Customs officers to learn about the latest risk management measures in countering the proliferation of Weapons of Mass Destruction. This training shows India's effort and commitment to ensure Indian Customs is well equipped to comply with United Nations Security Council Resolution 1540.

For a number of years the DRI has provided WCO Members with relevant information by sharing seizure information on our Customs Enforcement Network (CEN) seizure database as well as sharing information at the regional level through the WCO's Regional Intelligence Liaison Office (RILO) Network.

Recently the WCO has placed increased attention on the digitalization and interoperability of various tools. As part of this work the WCO has been working on automating data flows

between its own applications (CEN, CENcomm, and nCEN), as well as reached out to its Members and law enforcement partners to encourage the establishment of automated channels of data exchange. In this context the WCO has initiated cooperation with the CBIC on automating the flow of data on seizures and offences as part of our organizations work in combatting illicit trade, a goal which can be achieved through the implementation of the nCEN application in India. The nCEN Global Network has grown in the Asia-Pacific region, where seven countries have implemented the application and established regional cooperation channels to exchange best practices in the use of this tool and the CBIC's addition to the network would only serve to further strengthen this important network.

This Report not only highlights the importance of understanding smuggling trends at the national level but also highlights the importance of international cooperation in helping Customs administrations better understand the interconnectedness of those smuggling trends at the international and national levels.

I would like to thank the CBIC for their valued cooperation with the WCO and the international Customs community. I would also like to acknowledge the work that has been carried out by the organization under the guidance of its Director General, Balesh Kumar. I wish the DRI continued success in carrying out its highly important enforcement work in making sure that India remains safe and secure going into the future.



Kunio Mikuriya



Sergey Kapinos
Regional Representative
for South Asia
UNODC

Message

The Regional Office for South Asia of the United Nations Office on Drugs and Crime (UNODC) offers its best wishes to the Directorate of Revenue Intelligence (DRI) on the occasion of its 63rd Foundation Day.

UNODC is strongly committed to working with Member States to promote international and regional cooperation in its mandated areas to address drugs, corruption, terrorism and transnational organised crime, including illicit trafficking and smuggling, and greatly values the support and contributions provided by the Government of India, including through DRI, to these collective efforts.

UNODC appreciates the longstanding collaboration established with India – and with DRI as the nodal agency for international cooperation in matters pertaining to customs intelligence and investigations – to address a number of challenges related to transnational organized crime. Our Office looks forward to further enhancing this strategic partnership, under the auspices of the Regional Programme for South Asia (2018-2021).

UNODC congratulates DRI for the significant results achieved and wish the Directorate all success in carrying out its critical law enforcement mission in the future.

A handwritten signature in blue ink, appearing to read 'Sergey Kapinos'.

Sergey Kapinos



Andy Leggett
Director
Risk & Intelligence Service



**HM Revenue
& Customs**

Message

I would like to take this opportunity to congratulate India's Directorate of Revenue Intelligence (DRI) on celebrating its 63rd Foundation Day on December 4, 2020.

The UK places great importance on our strategic and long-standing relationship with India as a means to enhance customs cooperation.

I look forward to continuing the relationship with India in the coming years and working collaboratively on the international stage.

Yours sincerely

A handwritten signature in blue ink that reads "Andy Leggett".

Andy Leggett



Catherine A. Hermsen
Assistant Commissioner
Office of Criminal Investigations

Message

On behalf of the United States (U.S.) Food and Drug Administration (USFDA), Office of Regulatory Affairs, Office of Criminal Investigations (OCI), we offer our warmest regards to our colleagues from the Directorate of Revenue Intelligence (DRI) on your 63rd Foundation Day and our gratitude for your continued commitment to combat health and safety based crime. Most notably in 2020, this was evidenced in January by "Operation Broadsword," an operational development involving personnel from DRI, USFDA, and U.S. Customs and Border Protection at the international mail facility located at Chicago O'Hare International Airport, Chicago, Illinois. The catalyst for Operation Broadsword was a senior-level USFDA delegation, led by Assistant Commissioner for Regulatory Affairs Judith McMeekin, PharmD, and myself, who traveled to New Delhi, India, in September 2019, to meet with yourself and Chairman M. Ajit Kumar, Central Board of Indirect Taxes and Customs.

Over three days, the Operation Broadsword Team examined more than eight hundred parcels, with more than sixty percent ultimately found to be in violation of U.S. federal law. This first-of-its-kind bilateral activity stopped more than five hundred parcels containing approximately fifty different USFDA-regulated products, including illicit opioid products, from reaching unsuspecting consumers in the U.S. It also brought attention to the dangers posed by transshipment and served as a platform for the USFDA and DRI to highlight the importance of international partnerships in the effort to stop illegal imports via the attached joint press release.

From reciprocal training, the exchange of criminal intelligence, Headquarters-level engagement, to shoulder-to-shoulder enforcement activities, we extend our warmest wishes to our colleagues from DRI as we build upon these shared successes moving forward.

Catherine A. Hermsen
Catherine A. Hermsen

U.S. Department of Justice

Drug Enforcement Administration New Delhi
Country Office Shantipath, Chanakyapuri
New Delhi, India 110021



Message

The U.S. Drug Enforcement Administration in India takes great pride in our joint investigative efforts with the Directorate of Revenue Intelligence. Through our collaborative efforts over the years, DEA and DRI have targeted the kingpins of global drug trafficking networks. These violators are involved in financial, criminal, and even terrorism-related acts. The pursuit of these major coordinators within these organizations requires unique and special skills as well as resolve in order to protect the citizens of both India and the United States. The Directorate of Revenue Intelligence has routinely proven their dedication and determination through the years despite the potential risks and the complex nature of extensive international criminal networks.

As a result of this cooperation between India and the U.S., the Directorate of Revenue Intelligence has prevented the distribution of hundreds of millions of dosage units of pharmaceutical drugs being smuggled from India, conducted numerous arrests and made substantial seizures of precursors and other controlled substances. India is one of the main producers in the legitimate global supply of medicines and chemicals and with the United States as a major consumer, this DEA and DRI partnership is vital to the safety of citizens in both India and the United States.

The Drug Enforcement Administration in India looks forward to a continuing and sustained relationship with the Directorate of Revenue Intelligence. This combined might and strength can only result in even greater success and deter criminal networks operating in both of our countries.

A handwritten signature in blue ink, appearing to read "Mark Fredrick".

Mark Fredrick
Country Attaché
New Delhi Country Office



Andy Morling
Head of Enforcement
Medicines and
Healthcare Products
Regulatory Agency



Medicines &
Healthcare products
Regulatory Agency

Message

The Medicines and Healthcare products Regulatory Agency (MHRA), the UK's regulator for medicines and medical devices, values its collaboration with the government of India. Of particular importance is the strength of the relationship established between the Agency and India's Directorate of Revenue Intelligence (DRI).

The criminal trade in medicines is substantially a cross-border one. It follows that meaningful, regular and timely international collaboration is essential both to protect the domestic interests of each nation and for each to play its part in defeating the global threat.

The MHRA's Head of Enforcement, Andy Morling, has commented "The MHRA's relationship with its partners in the DRI and in other Indian Government agencies is a strong example of what can be achieved when mutual trust and confidence is established. Those who seek to profit from crime across international borders can only be stopped by international understanding and collaboration of this kind. I am confident the resolve and shared endeavours of the DRI and the MHRA to work together in the prevention and detection of offending will be undiminished in 2021 and beyond."

Even in this most challenging of years globally, the relationship between the MHRA and the DRI has prospered and continues to deliver outcomes for benefit of the people of both nations. The MHRA looks forward to continued collaboration with the DRI in the years ahead.

Andy Morling

National Crime Agency

British High Commission,
Shantipath, Chanakyapuri,
New Delh-110021, India



Robert Holness

International Liaison Officer
India, Nepal, Bangladesh, Sri Lanka and
The Maldives

Message

Serious and organised crime continues to kill more people than any other national security threat, and has a corrosive impact on society. The National Crime Agency (NCA) priorities remain to tackle the high harm, high impact offenders who exploit the vulnerable through the means of criminality. With our close partnership and teamwork with the Directorate of Revenue Intelligence we continue to disrupt and dismantle serious criminal networks and supply chains operating internationally.

With our close co-operation and collaborative working with the DRI, over the last year we have worked to undertake operational activity and follow through on intelligence leads to identify and dismantle key organised crime groups and build our intelligence picture regarding upstream drugs, chemical and commodity supply, involving UK and Indian Organised Crime Groups.

The NCA ILO based in India, Robert Holness is committed to ensuring that the excellent joint working partnership between the UK and Indian Government targets the most serious criminals through our 4P approach of Prepare, Protect, Pursue and Prevent.

Congratulations on another successful year for DRI and on the Celebration of the 63rd Foundation Day on 4 December 2020. The NCA continues to value its collaboration with the DRI and looks forward to continuing to develop and enhance our operational effectiveness throughout the coming year.

Robert Holness

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बालेश कुमार
Balesh Kumar
Pr. Director General



प्रधान महानिदेशक
राजस्व आसूचना निदेशालय
Pr. Director General
Directorate of
Revenue Intelligence

Foreword

The Annual Publication of the Directorate of Revenue Intelligence viz 'Smuggling of India Report 2019-20' does not only showcase the major achievements of the Directorate but also highlights the significant trends, which impinge upon Economic Security of the Nation. With the expansion of the economy and modernisation of technology, the challenge before DRI has been to devise innovative strategies so as to combat economic offences with efficacy. It gives me immense pride to state that during the financial year 2019-20 the Team DRI had risen to push back the smugglers, tax evaders, narcotic traffickers and money launderers. In this Report each chapter reflects the strong commitment for the Nation and its translation into effective deterrent action against economic crimes as expressed in the words of 800 officers and staff manning DRI.

DRI has made its presence felt over the financial year 2019-20. The Organisation demonstrated prompt action in detection of 412 cases of Smuggling resulting in seizure of contraband worth Rs 1949 crores. Through Risk Assessment Techniques and Data Analytics DRI was able to unearth 761 complex cases of Customs involving duty evasion of amount Rs 2183 crores. DRI has been on the forefront of Nation's fight against the trafficking of narcotic drugs and psychotropic substances. In a swift action the Team DRI busted two factories manufacturing ephedrine in Maharashtra. In its earnest efforts to preserve the natural habitat and the wildlife, the Directorate besides intercepting consignments of live animals and birds has struck fear among the smugglers of Red Sanders, of which a large quantity of

174.5 metric tonnes was seized. As part of its endeavour to preserve and promote public health, DRI made a number of seizures of smuggled Cigarettes valued at Rs 77 crores, detected and prevented smuggling of areca nut and E-wastes. During the financial year DRI arrested 837 economic offenders thus denting the mafia network. This Report brings to fore the broad span of activities carried out by DRI to check economic crime. The Directorate has significantly contributed to the cause of national security by ensuring interception of dual purpose technology goods.

DRI has been a pivotal Organisation for bringing about international cooperation and bilateral collaboration to neutralise trans-national organised economic crimes. DRI actively participated in multilateral operations to mention a few like Operation Sesha III, Operation Tentacle, Operation Thunderball. In a major impact making bilateral Operation Broadsword DRI officers travelled to US and worked along with US FDA against counterfeit medicines. DRI has proactively joined hands with other Domestic Agencies to thwart threats to economic security. In May, 2019 DRI detected a major consignment of 218 kg heroin smuggled from Pakistan, in which the Directorate closely coordinated with India's Coast Guard and National Technical Research Organisation. Again, in March, 2020 DRI along with BSF detected and seized over 21 kg of smuggled gold on Indo-Bangladesh border. It is highly appreciable that our partner agencies are significantly contributing in anti-smuggling work.

The indomitable spirit of the personnel of DRI has got reflected in their courageous actions against smugglers even at the risk of their own life. Recently the DRI officers had to face the bullets of desperate smugglers near Jodhpur from whom smuggled gold was seized. In yet another incident the smugglers rammed a vehicle against DRI team so as to prevent them from detecting smuggled gold in Calicut which however was recovered and seized. DRI is what it is because of such brave hearts. The patriotism which imbues the Organisation enables it to have "Invisible Presence with Visible Results".

CHAPTER 1

ALL THAT GLITTERS





The undying Indian passion for gold is a phenomenon that is centuries old. India has earned for itself the sobriquet of “golden bird” without having any substantial reserve of gold in its mines. Gold plays a pivotal role in the country’s culture and is considered a store of value, a symbol of wealth and status and fundamental to many social and religious rituals. There is a deep affinity for gold for the practical considerations of its portability and the security of gold jewellery as a preferred portfolio of investment.

A Canada-based research organisation IMPACT, in one of its reports, noted that India has approximately 20,000 tonnes of gold in private reserves held by households and temple trusts. This exceeds the combined gold reserves of the central banks of the US, the Eurozone and China.

While the Indian demand for gold is ever-increasing, it is estimated that about one-sixth of the total volume of gold entering India, is by way of illicit trade. India imports about 800-850 tonnes of gold every year while its annual consumption is around 1,000 tonnes. This suggests that roughly 150-200 tonnes of gold are being smuggled into the country every year.

India’s Year-wise gold import data

Year	Quantity Imported (in Metric Tons)	Value of Imports (in Rs. Cr)	Duty Collected (in Rs. Cr)
2016-17	716	167337	10843
2017-18	833	180559	13625
2018-19	796	167483	10570

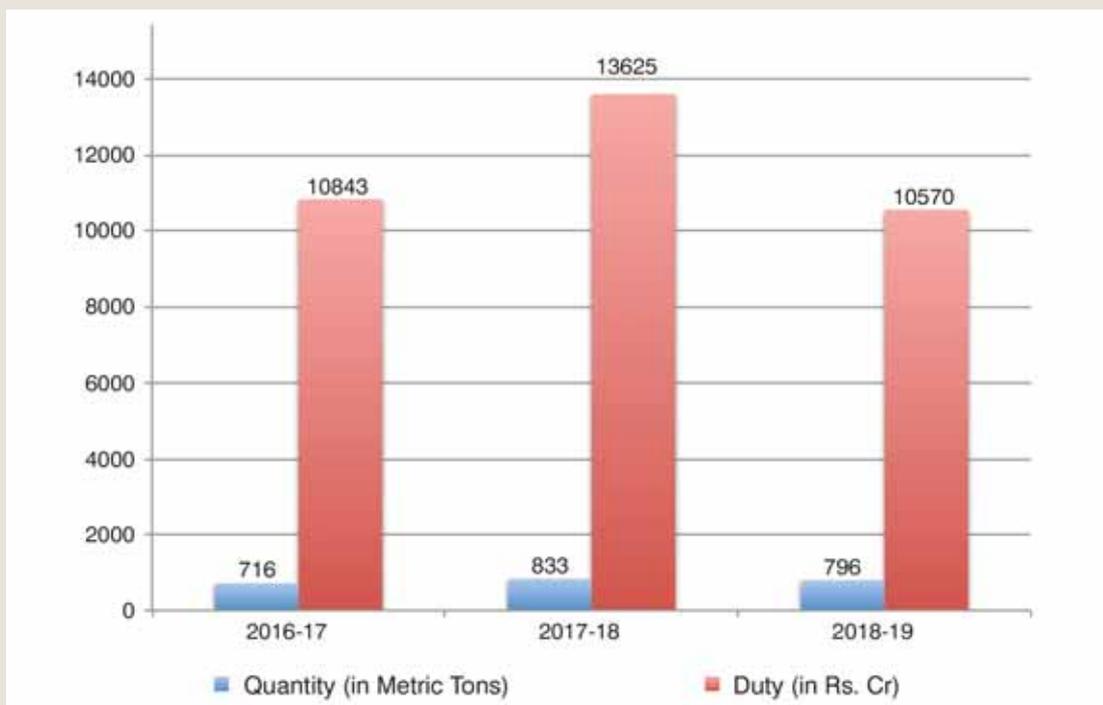


Chart showing import of Gold in terms of quantity and duty from 2016-17 to 2018-19



In FY 2019-20, 120 tonnes of gold were smuggled into India, which was about 15% to 17% of the nation's annual demand, according to the World Gold Council.

The economic reforms of 1990s witnessed the repeal of the Gold (Control) Act, 1968 that had prohibited the import of gold except for jewellery. The erstwhile statute had led to the emergence of a notorious network of gold smugglers during 1970s and 1980s. The economic reforms and liberalisation led to the imposition of a modest specific duty of Rs 300 on 10 grams in 2011-12 (increased from Rs 200 in 2010-11) on the imported yellow metal, bringing gold smuggling almost to a grinding halt.

The duty rate was enhanced in 2013, essentially to rein in the spiralling current account deficits, when the rate was shifted from specific to ad valorem and within a span of two months, the duty on gold increased nearly four-fold to 4 per cent. At present, the import of gold attracts Customs duty of 12.5 per cent, GST of 3 per cent and an additional GST of 5 per cent on making of gold ornaments. Needless to say, the increase in the incidence of duty on the imported gold, has incentivised the smuggling of the yellow metal.

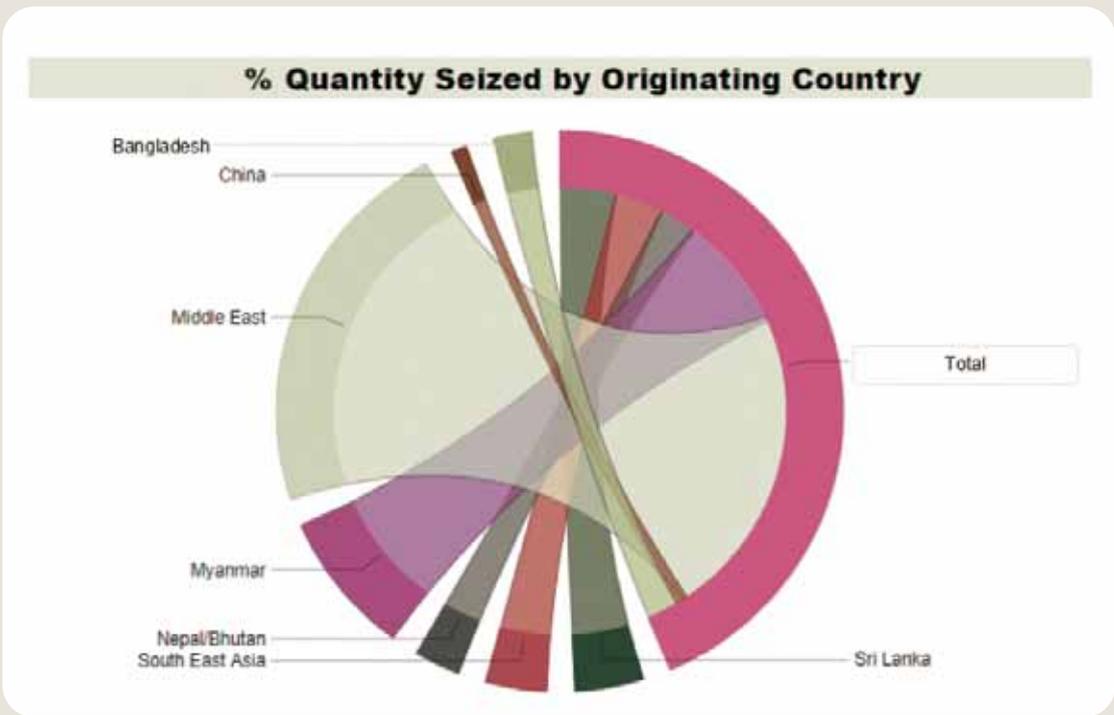
Some estimates suggest that there is an illicit margin in excess of Rs 3 lakh per kg of smuggled gold. With the price of gold going past the mark Rs 50,000 for 10 grams, the illicit trade has become all the more profitable.



Chart depicting gold seizure by Indian Customs in terms of value and quantity from 2015-16 to 2018-19

According to the study conducted by IMPACT, most of the gold enters India through the UAE, which accounts for 75 per cent of all the entries. The UAE, in turn, is the most favoured destination for

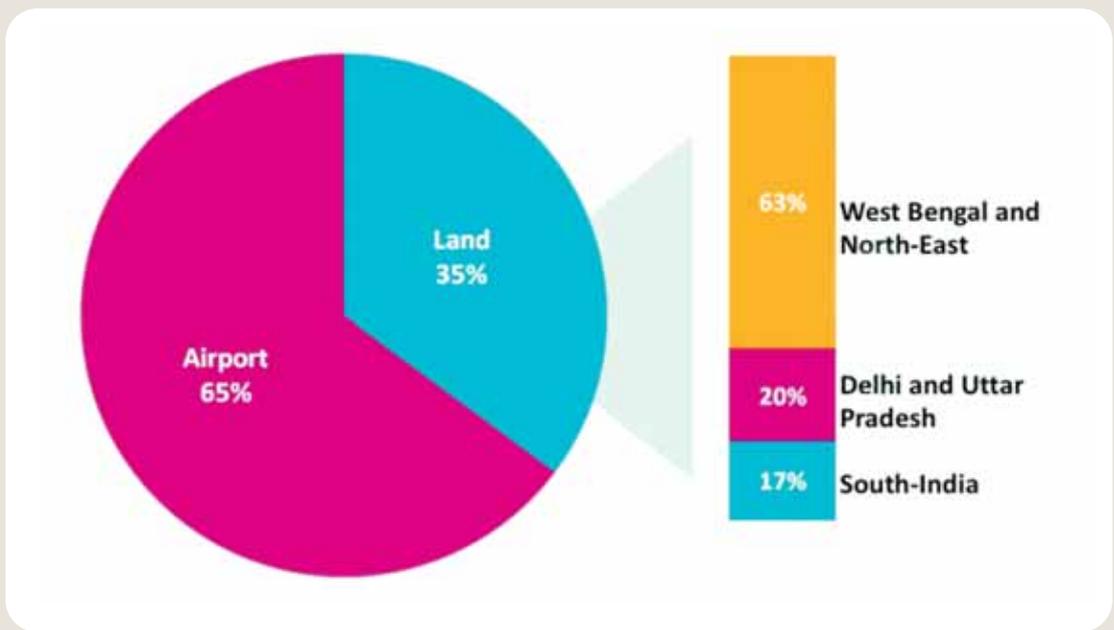
the illicit ASGM (Artisanal and Small-scale Gold Mining) gold coming from the conflict-prone Great Lake Region (ICGLR countries) of east and central Africa.



Chord Diagram depicting the origin of gold intercepted by DRI in 2018-19 (By number of cases)

The preferred routes of gold smuggling until recently were the air routes from middle-east, from where most of the gold was being pushed illegally into India. The Customs and DRI officials at Delhi, Mumbai, Chennai, Kolkata and Cochin airports, had made large seizures of smuggled gold originating

mainly from the middle-east, barring a few from Thailand and Hong Kong. The carriers on these routes were predominantly the poor labourers working in the Gulf region. Due to the increased surveillance of Indian Customs and DRI at the international airports, the gold smuggling has become a risky proposition.



Distribution of seizure cases based on smuggling routes % of seizure cases other than Airport



In the recent years, however, the smuggling of gold through the land borders has risen many-folds. India's porous international

borders with Nepal, Bangladesh and Myanmar help the gold smugglers in their illicit pursuit.



The Khawmawi village in Myanmar, which is located on the east of Zokhawthar is the focal point of the smuggling network.

India and Myanmar share a 1,643-km-long border, along four Indian states – Manipur, Mizoram, Nagaland and Arunachal Pradesh. The two routes that cut through this border – the old Tamu-Moreh-Imphal trajectory in Manipur, going through a vast stretch of unguarded but inaccessible terrain and the Zokhatwar route in Mizoram – are popular for trade and transit, both legal and illegal. When militancy in North-Eastern

India subsided in 2013-14, arms smuggling along the Indo-Myanmar border had taken a big hit. But as the routes and the network of carriers were already in place, a switch was made from arms to gold. The gold smuggling through India's land borders with Myanmar has shot up remarkably in the last couple of years. The recent seizures of gold smuggled in from Myanmar, by DRI lends credence to the aforesaid observation.



(Seizure of 51.33 kgs of gold smuggled into India through the Indo-Myanmar border, on 11.11.2019, by the DRI at Assam, Siliguri and Mughal Sarai.)



(Important seizure made by DRI DZU of 83 Kgs of smuggled gold of Myanmar origin in Aug, 2020. The smuggled foreign origin gold was being brought by rail from North-East to Delhi)



The Mizoram-based gold smugglers are also part of China-Myanmar smuggling networks.

The free movement regime between India and Myanmar allows people along the border to travel up to 16 km on either side without visa restrictions. As the two countries are not hostile neighbours, presence of border forces is sporadic along a boundary that's demarcated but unfenced. Finally, there is the difficult terrain which the locals do not find hard to negotiate.

The recent trends show smuggling of gold through the sea route and the notable cases include the seizure of 14.5 Kgs of gold by the Chennai Zonal Unit of DRI in mid sea between Manali Island and Maraikayarpattinum of Tamil Nadu on 03/04.03.2020. The officers of the DRI, with the assistance of Indian Coast Guards, retrieved the said gold which had been dropped by the smugglers in mid-sea, fearing interdiction of the contraband. In yet another case, the Chennai Zonal Unit of the DRI seized 23 kgs of gold smuggled from Sri Lanka which was to arrive at Kottaiappattinum coast in Tamil Nadu.

The smuggling of gold in the containerised cargo has been detected by the Mumbai Zonal Unit of the DRI. The DRI officers, in March-April, 2019, seized 110 kgs of gold which had been smuggled into India by way of concealment in containers declared to contain brass scrap.

The smuggling of gold by concealment in human body (rectum), electronic item etc. has also been noticed. The DRI has seized gold in the form of paste at several airports across the country. Such cases include seizure of 2.05 kgs of gold at the IGI Airport by the Customs and 4.4 kgs gold seized from 7 passengers at LGBI Airport Guwahati on 09.01.20120, by the DRI, Guwahati Zonal Unit. The smuggling of gold in passenger baggage has been noticed and at Trivandrum International Airport on 13.05.2019, the DRI recovered

24.9 kg of gold from the hand baggage of a passenger.

The smuggling of gold under export promotion schemes like Advance Authorisation and the Exhibition Re-import, was also noticed. The noticeable cases include a seizure of 102 kgs of gold jewellery, bars, dust booked by the DRI HQ on 24.04.2019.

A peculiar trend has been observed where increasing number of foreigners are found to have indulged in gold smuggling. In a case booked on 22.10.2019 by the DRI HQ, 22 kgs of gold concealed in imported RO parts, were seized which involved a Taiwanese National. In another case, 5 kgs gold was seized by the DRI, DZU, which had been smuggled in a courier consignment belonging to a Korean National.

India's gold demand in Jan-Sep, 2020 slipped 5% on a year-on-year basis, to 496 tonnes, the World Gold Council said in a report. The mining body has trimmed its estimation for India's gold demand in 2020 to 700-750 tonnes from 750-850 tonnes projected earlier, vis-a-vis the demand of 760 tonnes in 2018. Owing to the recent COVID-19 pandemic, the grey market is somewhat subdued now but the propensity to smuggle gold still remains very high.

The desperation of the gold smugglers in the face of effectiveness of DRI is evident from two recent separate incidents- one in Kerala and the other in Rajasthan. In September, 2020 the smugglers tried to ram over their vehicle on to DRI officers outside the Calicut Airport, yet the team apprehended the smugglers and seized smuggled gold despite getting hurt. In September, 2020 the officers of DRI were fired at by the smugglers near Jodhpur, however, the team displayed bravery in apprehending the smugglers and effecting seizure of gold.



CHAPTER 2

NARCOTICS, NPS & DRUGS





Production, trafficking and consumption of various illicit Drugs is seeing newer trends across India and World. In Today's Post-Modern globalised world, instead of knowledge and life values being pursued by mankind, drugs are taking their place and making human life itself void.

Further, Drugs issue does not stop at individual level but has impact across nations and their security. Trade in illicit drugs and psychoactive substances is also intrinsically linked to serious organized crime, providing a stream of illegal financing for criminal syndicates. Terrorist groups are also known to be using drug trafficking for financing their operations, which underlines the connection between drugs and the threat to security.

There has been a significant increase in the global supply of drugs sourced from organic sources like Opium, Cannabis and Cocaine as well as that sourced from synthetic sources.

Continuing innovation in the field of chemistry has led to more psychoactive substances being made available to circumvent restrictions on controlled substances, as also reflected in the growing list of chemicals being put in the list of controlled substances over the years. Still many precursor chemicals and their variants are currently outside the international control regime of drug law enforcement. The demand for synthetic drugs in not so poor urban areas is also increasing as consumption of certain drugs labelled 'recreational drugs' by their consumers and suppliers to make it appear less serious crime.

India, with its vibrant chemical industry, continues to be at the risk of becoming a source of synthetic drugs and psychoactive substances including precursors. A number of organized drug syndicates continue to make attempts to use this large industrial base and the technical expertise available in India.

It is imperative, therefore, for the drug law enforcement agencies to keep abreast with changing trends in illicit drug trade, and emerging patterns of substance abuse.

Illicit drugs continue to pose a serious challenge as India has been transformed from a predominantly transit country till the beginning of this millennium, to a sizable consumer country of narcotic drugs and psychotropic substances now besides continuing to be a transit country. Coupled with this scenario, India also has a large chemical and pharmaceutical industry, which too imposes extraordinary challenge to drug law enforcement agencies in India as a balance has to be maintained between the licit activities of India's chemical and pharma industry and illicit manufacture of drugs and precursor chemicals, as well as the non-medical use of prescription drugs.

Drug law enforcement in India derives its strength from Article 47 of the Constitution of India, which reads as:

'The State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating

drinks and of drugs which are injurious to health'.

Subjects on which Parliament or state Legislatures can make laws either exclusively or concurrently are clearly defined in the three lists of the Seventh Schedule of the Constitution. Vide entry 19, "Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium." have been placed in the concurrent list, allowing both Centre and States to legislate in the matters related to it. Entry 59 of List I - Union list reads as "Cultivation, manufacture, and sale for export, of opium", which is in the exclusive domain of the Centre.

As a responsible member of international community, India has been active in global efforts to tackle the illicit drug menace. India is a party to the three United Nations conventions on drugs – the 1961 Single Convention on Narcotic Drugs, the 1971



Convention on Psychotropic Substances and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

For giving effect to these treaties, Parliament enacted the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), which came into force on 14th November 1985. NDPS Act ensures that India fulfils its obligations under the three UN Drug Conventions and objectives underlined in Article 47 of the Constitution of India. NDPS Act prohibits, except for medical or scientific purposes, the manufacture, production, trade, use, etc. of narcotic drugs and psychotropic substances. The rules and schedules of the NDPS Act, 1985 are constantly being updated to keep it in tune with the innovations and developments in the field of drugs and psychotropic substances, including the challenges in drug law enforcement. Thus India has a robust legal framework to tackle the drug menace.

India has adopted the policy of empowering multiple agencies to enforce the NDPS Act, namely Customs, DRI, Police, Narcotics Control Bureau (NCB), Central Bureau of Investigation and Central Bureau of Narcotics (CBN), amongst others. Recently, National Investigation Agency (NIA) has also been empowered under the NDPS Act.

A Narcotics Coordination Centre (N-CORD) was set up in 2016 for coordination for effective Drug Law Enforcement among various Central and State Agencies. In order to synergise the efforts of all the stakeholders, the NCORD system has been restructured into 4 tiers up to district level on 29 July, 2019 for better coordination and cooperation. Further, Vide Order issued under F.No. I-12023/21/2019-NCB-II dated 19.07.2019, Ministry of Home Affairs has constituted a Joint Coordination Committee to monitor the investigation of large drug seizure cases.

Central Bureau of Narcotics (CBN) under the Department of Revenue, Ministry of Finance is mandated to supervise licit cultivation of opium poppy for medicinal use. The CBN also issues licenses for the licit manufacture and export of synthetic narcotic drugs and is the Competent National Authority in respect of NDPS substances being exported out of India as per the international regime of prior informed consent, implemented by International Narcotics control Board.

Being the apex anti-smuggling agency, DRI coordinates with various national and international enforcement agencies as a part of its law enforcement efforts against smuggling of narcotic drugs and psychotropic substances.

TRENDS

While drug trafficking has engulfed all the parts of India, so are the efforts of officers of DRI to thwart such activities happening anywhere in India, even at the risk to their lives.

In April 2019, when the whole Manipur was in deep sleep, at around 2.00 am, a dedicated team of DRI officers was deployed in a dense forest to nab the drug smugglers. Fully aware of the repercussions of any mistake, the officers with their wit and commitment and with active support of Assam Rifles, were on a daredevil drug enforcement operation as the forest area was under the clutches of extremists. In the darkness they spotted two groups of people with shoulder loads walking within sufficient distance. The mission was planned in such a manner that both the groups of smugglers were covered by the officers and at an appropriate moment, and after ensuring that it was indeed the target they were looking for, officers intercepted all 7 persons of both groups and seized from them around 1 lakh tablets of Methamphetamine which are commonly known as YaBa tablets.



Seizure of YaBa Tablets

In another landmark seizure in May 2019 DRI in coordination with Indian Coast Guard seized a total of 217.8 Kgs of Heroin from a fishing vessel off the Gujarat Coast. The seizure involved a daring mid-sea

operation and chase involving two high-speed boats and an aircraft of the Indian Coast Guard. Six Pakistani nationals were arrested by DRI.



The vessel from which the Heroin was seized and the displayed contraband post seizure

DRI has continued its sustained efforts by effecting seizures of narcotic drugs and psychotropic substances in 2019-20.

A total of 72 seizures of substances covered under NDPS Act were done across India.



The following bar chart shows the state wise list of the same:

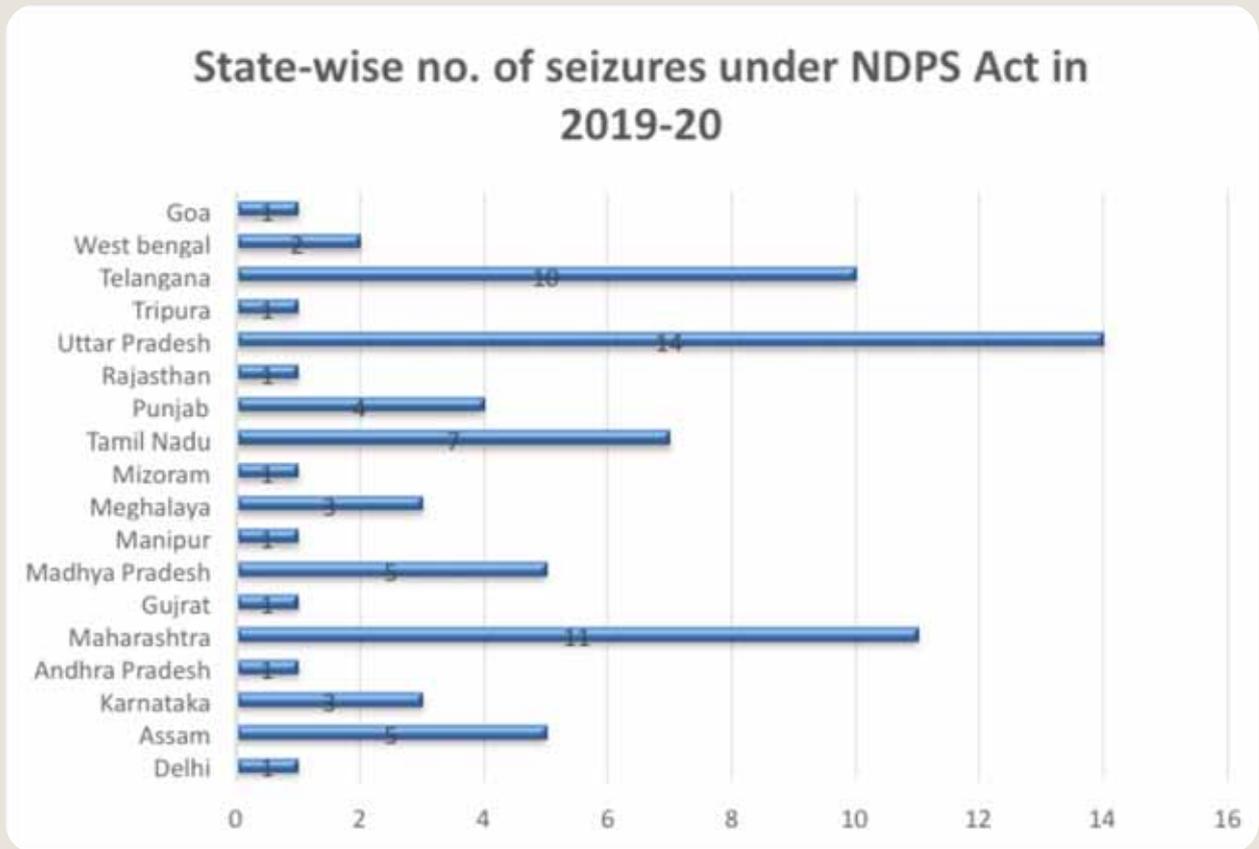


Figure 1: Number of seizures of drugs and psychotropic substances by DRI in 2019-20

In terms of state-wise seizures the trend has slightly changed in 2019-20 with Uttar Pradesh, Maharashtra, Telangana and Tamil Nadu accounting for majority of seizures while in 2018-19 Bihar, Andhra Pradesh, Maharashtra and Assam accounted for majority of the seizures. Further, there is a distinct trend emerging from these seizures which indicates a flow of huge

quantities of Ganja coming from Odisha and Andhra Pradesh, passing through Telangana, Chattisgarh and M.P. before reaching the consumption centres in northern states India, mainly U.P. and Bihar. Some quantity of Ganja of the same origin reaches Maharashtra too for consumption. Maharashtra, Telangana and Tamil Nadu appear more prone to manufacture and trafficking of synthetic drugs.



The percentage wise representation of the various states in relation to NDPS seizures carried out by DRI is depicted hereunder:

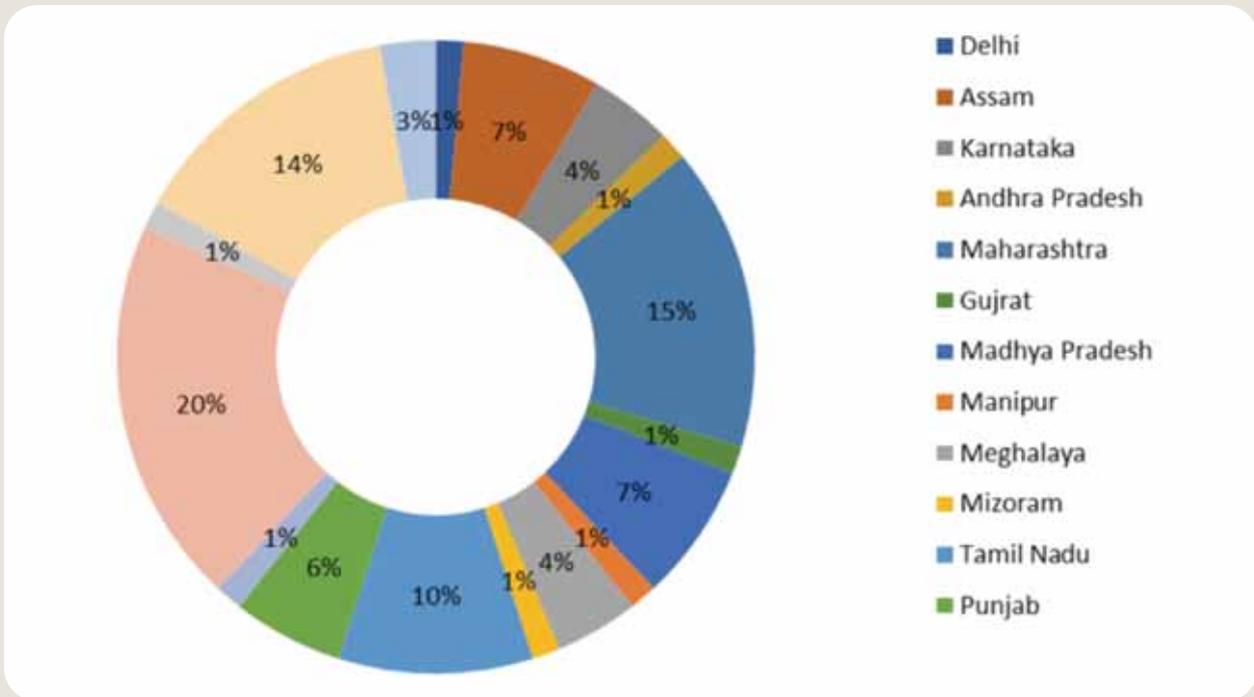


Figure 3: Percentage wise representation of States in relation to seizures of drugs and psychotropic substances by DRI in 2019-20

A comparative depiction of cases involving seizure of various substance under NDPS Act in 2019-20 with that of 2018-19 is as under:

Name of NDPS Substance	2019-20		2018-19	
	Quantity (Kgs)	No. of Cases	Quantity (Kgs)	No. of Cases
Alprazolam, Zolpidem	130	2	40 Kgs	2
Charas	68.114	2	339.42	3
Cocaine	1.108	2		
Ganja	34796.67	46	41239	49
Metamphetamine	142.96	5	125.66	6
Heroin	9.169	5	7.98	5
Mephedrone	57.69	2	12.33	2



Hashish	4.88	3	1.45	2
Opium	4008.751	2	1.93	1
Ephedrine	549.79	2		
Tramadol	22.69	1	2766.74	2
Codeine			24500 Nos.	1
Ketamine			562.6	2
Khat Leaves			332.11	2
Methaqualone			34.69	2

Figure 4: Comparative performance of 2019-20 and 2018-19

From the above it can be clearly seen that DRI is continuing its fight against narcotic drugs, psychotropic substances and synthetic drugs for consumption in India as well as export across the world.

The seizures of NDPS substances can be divided group wise for comparative analysis of the major challenge areas, so as to get a macroscopic view of the trends.

A comparative analysis is as under:

Name of the NDPS substance seized	2019-20		2018-19	
	No. of Seizures	Quantity (in Kgs)	No. of Seizures	Quantity (in Kgs)
Khat Leaves / Ganja / Hashish / Charas	51	34869.66	56	41911.98
Cocaine / Heroin / Opium	9	4019.02	6	9.91
Synthetic Drugs and likes	10	353.34	17	3574.02
Precursors and Likes	2	549.79	0	0

Figure 5: Group wise Comparative Analysis of seizures



DRI continued seizures of Ganja in 2019-20 also, which is in consonance with production and consumption of Ganja in India. In 2019-20, DRI seized around 35 M.T. of Ganja (Cannabis).

Following graph shows state wise Ganja seizure by DRI in 2019-20:

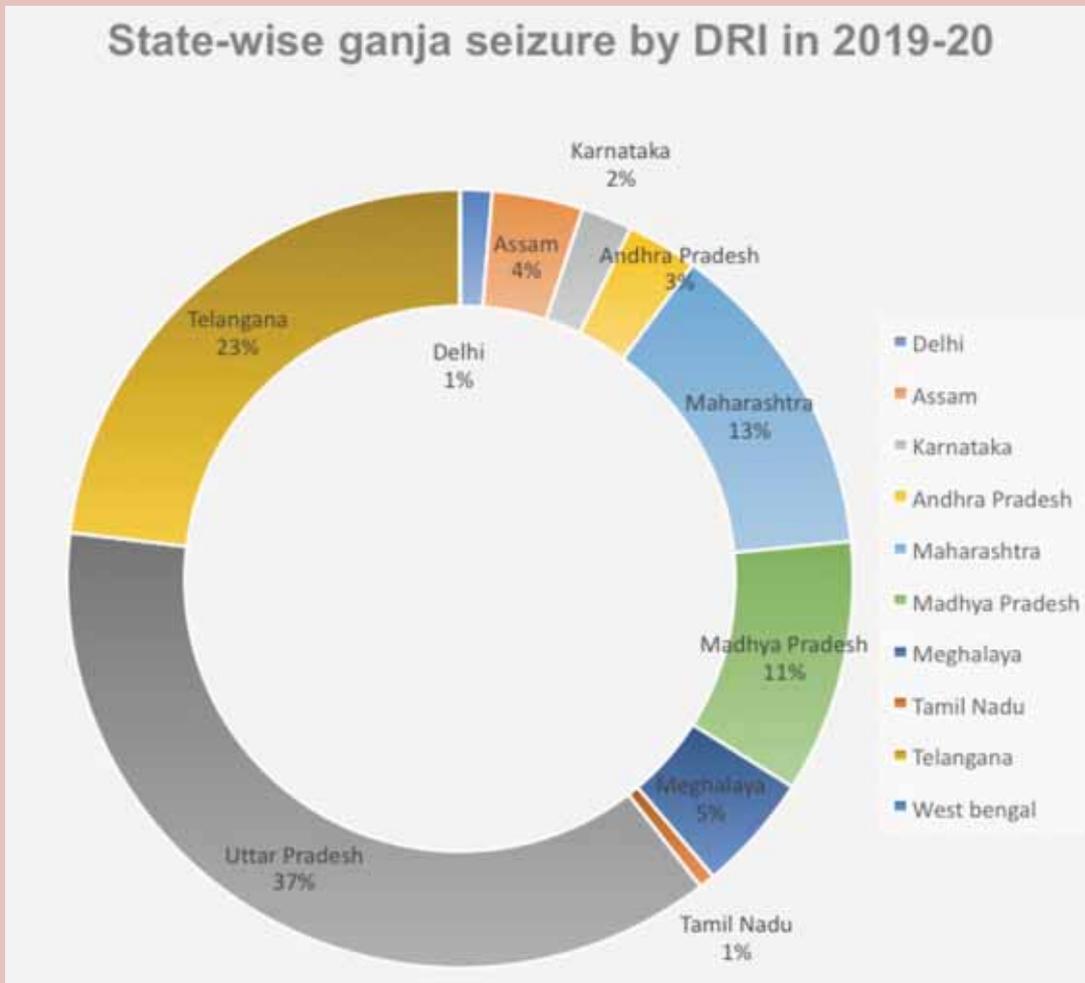


Figure 6: State wise Ganja Seizure by DRI in 2019-20

From the above, it can be clearly seen that in 2019-20, DRI effected maximum number of seizures of Ganja in Uttar Pradesh, Telangana, Maharashtra and Madhya Pradesh.

It is pertinent to mention that Ganja is not only having narcotics angle to it but also it is a national security concern as the area mostly involved in relation to the trafficking activities of Ganja is Left Wing Extremism affected. The illicit proceeds from the trafficking of Ganja are used for feeding the growth of extremist activities.

In one such case, in July 2019, as per norms, an ambulance coming from Chhattisgarh was getting immediate road clearances on the highways of Madhya Pradesh as it was supposedly ferrying a patient. The ambulance was heading towards Allahabad. On a tip off, the officers of DRI, Indore Unit intercepted the said ambulance in Rewa, Madhya Pradesh after a long chase. Except the DRI officers, everyone on the road was surprised on stoppage of an ambulance for checking. As expected, the said ambulance was found not carrying any patient and was being cleverly used for trafficking of around 800 kg of ganja, which was seized.



Figure 7: Seizure of Ganja being carried in Ambulance

India also faces a huge problem of Synthetic Drugs like Mephedrone, Amphetamine Type Substances (ATS), New Psychoactive Substances (NPS). From the seizure data it is observed that activities related to illicit manufacturing and trafficking of such psychotropic substances are mostly prevalent in states of Maharashtra, Andhra Pradesh, Telangana and Tamil Nadu, as

these states have a large base of small and medium chemical and pharma industries which can be easily used by drug cartels to manufacture such illicit Drugs. The North-Eastern States of India face the problem of Synthetic Drugs due to their borders with Myanmar, which is one of the major producers of synthetic drugs, especially Methamphetamine.



Courier and postal cargo has emerged as a favourite mode of transportation of drugs by traffickers due to the anonymity associated with its use. DRI has been able to upgrade itself in terms of intelligence development and investigation skills to counter the ever new methods being adopted by the drug traffickers. In one of such case, officers of DRI, Chennai busted a modus operandi of use of international express courier company for smuggling narcotics substances out of India. Based on specific intelligence, the officers of DRI, Chennai intercepted a consignment of Alprazolam tablets, a psychotropic substance, which was being exported to USA in the guise of herbal / Ayurvedic medicines and seized approximately 1,37,665 tablets of various kinds, including Alprazolam totally weighing around 90 Kg. Due to persistence and dedication in follow-up investigation, the officers of DRI were able to finally locate the international call centre in Jaipur, run by one of the accused, which was established to book orders of tablets like Alprazolam, Tramadol from buyers in USA and were able to apprehend the master mind behind the cartel.



Figure 8: Seizure of Alprazolam Tablets by DRI Chennai



In March 2020, barely days before the nation-wide lockdown due to Covid-19 was to begin and when fear of global pandemic was looming large, DRI busted two factories manufacturing ephedrine in Maharashtra, leading to detection of almost 500 kg of ephedrine in liquid and slurry form, and recovered Rs. 89 lakh of cash.





Figure 9: Ephedrine manufacturing factory busted by DRI in March 2020

As part of international efforts against transnational trade of illicit drugs, DRI successfully passed on intelligence to Australian Border Force in 2019 leading to seizure of 25 kg of pseudoephedrine concealed in a packet of sweets sent from India to Australia. Such seizures reinforce the widespread existence of manufacturing units of synthetic drugs in India.

The mandate of DRI doesn't end with the filing of complaint in relation to the seizure of the substances covered under NDPS Act, 1985. The officers of DRI also actively pursue the trial proceedings so that the offenders who are involved in drug menace are convicted for their deeds in the court of law, which has a real deterrent effect. Credibility of DRI as a drug law enforcement agency is because drug traffickers believe that DRI cases culminate in conviction.

In May 2019, when Hon'ble Sessions Court, Jalgaon pronounced rigorous imprisonment to 7 persons for 12 years in a case of illegal manufacturing of 1200 kg of Ketamine HCL, the face of the officers of Directorate of Revenue Intelligence, Mumbai lit up with a sense of satisfaction and pride. This was a prestigious case for them as it was one of the biggest seizures of drugs in Western India. The seizure was made in December, 2013. This meticulously handled case had its connections in Delhi, Chennai, Hyderabad, Mumbai, Trichy with its epicentre being Jalgaon, a town in Central Maharashtra. In a marathon trial proceeding which ran for almost two years and involved examination of around 100 witnesses, the officers doggedly pursued the trial and their efforts bore fruit eventually.

While team DRI has been executing its mandate professionally, but the huge seizures across India also show that the situation of drug trafficking is quite alarming. This demands a continuous effort on part of DRI and other drug law enforcement agencies to keep the country safe and its citizen healthy.

CHAPTER 3

NATIONAL SECURITY





Bienvenidos Punta Cana!!!

The small but famous resort town of Punta Cana in Dominican Republic has become famous in the world of Customs for reason other than tourism. In December 2015, WCO's Policy Commission issued the 'Punta Cana Resolution' concerning the security role of Customs. The resolution highlights that the Customs authorities are typically the first line of defence against transnational crime, terrorism and extremism.

The role of Customs has undergone a transformation in recent times. While the world woke up to the security role of Customs post 9/11 attacks in the US, the said role was always at the core of DRI's functioning and still continues. From the days of Haji Mastan and Dawood Ibrahim trying to exploit India's borders for anti-national activities to present day of proliferation of WMDs and dual use goods/technology across the international borders, DRI has been keeping a close vigil on the enemies of International Community in general and India in particular.

Smuggling by its very definition seeks to exploit the chinks in border security and border management of a country. It exposes critical gaps in the national security architecture which can be used for seemingly harmless activities like smuggling of commercial goods to smuggling of gold and in extreme cases smuggling of narcotics, explosives, dual use goods, arms and ammunitions.

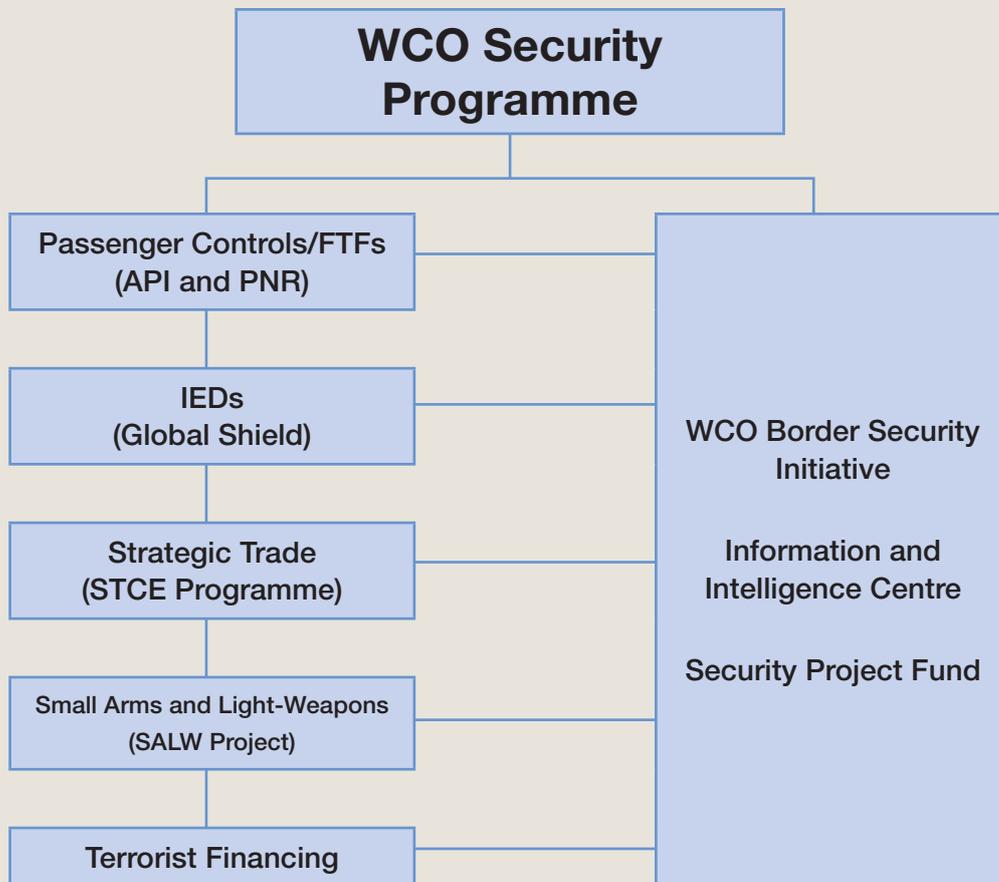


Figure 1: The World Customs Organization (WCO) Security Programme



Cross-border trade and smuggling can have multi-dimensional impact on national security. Apart from its traditional impacts like being used by actors inimical to the security of the state to finance their activities and sustain themselves, increasingly, the global supply chain and volume of trade is being used to mask proliferation and illegal trade in dual-use goods as genuine trade transactions. Smuggling of FICN is another grave security threat. In the Indian context,

smuggling of Fake Indian Currency Notes (FICN) from across the border is largely state sponsored and is intended to harm and destabilise Indian Financial system. Smuggling of narcotics and drugs has also come to be linked with terrorism. Smuggling is, nevertheless, in itself lucrative and offers high margins. It doesn't require heavy investments in infrastructure and human resources. This makes it a preferred mode of generating finances for non-state actors.

Narcoterrorism

In 2019-20 DRI booked multiple cases of smuggling of Narcotics along the western border and western seaboard.- In one such case DRI along with the Indian Coast Guard intercepted a fishing boat off the coast of Gujarat and seized 214 Kgs of Heroin which was meant for smuggling into India. In another case DRI effected a seizure of 7 Kgs of Heroin in Kupwara and Tangdhar in Jammu & Kashmir close to the Line of Control (LoC), which had been smuggled in from Pakistan Occupied Kashmir (PoK). In June 2019, Indian Customs seized 532 Kgs of Heroin concealed in bags declared to be containing rock salt while they were being imported into India from Pakistan through the Integrated Checkpost at Attari, Punjab. The case is also being investigated under Unlawful Activities (Prevention) Act for possible terror linkages. The magnitude and modus of the cases clearly indicate attempts by inimical elements to push narcotics into India and use proceeds of such smuggling to finance anti-national activities.

FICN

Fake Indian Currency Notes (FICN) pose a threat to the national security of India. FICN is smuggled into India from Pakistan mostly by way of staging through the land borders of Bangladesh and Nepal. In 2019-20 Customs booked 16 cases leading to a seizure of FICN with a face value of Rs. 62.40 Lakhs. Bulk of the seizures comprised of Rs. 2000 denomination, with Rs. 500 denomination making up a smaller portion of the fake currency seized.

DRI analysis indicates that there has been a gradual improvement in the quality of the FICN being seized. Demonetisation had dealt a heavy blow to the fake Indian currency networks. These networks have been attempting to make a come-back, but have still not reached the same scale and quality.

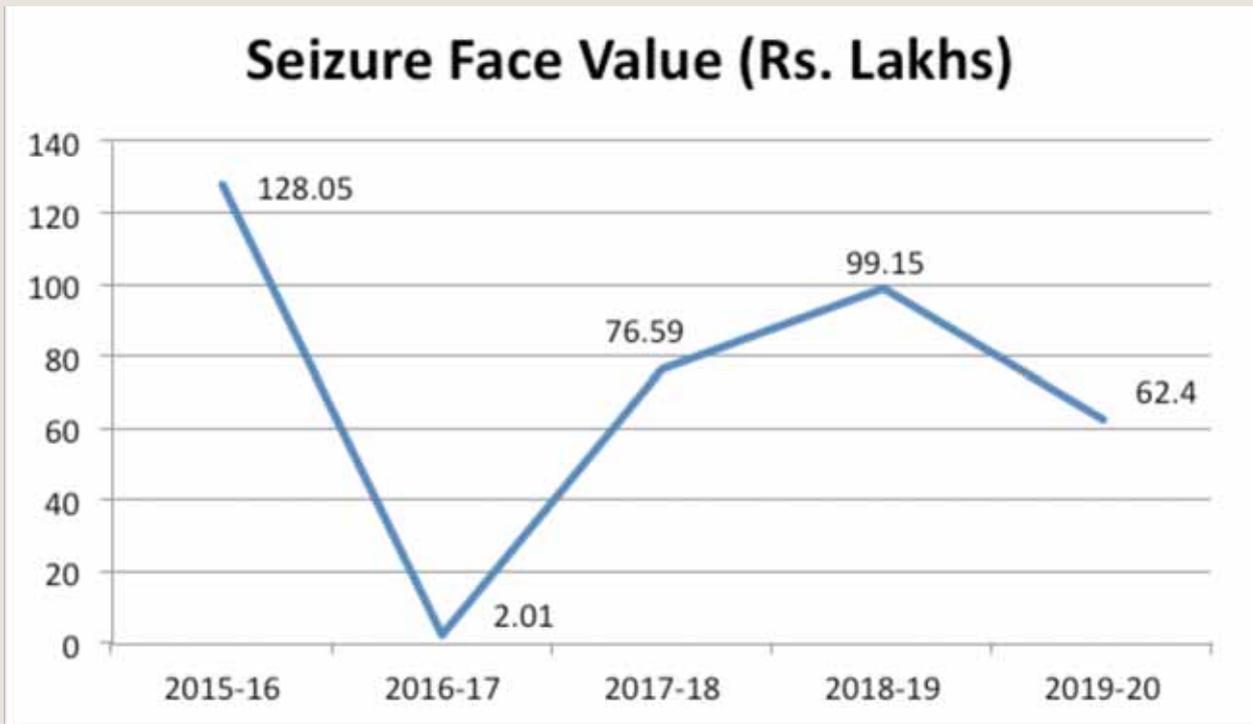


Figure 2: Graph Showing Seizure of FICN (by Face Value) from FY 2015-16 to FY 2019-20

STCE

As the expansion of global trade and supply chains intersects with the advancement in technologies and growing stature of India in international trade, Strategic Trade Control Enforcement (STCE) has become an important dimension of national security. Strategic Trade Control Enforcement refers to enforcing licensing provisions in trade of strategic goods like WMDs or dual use goods which have both military and civilian applications. Dual use goods in Indian context refer to goods which are part of SCOMET (Special Chemicals, Organisms, Materials, Equipment and Technology) list notified by DGFT and are subject to licensing regulation.

Being a signatory to the three of the four major export control regimes viz. Wassenaar Arrangement, Missile Technology Control Regime (MTCR) and the Australia Group and a responsible member of the International community, it is contingent on

India to make all possible efforts to ensure that its borders and trade is not used for proliferation and illegal trade in dual-use goods and technologies. To this effect, Customs as a border agency and DRI as an apex law enforcement agency act as effective deterrents.

India has become a preferred trading route in the global supply chain leading to requirements for extra vigil in goods transiting through Indian airports and sea ports. This is evident from the two cases related to enforcement of strategic trade controls detected by DRI and Indian Customs in 2019-20, where in substances and equipment controlled under the SCOMET List were being transported between two foreign countries, with India being used as a transit point. Effective action and inter agency cooperation ensured that Indian ports were not used as transit points for illicit trade in dual-use goods and technologies.



In the first case, a chemical that could be used as missile propellant and mis-declared as a harmless chemical was transiting through India while being transported between two foreign countries. The chemical was notified in the SCOMET List and was liable for

confiscation under the relevant provisions of the Customs Act 1962 and the WMD Act, 2005. Swift action and inter-agency cooperation between Customs, DRI and chemical experts ensured that the consignment was intercepted and seized as per law.



Figure 3: Drums containing the dual use chemical seized by Customs

In the second such case an Auto-Clave, a high-technology equipment possibly meant to be used in the missile program of destination state was concealed in the 'same bottom cargo' of a ship transiting through India. The equipment was notified in the SCOMET List. Customs through swift and targeted enforcement

intercepted the consignments and seized the suspect cargo. Such swift and targeted action in collaboration with other agencies and technical experts underscores DRI's commitment to national security and its excellent track record in proliferation matters.



Figure 4: Auto-clave seized by Customs

The changing role of Customs, particularly in the field of national security requires precise and technology driven enforcement interventions and strategies. DRI is at the forefront of such changes and carries the faith reposed in it by the State with a great sense of responsibility and pride.

CHAPTER 4

CONTAINING TRANS BORDER SMUGGLING

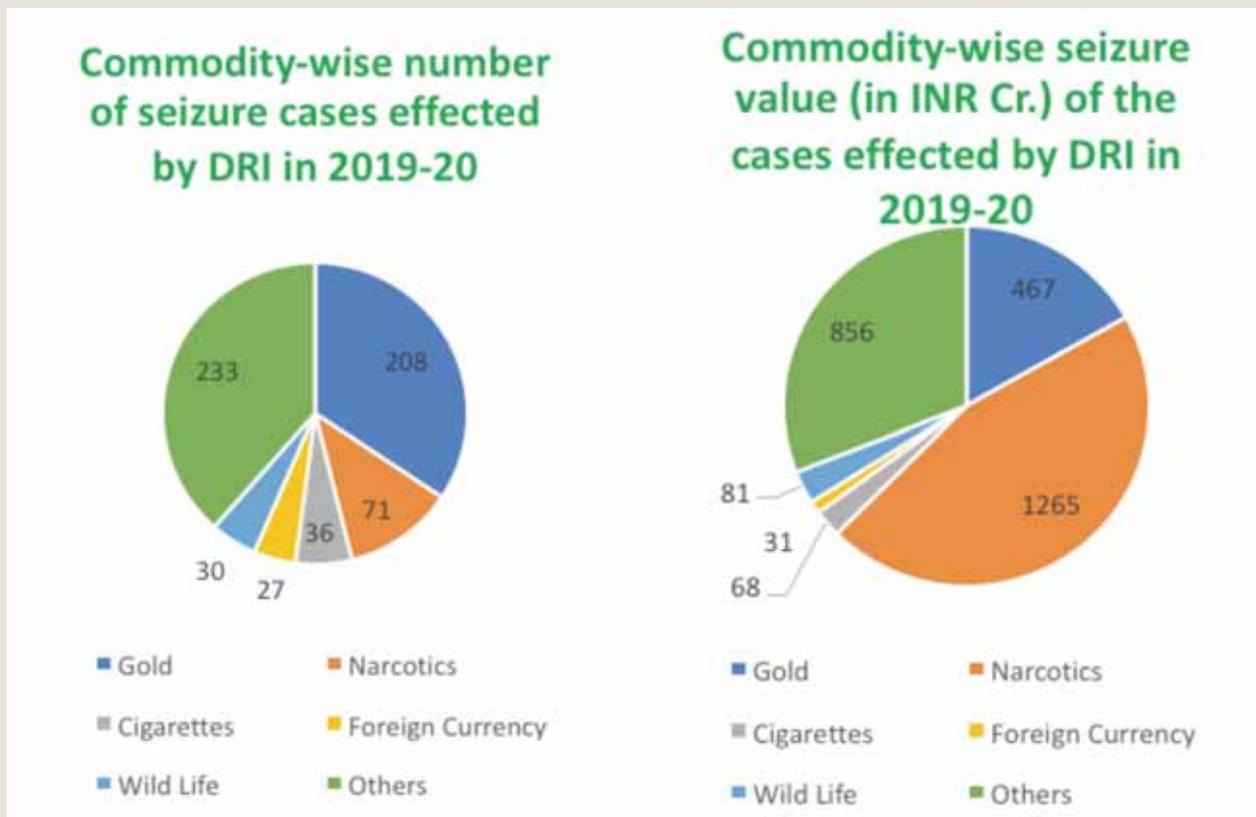
CHALLENGES OF TERRAIN AND
CULTURAL AFFINITY





India's 15,106.7 km land border and 7516.6 km coastline have always interested cartographers and explorers because of its sheer topographical diversity. The man-made borders present an interesting scenario whereby people of same ethnicity/ tribe live along both sides of the line only to be differentiated by their nationality. The Indian borders, which have the potential to develop into a separate genre of tourism, have unfortunately devolved into nerve centres for cross border smuggling. 605 seizures of outright smuggling, valued at Rs. 2768 Crores were effected by DRI in 2019-20 through various routes.

Among the commodities smuggled into the country, Gold occupies the prime position which is closely followed by Narcotics and Psychotropic substances, Cigarettes, Foreign Currency, Agricultural produce and Wildlife flora and fauna.



Major Commodities Smuggled in 2019-20 (Source: MPR Data, CBIC)

The diverse geography and difficult terrain are usually exploited by smuggling cartels with the help of the local populace. This poses a huge challenge to law enforcement agencies in their collective efforts to thwart cross border smuggling.

The above factor is acutely visible in the North East Region (NER) of India which comprises 8 states sharing approximately 99 per cent of their borders with neighbouring countries of Bangladesh, Nepal, Myanmar,

China and Bhutan. The NER is connected to rest of the country only through the Siliguri corridor popularly known as the "Chicken's neck". Mostly known for its strategic importance, this corridor today is a hot spot for cross border smuggling due to its proximate borders with Bangladesh, Bhutan and Nepal. The NER shares a unique topography marked by rivers, dense forests and hilly terrains with altitudes ranging from near sea-level to over 7,000 metres



above MSL, which renders the porous borders vulnerable to several external and internal threats including insurgency, cross border smuggling and infiltration. In 2019-20, DRI had effected 120 seizures of gold, narcotics, cigarettes etc valued at Rs.246 Crores which were smuggled through the NER.

Myanmar plays a significant role because of its geo strategic location as a gateway to the East and also its own socio-political conditions in the neighbouring areas. The country shares 1743 km border with India. The India Myanmar Border (IMB) is unfenced. The Free Movement Regime (FMR) is a goodwill measure implemented by both the countries considering the fact that people of same tribe and ethnicity reside along both sides of the border with family and marital relations till date. The citizens of both countries can travel across the border up to 16 km following prescribed rules. Thus, FMR mechanism combined

with the strong bonds among the people residing on both sides has made the border porous and prone to smuggling. The Longwa village, which lies partially in Nagaland and Myanmar, is a classic example. The propensity for smuggling is especially high in the states of Manipur and Mizoram owing to factors like historical routes, reduced insurgency et al. Considering the geo-strategic location and the presence of China and other South East Asian countries on either side, Myanmar has positioned itself as a transit corridor for movement of goods of all sorts between two major global markets and production centres. Though smuggling happens across the IMB, most of the smuggled goods have their origin in Thailand, Malaysia, Singapore, Indonesia and China. The goods destined for rest of India comprises mostly of restricted and prohibited goods of high value like gold, precious stones, foreign cigarettes, drugs and wildlife.



Longwa Village, Nagaland, part of which lies in Myanmar



The Longwa Village Chief's house, through which the international border passes

The complexity of the border areas in political, social and geographic sense has led to creation of numerous illegal border crossing points along the International Border (IB) which are highly dynamic and often get shifted to a new location upon detection. The usual modus operandi is carrying the contrabands as head loads across the borders especially rivers to escape surveillance. Selecting the least inhabited locations along the IMB line, the carriers usually trek through the dense jungles for hours together to reach their destination. In some cases, the apprehended carriers were seen carrying food items to sustain themselves during these long arduous treks. Thereafter a vast network of local carriers further ferry the goods to other collection points. There are

around 42 such identified vulnerable border crossing points in Mizoram and Manipur.

Bangladesh, on the other hand, shares its entire land border of 4096 km only with India and its demand for contrabands particularly drugs need to pass through Indian borders for local consumption. The border running through rivers, agricultural fields and even houses some of which have doors opening in both the countries makes it extremely challenging for surveillance and monitoring. The gaps in fencing due to riverine borders, which are shallow enough to wade and cross, facilitate smuggling to a great extent. The border sees smuggling of Narcotics, gold, Fake Indian Currency Notes (FICN) in addition to food products and other consumer goods.



A view of the porous Indo-Bangladesh border at Ichamati river (the international border lies in the middle of this river) located in Bongaon, West Bengal.

The Nathu La pass, which is located in the state of Sikkim at an altitude of 14440 feet above the MSL, forms a part of the ancient Silk Route connecting China to India via Sikkim. In 2006, this route was reopened for seasonal trade for listed commodities between the authorised local traders from India and China. However, the facility has been misused in recent times to smuggle in gold and other contrabands in substantial quantities.

The 1770 km India-Nepal border and the 699 km India-Bhutan border are open borders where citizens enjoy free passage through designated locations. The

multiplicity of routes along the border, the ease with which the border can be crossed and the existence of ready markets on both sides poses significant challenges in tackling smuggling. The cultural similarities of the population living on both sides of India-Nepal border have created informal channels of trade between them and thus making interdiction and detection an arduous task. Smuggling of gold, drugs, FICN, Essential items, is quite rampant along the India-Nepal border along with human trafficking. In the recent past, local Bhutanese nationals have been apprehended with foreign origin gold in India.



Porous border at Hella Bhanjyang in Darjeeling district, West Bengal. Left side of the road is Nepal.

The 3323 km India-Pakistan border is still prone to smuggling of Heroin. The fenced border has been circumvented by ingenious and crude methods such as tunnels, slings and pipes for cross border delivery of contraband goods. Technology also has started playing a greater role with usage of drones for delivery across the border.

The maritime boundary of India with Sri Lanka has fast emerged as a focus area for smuggling. Proximity to the north-western tip of Sri Lanka, presence of fishing communities of same ethnic linkages in both countries and cessation of internal war and return of peace in Sri Lanka have all contributed to the present stage. Carriers frequently use small motorized country boats for smuggling which are swift and agile to manoeuvre and can easily dodge radar surveillance. An intricate network of handlers and carriers are involved in handing over gold at a predestined location on the sea with the help of GPS devices. However, in the event of detection by law enforcement agencies, the gold would be dropped into the sea for future retrieval.



Gold recovered from deep sea by DRI with the assistance of Indian Coastguard

Though the activity of smuggling appears unidimensional, done solely for profiteering, its potential to scale into a national security threat by entwining with elements of terrorism and insurgency cannot be ignored. DRI has been rendering yeoman service in tackling the menace of smuggling. Use of latest technologies has gained currency in its anti-smuggling efforts. It has many a time gone beyond seizures and busted smuggling cartels which was made possible due to the painstaking efforts and precision in planning and execution.



CHAPTER 5

TOBACCO PRODUCTS, ENVIRONMENT AND PUBLIC HEALTH





International trade is witness to conflicts and complexities that emanate from, amongst other things, the inherent and often inevitable tension between trade profits and governmental protection of health, safety and the environment. The challenges for Customs administrations in their role towards ensuring safety and health of populace are enormous. As opined by the World Customs Organization, the coordinated work of Customs and other law enforcement agencies is of paramount importance to “reverse the trade in counterfeit goods, such as medicines, toys, foodstuff, spare parts, which are silently killing people while criminal networks rake in colossal profits”¹.

DRI has continued to diligently exercise this mandate, effectively juxtaposing the provisions of the Customs Act with those of the Allied Acts like COTPA, FSSAI, the Drugs and Cosmetics Act, Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, etc and enforcing them. That the efforts of the DRI met with significant successes would be patent from the following

CIGARETTES AND TOBACCO PRODUCTS

India has become the fourth largest and fastest growing illegal cigarette market in the world with smuggled ones accounting for a quarter of the domestic cigarette industry². According to the Tobacco Institute of India (TII), illegal cigarette trade comprising internationally smuggled and locally manufactured tax-evaded cigarettes accounts for as much as one-fourth of the cigarette industry in India. The TII opines that India is a vulnerable target destination for smuggled cigarette trade operators given its vast land and sea borders and the “attractive tax arbitrage due to punitive taxation on cigarettes”³. Further, smuggled cigarette brands “find a ready market in the country with existing demand, easy accessibility and cheaper prices compared with domestic legal cigarettes”⁴. Besides the lucrative profits by way of evasion of customs duty, smuggled cigarettes are generally devoid of the mandated pictorial

warnings under the Cigarettes and Tobacco Products Act.

Furthermore, the cigarettes smuggled into India have their origin rarely identifiable, as the country of manufacturing is deliberately not stated by trade operators; seizure incidents suggest that container loads, railway freight, road transport, personal baggage and head-loads are used to move stocks across international borders and within the country⁵. The enforcement activities of the DRI in respect of seizure of cigarettes and other tobacco products agrees with the views of TII in terms of the diversity of the modus and the clandestine manner in which the said smuggling activities are carried out. Some of the significant seizures of DRI read as under:

- a. In October 2019, the **DRI Delhi Zonal Unit** inspected a godown which resulted in recovery of 56.54 lakhs sticks of

¹ World Customs Organization (2019), Enforcement and Compliance- Illicit Trade Report 2019, p.120.

² The Times of India, December 17, 2019, “Smuggled cigarettes form 25% of domestic industry”.

³ The Tobacco Institute of India (2019), Illegal Cigarette Trade Poses A Huge Threat to India: Impacts Livelihood, Deprives Government of Revenue & Promotes Organized Crime, p.8.

⁴ ibid.

⁵ The Times of India, December 17, 2019, “Smuggled cigarettes form 25% of domestic industry”.



- foreign origin cigarettes and 624 kgs of foreign origin tobacco. Subsequent searches resulted in recovery of 74.70 lakhs foreign origin cigarette sticks among other smuggled goods. The recovered foreign origin cigarettes amount to a value of Rs. 17.06 crores, and the tobacco of foreign origin was valued at Rs. 8.22 lakhs.
- b. Based on intelligence developed by **DRI Cochin Zonal Unit**, in the month of November 2019, officers of **DRI Chennai Zonal Unit** examined a consignment declared as disposable biodegradable plates at a CFS in Chennai, which in turn led to seizure of 50,09,200 sticks of foreign origin (Turkey) Gold Flake brand cigarettes. Total seizure value of the cigarettes amounted to Rs. 7.01 crores.
- c. In May 2019, the **DRI Chennai Zonal Unit** seized 30,81,600 sticks of Gudang Garam cigarettes valued at Rs. 4.62 crores concealed in a consignment declared as diapers, which had arrived through Kattupalli port.
- d. In November 2019, The officers of **Mumbai Zonal Unit** seized 7,47,000 foreign origin cigarettes at Mumbai Central Railway Station which had arrived by Rajdhani Express from Delhi. In a follow up, **Delhi Zonal Unit** seized 16,19,200 sticks lying at Nizamuddin Railway Station. The total seizure value amounts to Rs. 3.66 crores.
- e. Based on intelligence developed by **DRI Delhi Zonal Unit**, in June 2019, officers of **DRI Lucknow Zonal Unit** intercepted two trucks coming from Guwahati and destined to Jalandhar, leading to seizure of 20,48,200 sticks of smuggled foreign cigarettes via Myanmar valued at Rs. 3,07,23,000. In a similar instance, the intelligence passed on by Delhi Zonal Unit led to seizure of 12,22,000 sticks of foreign origin cigarettes smuggled via Myanmar valued at Rs. 1,83,30,000, by the officers of **DRI Gorakhpur Sub-Regional Unit**.
- f. In July 2019, the Siliguri Regional Unit intercepted a containerised truck on the outskirts of Siliguri and seized 10,43,400 sticks of cigarettes smuggled from Myanmar to India. The cigarettes were being transported to Kolkata after being brought to Guwahati. In a follow-up 72,000 sticks were recovered. Total seizure value amounted to Rs. 1.62 crores.
- g. In July 2019, **DRI Headquarters** intercepted 14 passengers at IGI airport, New Delhi, coming from Cambodia. Search of baggage led to recovery of nearly 1.5 million cigarette sticks of various brands valued at approx. Rs. 1.8 crore .
- h. In August 2019, **DRI Guwahati Zonal Unit** recovered 2108800 sticks of foreign origin cigarettes from a godown near Umling, Meghalaya, valued at Rs. 2.5632 crores. In another case, in November 2019, the Unit seized 9,70,000 sticks of assorted brands worth 1.15 crores from a godown at Lokhra area.
- i. In February 2020, the **Noida Regional Unit** of **DRI Lucknow Zonal Unit** seized 8,16,000 sticks of Win/Black/Gudan Garam/Paris/Esselite brands of Foreign origin cigarettes concealed in the SLR of five different trains on the same day/night, valued at Rs. 101, 64,000 (approx.). The modus was to avoid detection by spreading over the contraband packages to different trains. In another case in the same month, the Unit seized 7,47,000 sticks of Rs. 1,12,05,000 foreign origin cigarettes concealed under zinc sacks in truck. The consignment was destined towards Delhi from the North-Eastern region.



Trend Analysis:

India has been categorized mainly as a transit and transit-destination country for illicit tobacco products in the WHO Framework Convention on Tobacco Control Protocol⁶. Comparative analysis with the previous Financial Years indicates that the DRI has consistently kept the fight against tobacco high on its priority. The seizure figures remain fairly stable, increasing more than 100 per cent from the 2017-18 levels (Chart A).

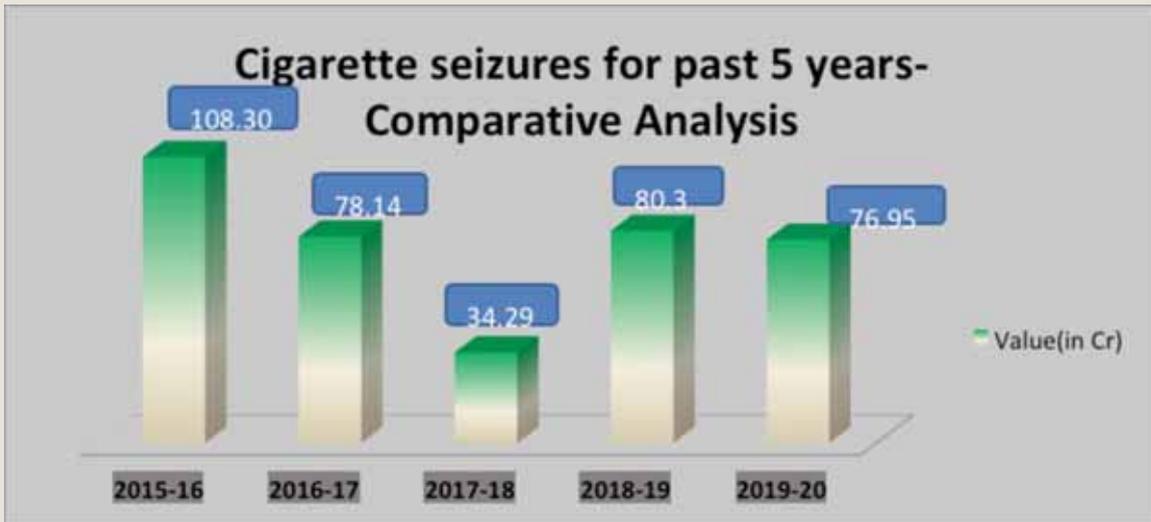


Chart A: Comparative analysis of cigarette seizures



Chart B: Brand-wise analysis of seized cigarettes for the FY 2019-2020

⁶ www.who.int/fctc/protocol/faq/en/index1.html



Analysis further suggests that the most commonly seized consignments are of assorted cigarettes. However, the analysis also indicates that Gudang Garam, Esse Light, Dunhill, etc. are commonly smuggled into India. The distribution of the brands shows that the smuggled cigarettes are more likely to reach those age groups who are impressionable or are under peer pressure to smoke, read, the youth and the future of the country.

Though most commonly used modes for smuggling contraband cigarettes used

to be mis-declaration in the sea or air cargo and through air passengers, the statistics for the year 2019-20 shows that smuggling across land borders by way of misdeclaration is rampant. Further, trains are also being increasingly used for transport of the contraband cigarettes. Preliminary analysis shows that the cigarettes smuggled via borders at Nepal and Myanmar are transported to different parts of the country using trains.

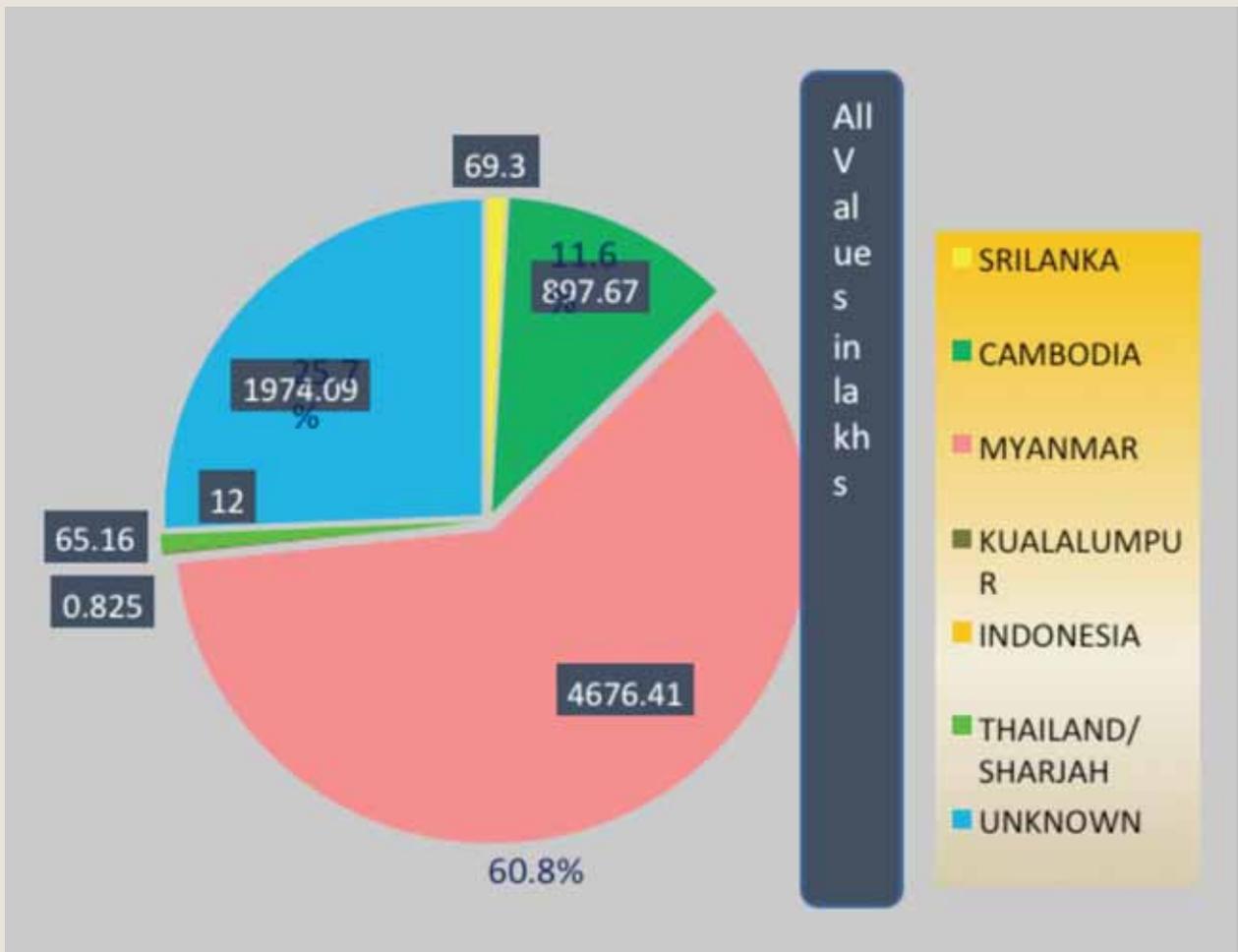


Chart C: Analysis of Source country

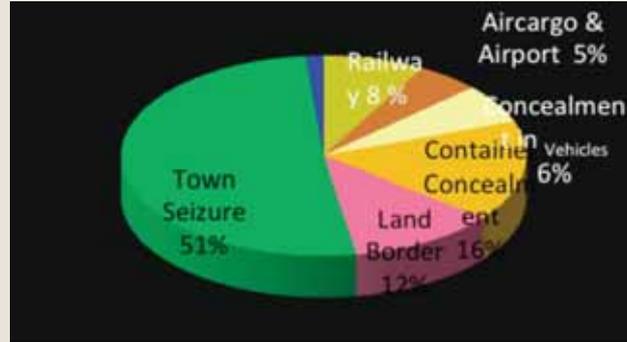
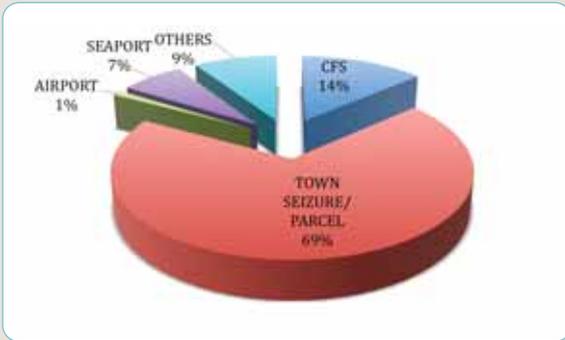


Chart D: Trends in MO of Cigarette Smuggling

Other Tobacco Products

Chewing Tobacco is one of the major causes of oral cancer and shows strong correlation with pulmonary tuberculosis. The DRI Kolkata Zonal Unit booked a case in February 2020 in respect of a shipping bill said to be containing chewing tobacco. Examination revealed that the pouches did not contain statutory pictorial markings or warnings for health hazards warranted by the provisions of COTPA, 2003 as amended.

As per the data of the Tobacco Board of India, in terms of tobacco production, India occupies the third position in the world with an annual production of about 750 million kilograms. India also occupies third position in production of tobacco exports, next to Brazil and China. Tobacco and tobacco products earned approximately Rs.22,737 crores to the national exchequer by way of excise revenue, and around Rs. 5870 crores by way of foreign exchange for the year 2019-20. This also places immense responsibility on customs and enforcement agencies to ensure that all regulations put in place to prevent movement of illicit tobacco products to other countries are complied with.

Other Efforts towards the Health and Safety Objectives:

The seizures effected by the DRI in the year 2019-20 in the arenas of agricultural produce, cosmetics and other miscellaneous goods highlight the commitment of the DRI in enforcing not only the Customs Act but also the Allied Acts thereby contributing substantially to health and public safety. The said enforcement activities not only protect revenue but also protect and promote the assurance given to the public with regard to their health and safety through various legal and regulatory mechanisms.

Agricultural produce

The DRI has made several seizures of agricultural produce in the year 2019-20,

viz., dates, arecanuts, black pepper, etc. While many cases booked by the DRI address overvaluation/undervaluation, many highlight the implications for public health and safety caused by non-adherence to mandatory compliances put in place to prevent/minimise safety and health risks. The outright smuggling cases involving the seizure of such items mainly from land and sea cargo also manifest the safety hazards posed by them on account of contravention of prescribed norms enunciated in regulatory frameworks such as the Plant Quarantine (Regulation of Imports into India) Order, 2003 as amended or the conditions laid down by the various Food Safety and Standards Regulations. A few of the seizures highlighting the same are furnished below:



Dry Dates

The **DRI Lucknow Zonal Unit** booked cases against three importers who had imported dry dates through the ICDs of Panki and Dadri in September 2019 for gross evasion of customs duty by misdeclaration of Country of Origin. Altogether, the consignments amounted to 327169 kgs of dry dates with an assessable value (declared) of Rs.1,63,15,317. During the inspection of consignments it was found that all the three importers failed to follow the Food Safety and Standard (Packing and Labelling) Regulation, 2011.

Black Pepper

The **DRI Kolkata Zonal Unit**, in July 2019, detected a case of blatant misuse of the provisions of the Indo- Nepal Treaty on Trade and Transit where two consignments of Nepal bound cargo were imported at Kolkata Port under the Indo-Nepal Treaty on Trade and Transit under gross misdeclaration containing black pepper of foreign origin while the declared goods in the CTD and other import documents was plywood of Indonesian origin. The like goods of Indian origin i.e.plywoods were to be loaded in a godown in Kolkata replacing the imported high value Black Pepper in the containers imported as Nepal cargo. Two containers were seized containing high valued black pepper imported from Singapore in the guise of declared goods as plywood. The total value of the seizure of 56 MT of black pepper of foreign origin is estimated at Rs 3.92 crores. The **DRI Units at Lucknow, Kolkata, Delhi and Muzaffarpur** have made interceptions of trucks smuggling third country origin black pepper from Nepal to India. Apart from the duty evasion involved, the said cases also bring to light the risks posed by pepper not subject to the mandatory checks laid down by the Plant Quarantine (Regulation of Imports into India) Order, 2003.

Arecanuts

In five cases, **DRI Nagpur** detected outright smuggling of areca nuts suspected to be of Indonesian origin and smuggled into India via the porous Indo-Myanmar border. The **Imphal Regional Unit** seized 655.32 tonnes arecanut believed to be smuggled into India through illegal routes under the cover of fabricated documents, from 25 trucks detained by Assam Police.

Cosmetics and Perfumes

The seizures effected by the DRI reveal that popular brands of toothpastes, talcum powder, fairness creams, etc. manufactured in Nepal are illicitly brought to India through the Indo-Nepal land border. In addition to duty evasion, the said smuggled consignments evade the mandated checks prescribed by relevant laws in terms of their quality, health risks, IPR violations, etc. The seizure made by **Muzaffarpur Regional Unit** in August 2019 of Close Up toothpastes and Ponds talc manufactured in Nepal valued at Rs. 8.04 lakhs, as well as the seizure by Gorakhpur Sub-regional Unit of Fair and Lovely cream and Ponds talc totally valuing Rs. 5.21 lakhs testify to this. In September 2019, **DRI, Mumbai** busted illegal import and selling in retail market of hydroalcoholic perfumes valued at Rs. 70,92,033/-, in the absence of proper license and registration with CDSCO.

E-waste

The import of certain used goods also poses challenges to health and public safety. In response to Operation DEMETER-V, intelligence was developed by **DRI, Mumbai** indicating a consignment containing e-waste imported in the guise of electric arc welding machine. The DRI seized 122 old and used photocopier machines of Xerox brand worth Rs. 64.58 lakhs, which were restricted for import.



Intelligence developed by **DRI Mumbai** indicated that a syndicate was involved in smuggling of e-waste from Hong Kong, transhipped via Dubai to Nhava Sheva. The modus involved breaking the seal of the container and replacing e-waste with locally procured declared goods – rolls of corrugated paper reels, re-sealing the container with duplicate seal and sending the consignment to the destination ICD. Detailed examination of the container led to seizure of 3477 used computer cabinets and 1480 used laptops.

In November 2019, The **DRI Amritsar Regional Unit** made cases against two importers for illegal import of used critical care medical equipment like ventilators, defibrillators, etc. for re-use under the garb of second hand goods. The said goods valued at approx.. 60 lakhs, were seized in view of sub-rule 6 of Rule 12 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 whereby the import of Used/Preowned/ Second-hand medical equipment are prohibited for import into India.

CHAPTER 6

WILDLIFE SMUGGLING





Growing concerns

Over the years illegal wildlife trade has emerged as a form of organized Transnational Crime that has threatened the existence of many wild species across the globe. Almost all endangered and wild animals are traded, pushing many species to the brink of extinction and threatening entire ecosystems and their associated environmental services.

Once thought of as largely confined to Africa and Asia, wildlife trafficking has become increasingly prevalent all over the world, now ranking behind only drugs,

human, and arms trafficking as the most valuable type of international organized crime by estimated annual value. Wildlife trafficking's rise has been supported by the world's increasingly interconnected systems of finance, communication, and transport, which have brought once isolated source regions in remote areas closer and closer to large demand markets in North America, Europe, and Asia. There are also strong indications that other illicit trafficking activities such as human and drug trafficking are linked to the illegal wildlife trade and that profits from wildlife trafficking are funding terrorist and anti national activities.

As per the World Customs Organization, poaching of elephant, rhinoceros, pangolin, tortoises, turtles, birds and other wild fauna has been rising for the past sixteen years. A large part of this trade is meant for the international market. Seizure data show that most enforcement activities to combat international wildlife trafficking take place at ports of entry, rather than in domestic markets, and thus the Customs forms the front line of enforcement in many parts of the world.

The effective monitoring and control of transboundary movements is a key component of wildlife protection. In most countries, this task falls upon Customs which is at the forefront of efforts to counter wildlife trafficking and ensure that trade in wild plants and animals is practiced legally by implementing the provisions of the Convention on International Trade Endangered Species of Wild Fauna and Flora (CITES) as well as relevant national legislation. Representing 179 Customs administrations around the globe, the World Customs Organization (WCO) has long been involved in combating illegal wildlife trade raising awareness of the issue among frontline Customs officers, organizing training to improve their targeting and identification capabilities, leading

international enforcement operations aimed at wildlife smuggling, and developing practical guidance in the form of various training resources.

India

Indian subcontinent is one of the richest habitats of rare species of wild fauna. Just 17 of the world's 190 or so countries contain 70 percent of its biodiversity, earning them the title "megadiverse." India is one of these megadiverse countries with 2.4% of the land area, accounting for 7-8% of the species of the world, including about 91,000 species of animals and 45,500 species of plants, that have been documented in its ten bio-geographic regions. Of these 12.6% of mammals, 4.5% of birds, 45.8% of reptiles, 55.8% of amphibians and 33% of Indian plants are endemic, being found nowhere else in the world. The region has always attracted the attention of conservation biologists and researchers.

Some significant work by the DRI

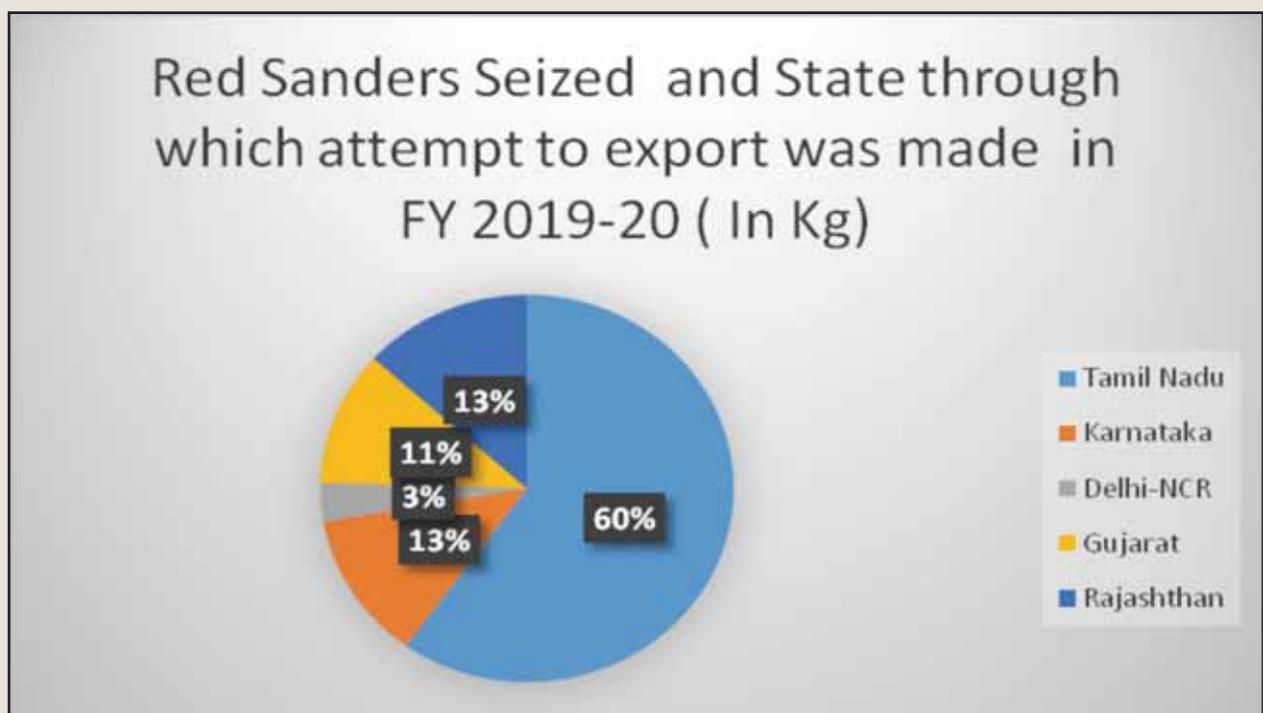
Red Sanders

Red Sanders (*Pterocarpus santalinus*) or Red Sandalwood, is an endangered species of wild flora, endemic to the southern Eastern Ghats mountain range of



South India, which is under threat owing to indiscriminate felling and smuggling for export, as its timber is highly valued and prized in East Asia. Red Sanders is the only species of *Pterocarpus* that has been listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). During the Financial year 2019-20, DRI has seized and caused to seize approximately 174.5 MT of Red Sanders while it was being attempted

to be exported to various countries in South East Asia like Taiwan, Malaysia and China. The seizures of Red Sanders indicate that in spite of being sourced from a unique natural habitat in Andhra Pradesh, there is an organized cartel of operators who are involved in the smuggling of Red Sanders and who attempt to export it through all major ports in the country.



Tortoises & Turtles

Tortoises and Turtles have long since been the target of organized crime syndicates, both for satisfying demand abroad and as well as a growing demand within India. Seizures of 7685 Red Eared Sliders (*Trachemys scripta elegans*) being one of the world's most invasive species [included in the IUCN/SSC Invasive Species Specialist Group's 100 Worst Invasive List], from China, signifies the dangers to India's natural ecosystems.

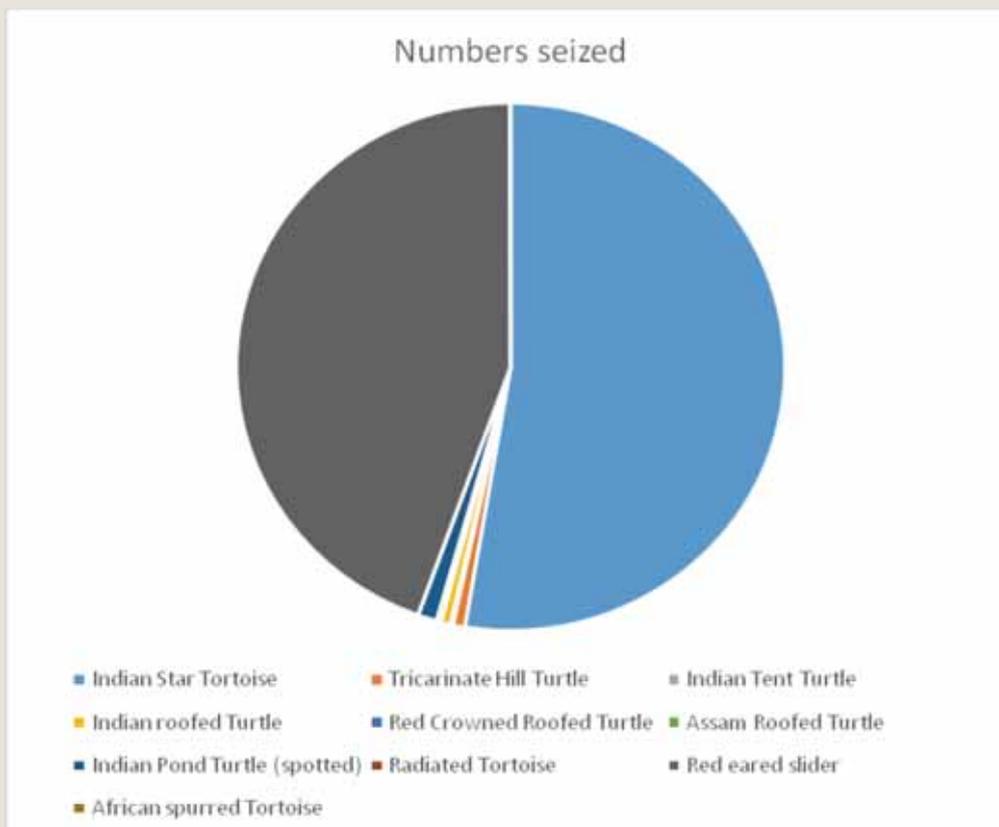
Similarly the Indian Star Tortoise (*Geochelone elegans*) is a vulnerable species of tortoise, once upon a time found

in areas of northwestern India (Gujarat, Rajasthan) and adjoining southeastern Pakistan; eastern and southern areas from Tamil Nadu, Andhra Pradesh and eastern Karnataka to Odisha (Orissa), is today much depleted in numbers and range due to illicit trade. The Star Tortoise falls under Schedule IV of Wild Life Protection Act and very recently, during November 2019, have been listed under Appendix I of CITES (highest protection) by full consensus among all member states (of CoP18 with 183 countries), giving it the highest level of international protection from commercial trade.



The interventions by the DRI during 2017 to 2020 are a significant pointer to dangers to India's biodiversity and sustainability of our natural ecosystems. The variety of species which have been encountered during the course of this illicit trade enforcement suggests to a malaise which is deep-seated.

S.No	Common name	Scientific Name	Numbers seized
1	Indian Star Tortoise	Geochelone elegans	9120
2	Tricarinate Hill Turtle	Melanochelys tricarinata	122
3	Indian Tent Turtle	Pangshura tentoria / Kachuga tecta	27
4	Indian Roofed Turtle	Pangshura Tecta	95
5	Red Crowned Roofed Turtle	Batagur Kachuga	4
6	Assam Roofed Turtle	Pangshura sylhetensi	44
7	Indian Pond Turtle (spotted)	Geoclemys hamiltonii	195
8	Radiated Tortoise	Astrochelys radiata	1
9	Red eared slider	Trachemys scriptaelegans	7696
10	African spurred Tortoise	Centrochelys Sulcata	8





India as a demand centre: Exotics

There is an unfortunate and increasing trend in smuggling of endangered and exotic fauna from different parts of the world into India. Most of these land up as exotic pets. The exotic pet trade in India has grown with the main demand being for birds, tortoises. Birds belonging to the parrot family including Macaws and Cockatoos are particularly vulnerable. Since there is a complete ban on trade in Indian species, interest of the smugglers has shifted to exotic species, which has led to disastrous global environmental consequences.

There has been a growing interest in sale of exotic species of birds in India. Most of these exotic birds are imported through illegal channels and then sold in the domestic market as pets. The long international border and air routes are used to source consignments from Bangkok, Malaysia and other top tourist destinations in South East Asia, as well as from Europe from where they are sent to major cities i.e. Kolkata, Chennai, Hyderabad, Delhi, Bangalore, Mumbai, Cochin, etc..





Some of other significant seizures of wildlife/exotics by the DRI have been:

- Black-and-White Ruffed Lemur (Critically endangered species, endemic to the island of Madagascar and listed under CITES Appendix I)
- Hollock Gibbon (endangered species under Schedule 1 of the Wildlife Protection Act, 1972)
- Palm Civet (endangered species under Schedule II of the Wild life Protection Act, 1972),
- Exotic birds of foreign origin including Rosellas, Nandin Conures, Peach Fronted Conures, Grass Parakeets, Maroon Tailed Conures, Scarlet Macaws, Blue & Yellow Macaws, Eclectus parrots, Pygmy Falcons, Mandarin Ducks, and Kookaburras (Kingfishers), Java Sparrows, Star Finches, Gouldian Finches, Cockatiels and Aracaris
- DRI has also made other seizures for cases involving Albino Monkeys and Crocodiles.

Pangolin [*Manis crassicaudata*]

Pangolins are currently the most heavily trafficked wild mammals in the world. Their meat is considered a delicacy, and has been attributed to have a medicinal/tonic value, their scales are used in traditional medicines, and pangolin skins are processed into leather products. All eight species of pangolin in the world are listed as 'Threatened' by the IUCN in Red List of Threatened Species. Pangolin is a critically endangered mammal placed in Schedule-I of the Indian Wildlife (Protection) Act, 1972. International trade in pangolin and their body parts and derivatives is prohibited since all pangolin species are listed in CITES Appendix I. Seizure of 336.9 Kgs of Pangolin scales by the DRI in Guwahati, Assam have indicated that they were from the southern part of India and destined for Myanmar through Manipur.

Elephant [*Elephas maximus*] & Tiger [*Panthera tigris*]

These are flag species of India and signify the health of India's natural heritage. There have been numerous attempts to poach and indulge in illicit activities on tusks, tiger bones, claws, skin, etc. Recent seizures of elephant tusks by the DRI, in Siliguri, Kolkata, Kokrajhar, etc. point to the dangers which this animal continues to face in the wild. Similarly seizure of tiger body parts viz. claws, etc. by the DRI in Kolkata point to the ever presence threats to its survival in the wilds.







Challenge

One of the challenges all Customs and law enforcement officers face is the sheer volume of international traffic. Another challenge facing Customs officials is the ever-changing methods that criminals use to smuggle wildlife products. Organized and well-connected criminal gangs blend illegal consignments with the huge volume of legitimate trade. New means of concealment are invented all the time, including ways to camouflage illegal products. For instance, rhino horn or ivory may be cut and painted to make it more difficult to detect. Other methods include blending non-protected species with protected ones or using fraudulent documents.

Every year, thousands of species are taken from their natural habitats and brought into wildlife trade to be sold for their meat, parts and derivatives, or as pets. Natural barriers between humans and animals and their pathogens are removed as a result of global wildlife trade. Unregulated wet markets trading in wildlife risk becoming potential origins of zoonotic disease pandemics due to a heavy footfall of citizens, high interactions of humans with an array of species and lack of adequate sanitary measures.

The proliferation of air transport has exacerbated the issue even further; a trip that once would have taken months by land and by sea may now take 24 hours or less of travel in comparative calm and comfort. While these changes have been boons for the global economy, they have also put wildlife at risk like never before. The negative side effects of this economic progress are immediately evident in the substantial population decline of vulnerable species over the past few decades alone. If wildlife poaching and trafficking continues unabated at this scale, regional ecosystems face not just species extinction, but complete collapse. In the face of such catastrophic overexploitation, steps must be taken to reverse the damage caused by the creation of a global marketplace.

DRI is a major contributor to conservation of nature and natural resources, both flora and fauna, as part of Green Customs initiative of World Customs Organization. Indian Customs along with the DRI have made significant seizures of wildlife contraband like Rhino horn, Pangolin scales, Tiger and Leopard claws, bones and skins, Elephant tusks, star tortoise, Red Sanders, Snakes, Sea Urchins, Sea Cucumbers, Raptors, etc.

CHAPTER 7

COMMERCIAL FRAUDS-EXPORTS





India's share in global Merchandise exports is 1.67% and in services it is 3.45%. Exports of goods from India for the year 2019-20 stands at Rs. 22.19 Lakh Crores. Over the last decade the export of goods have increased from \$178.7 billion to \$239.3 billion. Increase in exports of goods and services is vital in realising the vision of "Aatmanirbhar Bharat". Increased export trade is a sign of healthy economic development resulting in accretion of substantial forex reserves. It is heartening to note that India has made tremendous strides in "Ease of doing Business" and its ranking has jumped to 63 in 2019 from 142 in 2014. Indian Customs has played a significant role in improving the rankings by undertaking several path breaking measures for smooth flow of trade across borders. The growth of exports for the past five years is shown below:



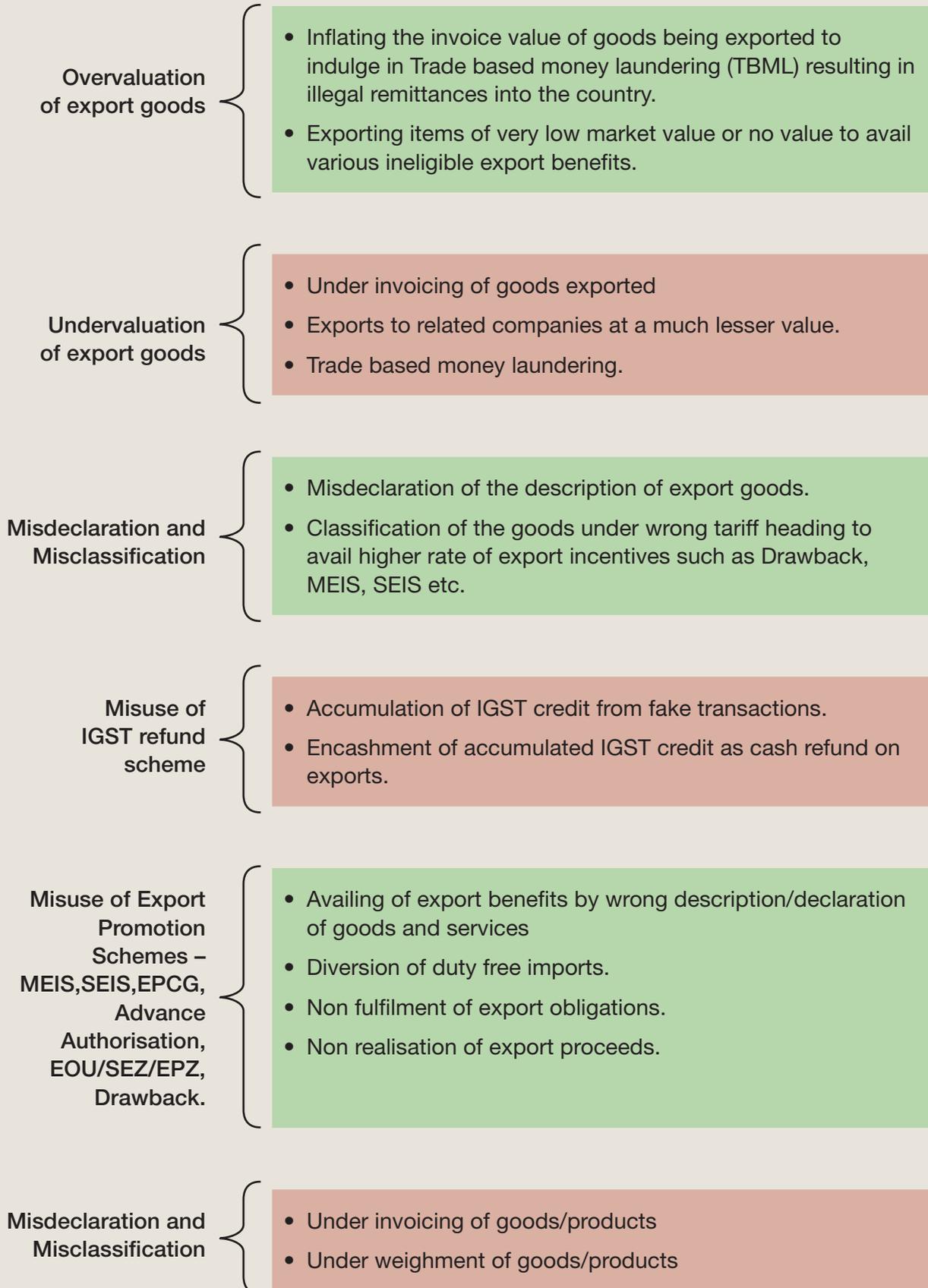
However, the dynamics of export frauds change with increased growth in exports. The common use ingenious ways to subvert the system and defraud government exchequer. DRI has been at the forefront in unearthing various modus operandi and exposing such unscrupulous elements indulging in export frauds.

The export fraud cases detected by DRI in the last five years are depicted below:



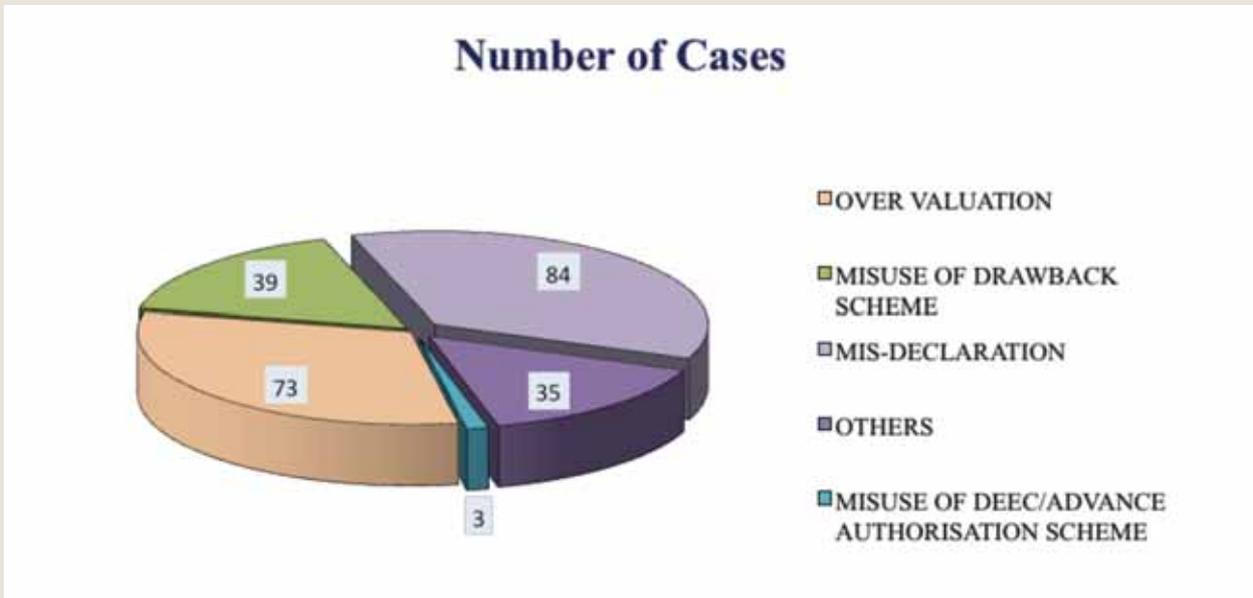


The export frauds can be broadly categorised as follows





In 2019-20 DRI has booked 234 cases involving export fraud and the composition of spectrum of frauds is shown below:



Trends Observed & Signature Cases in Export Frauds

TRADE BASED MONEY LAUNDERING

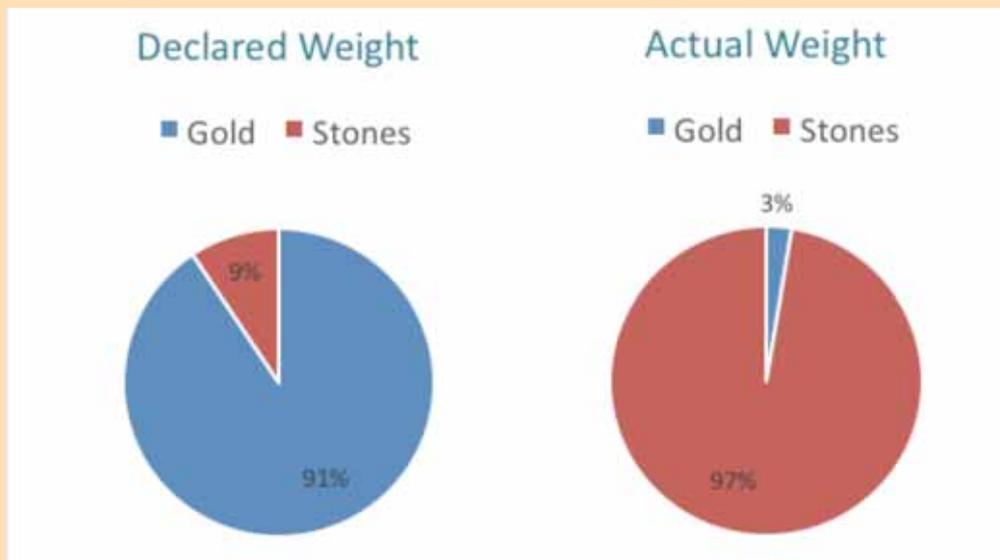
Laundering of unaccounted money by trade in goods is one of the oldest known ways of money laundering. Overvaluation and undervaluation of exports lead to transfer of disproportionate money from one country to another, apart from impacting the Customs duty. The unaccounted money is laundered to legitimise as proceeds of trade. In 2019-20 DRI has made 73 cases involving overvaluation of exports.

CLASSIC CASE OF TBML

DRI unearthed a *modus operandi* of an SEZ unit misdeclaring the exports of jewellery and diverting duty-free gold into domestic market. The officers of DRI intercepted a consignment and found that the gold content in the consignment was only 565 grams, as against the declared quantity of 19.374 kgs. The quantity of stones was 20.85 kgs, as against 2 kgs declared.

The actual value of the consignment was found to be only Rs. 22.16 lakhs, as against Rs. 5.45 crores declared.





The misdeclared goods were being exported to their own subsidiary unit in Hong Kong and the export proceeds were arranged through other entities in Hong Kong. The quantity of gold misdeclared by the above modus is about 1800 kgs valued at approx. Rs.550 crores.

IGST REFUND FRAUD

Exporters are eligible for refund of IGST paid on exported goods or they can claim accumulated Input Tax Credit (ITC) as refund. There have been instances where fraudulent exporters availed ITC on the invoices of non-existing fake units. It is seen that miscreants are claiming IGST refunds based on free shipping bills which pass through Customs with less scrutiny. However, DRI has detected such instances based on data analytics and shared information with DGGI and GST formations.

In one such joint operation by DRI and DGGI, searches were carried out at 336 different locations across the country in September, 2019. Investigations revealed that many exporters were availing IGST refunds, on ITC availed based on fake supplies. The operation revealed that many of the entities were either non-existent or had given fictitious addresses. The amount of suspected IGST refund fraud in this modus by fly-by-night operators was to the tune of Rs. 920 crores.



MISUSE OF ADVANCE AUTHORIZATION SCHEME

The “Advance Authorization” scheme enables exporters to import raw materials without payment of Customs duties. Diversion of imported goods into domestic market is observed in many cases. In a specific case, an exporter of pharmaceutical products had adopted high input-output norms and the excess duty free inputs were diverted into local market. During the course of investigation, the exporter had deposited Rs. 35 crores towards Customs duty involved. DRI has detected misdeclaration even in cases where the exporters have obtained redemption certificates from DGFT.

MISUSE OF DRAWBACK SCHEME

It is noticed that misclassification of CTH and overvaluation of export goods are standard modus operandi involved in misuse of Drawback scheme. It is also observed that in many cases non-realisation of export proceeds is an usual feature of Drawback fraud.

In a specific instance, DRI unearthed a modus wherein three entities having the same Proprietor had exported garments totally valued at Rs. 605 crores to Nigeria, filing multiple shipping bills under “Drawback and Rebate of State Levies” scheme, and keeping the value of drawback claimed under Rs. 1 lakh per shipping bill. It was found that the goods were actually personal effects of Nigerians as per delivery documents in Nigeria though declared as “Garments for commercial purpose” with Indian Customs.

MISUSE OF MEIS/SEIS/SFIS SCHEME

The MEIS and SEIS scrips are freely transferable, and may be utilized for payment of Customs duties. Misclassification of export goods and services are characteristic of frauds observed under these schemes. For instance, an exporter of “scented” candles was misdeclaring the goods as

“handicraft” candles and fraudulently availed over Rs. 10 crores of MEIS benefit.

DRI also detected a case wherein various exporters of marketing and IT services, which are ineligible for SEIS benefit, have availed the SEIS scrips to the tune of over Rs. 100 crores by misdeclaring the services as “Management consultancy services”.

In another instance, DRI booked 5 cases with respect to freight forwarders, steamer agents, airport operations and ground handling services where scrips amounting to Rs.63 crores were wrongly claimed and availed by the service providers.

DRI also unearthed a SFIS case (the earlier avatar of SEIS) wherein a mining company tampered with the “Foreign Inward Remittance Certificates” (FIRCs) in connivance with the local bank and misdeclared the actual service rendered to claim ineligible scrips. The exporter admitted the misdeclaration and voluntarily deposited over Rs. 5 crores towards such fraudulent SFIS scrips.

VISIBLE RESULTS

DRI, being the top ranking investigating agency par excellence, has been vigilant and very effective in curtailing the menace of export frauds. The detection of various export frauds over the years is a telling testimony to the dedicated action by DRI, thus securing the economic frontiers and the national exchequer. It is undisputed that the quality, consistency and integrity in investigation defines the standards of any law enforcement agency. DRI’s detections and investigations have a resounding effect in the market as not only the fraudster and their modus is exposed but also fence sitters would be deterred from indulging in any such fraudulent activities. DRI has struck a fine balance between trade facilitation and fraud detection by way of precise intervention, thus living upto DRI’s legacy of “invisible presence and visible results”.

CHAPTER 8

COMMERCIAL FRAUDS-IMPORTS





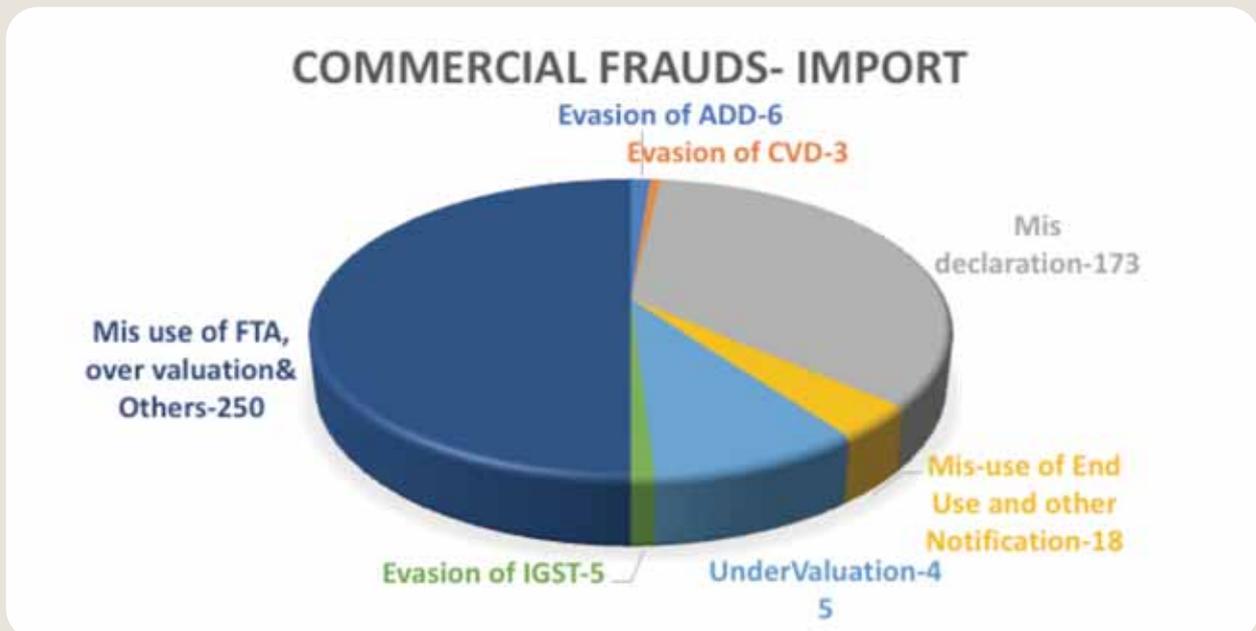
Increasing economic activity and prosperity coupled with trade facilitation measures have led to growth in the imports from 21 Billion USD in 1992-93 to 467.19 Billion USD in 2019-20*. This has also given scope for unscrupulous importers to evade duty leading to an increase in the quantum of commercial frauds involving duty evaded to the tune of Rs. 227 crore in 1997-98 (Including Imports and Exports)** to Rs. 2171.9 Crore in 2019-20 (Including Imports and Exports) As the modus operandi is constantly changing, the Directorate of Revenue Intelligence is at the forefront of tackling the menace of commercial frauds in imports.

*Source: Ministry of Commerce data 2019-20.

** Source: DRI Annual report-1997-98

Sl. No.	Category	No. of cases	Duty(In Lakhs)
1	Under valuation	45	10685.19
2	Mis-declaration	173	33292.01
3	Evasion of ADD	6	1275.86
4	Evasion of CVD	3	1059.83
5	Misuse of End Use and other notification	18	11790.48
6	Mis use of FTA, overvaluation and Others	250	97286.38
7	Evasion of IGST	5	3726.27
	TOTAL	500	159116.02

In 2019-20, DRI booked 500 cases of import frauds involving a duty amount of Rs. 1591.16 Crores. A break up of the cases booked by DRI in 2019-20 is presented below.





CBIC, with a focus on Ease of Doing Business, has taken numerous measures to simplify the systems and procedures in order to reduce the physical interface and dwell time for cargo clearance. Against this

backdrop, the role of DRI assumes a greater significance as there is a need for thorough analysis of data and trends, early stage detection of frauds and prompt action.

Misdeclaration and Misclassification	<ul style="list-style-type: none">• providing a wrong description of the cargo• placing the cargo under wrong tariff head
Misuse of FTAs	<ul style="list-style-type: none">• fraudulently obtaining COO or forging the COO• Mis classify the goods to fit in the entries available in the FTA• Non-compliance of Value additions norms as per Rules of Origin• Using Transshipment ports/Special Economic Zones of the contracting country without goods originating from the country
UnderValuation	<ul style="list-style-type: none">• Under invoicing of goods/products• Under weighment of goods/products
Mis use of end use and other notifications	<ul style="list-style-type: none">• misdeclaration of imports so as to claim such exemptions• not fulfilling conditions therein• misdeclaration of the end use and import of such goods at lesser rate of duty.
Evasion of anti dumping duty/ Safeguard duty	<ul style="list-style-type: none">• mis-declare the country of origin of the goods by re routing the goods through a country in case of which there is no ADD/SD• mis-declare the nature of the goods altogether• Conditions required to be met as mentioned in ADD/SD notification are often either not shown in the documents or falsely mentioned.
Evasion of Countervailing duty/IGST	<ul style="list-style-type: none">• mis declaration of nature of goods and appropriate notification• wilfully providing insufficient information while filing bills of entry, in order to escape the CVD
Usage of Fake IECs	<ul style="list-style-type: none">• Importers are often found to operate with fake IECs or dormant IECs or IECs taken in the name of employees/trusted persons• Mis use of IECs by lending them on commission basis



SIGNIFICANT FEATURES AND TRENDS OBSERVED:

The much needed facilitation measures extended to importers for and intended to ease the flow of imports into the country is being taken undue advantage by some unscrupulous elements. For instance, the goods are classified under such CTH which either attracts lower customs duty or which gives them benefit of duty under some exemption notification. In 2019-20 alone, DRI booked 173 cases of misdeclaration involving a duty amount of Rs. 332 Crore where it was observed that it wasn't just the smaller firms, but also the major importers across different sectors who have been booked for mis declaration and misclassification. Some of the largest cases booked by DRI over the past few decades have been against large multinational companies.

Mis declaration is found to be one of the most common modus resorted in commercial frauds. The trends in imports of a commodity, Origin of the consignment, the end use being declared by the importer, the profile of the importers, intelligence developed etc are some of the parameters which helped in analysing and identifying misdeclaration in imports.

Undervaluation of goods is yet another common modus of frauds in imports. In 2019-20, DRI booked 45 cases of Undervaluation of goods involving a duty amount of Rs. 106 Crore. Other than Undervaluation, Over Valuation of goods is also seen to be directly related to the issue of Trade based Money Laundering (TBML). The cross border illicit TBML is achieved through the mis declaration of price, quantity or quality of imports. The basic modus include:- false description of goods and services, Over and under invoicing of goods which are combined with techniques of trade based financial abuse ie cash flow based payment, third party payment, segmental modes of payment and advance remittance payment for import without

importing goods, remittances for services.

The menace of fake IECs as well as existing IEC holders letting their IECs to be used by those intending to smuggle is continuing unabated. In many cases of commercial frauds, DRI has seen that a single mastermind has sourced various IECs at a commission in order to smuggle goods and mislead customs. In order to improve the compliance levels, section 99B introduced in Finance Act 2019, is being made operational under the Customs act, for empowering the proper officer of Customs to carry out verification of a person for ascertaining compliance with the provision of the Customs Act. It can act as a first wall of defence against evaders and will be useful in investigations by DRI.

It is also pertinent to note that as India entered into nearly 30 trade agreements with different levels of engagement with different nations and blocs, FTA related frauds are also on the rise. For instance, various importers across the country were booked for misclassification and availing wrongful benefit of the exemptions given under the Indo-South Korea CEPA which resulted in a significant recovery of Customs duty. The ensuing international co-operation in such cases involving another sovereign nation assumes significance for DRI. For instance, in the month of August 2019, a DRI team visited Sri Lanka for a joint investigation with the COO issuing authority in Sri Lanka in a case of import of Areca Nuts and pepper leading to cancellation of 94 COOs involving an amount of Rs. 125 Crore duty evasion. Based on the past experiences in dealing with contracting countries, CBIC has notified Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 in the month of September, 2020. These rules can support the efforts made by the Customs field formations in effectively preventing the mis use of trade agreements.



REFORMS FOR TRADE FACILITATION AND THEIR IMPLICATIONS

With a larger goal of Ease of Doing Business, CBIC has launched various reforms in the domain of Customs with a focus on faster clearance of cargo, Reduced Dwell time, Transparency and significant reduction of procedures. Notable new initiatives among them include, TURANT Customs, FACELESS assessment, Sea cargo Manifest and Transshipment Regulations (SCMTR) etc. Most of these initiatives rely heavily on information technology and place trust in the importers, exporters and other stakeholders. In the scenario of increasing quantum of imports and facilitation, DRI is faced with new challenges of unearthing the novel modus operandi of the smuggling syndicates and the need for robust data analysis systems. As methods of smuggling are becoming more and more complex, the prevention and control of such illicit activities require significant upgradation of skill set of officers and knowledge of newer areas such as data forensics, latest surveillance tools, transactions in crypto currencies etc.

As a premier investigative agency of India with an enviable track record of detecting commercial frauds, DRI remains prepared to adapt to the changing times and act as a bulwark against unscrupulous elements and their attempts at smuggling. As the cases of the past stand testimony to the relentless efforts of the officers at nabbing the wrong doers, DRI is well equipped and remains steadfast in its duty to guard the economic frontiers of the country.



CHAPTER 9

MISUSE OF EXPORT PROMOTION SCHEMES





The Foreign Trade Policies provide a framework for increasing export of goods and services as well as generation of employment and increasing value addition in the country. Foreign Trade Policy, 2015-20 takes forward these objectives in keeping with the “Make in India” vision of our Hon’ble Prime Minister. The focus of the government is to support both the manufacturing and services sectors, with a special emphasis on improving the ‘ease of doing business.’ To this end, in the FTP 2015-20 the government introduced new export promotion schemes such as Merchandise Exports from India Scheme (MEIS) and Service Exports from India Scheme (SEIS) by merging a plethora of existing schemes and further strengthened/ liberalized existing schemes, mainly Advance Authorization Scheme (AA), Duty-Free Import Authorization (DFIA) Scheme, Duty Drawback of Customs/Central Excise Duties/Service Tax, EPCG Scheme and EOU/EHTP/STP & BTP Schemes.

However, introduction of each such measure of the government to relax regulatory controls and improve the ‘ease of doing business’ invariably attracts unscrupulous elements too who read this motto as ‘ease of evading taxes’ and try to exploit the vulnerabilities which arise due to such relaxations / liberalizations. Such attempts at exploitation of system vulnerabilities are led by masterminds who first minutely study the system of regulations / controls and then carry out well planned multi-layered attempts at tax evasions across the country. DRI is mandated, as in many other spheres, to counter such masterminds in their attempts at mis-using the export promotion schemes by exposing their modus-operandi’s, and thereby protect the exchequer.

As with the earlier Foreign Trade Policies, FTP 2015-20 has also benefited immensely by the targeted intelligence based unobtrusive operations of DRI in that the mis-use of export promotion schemes was checked, evasions were detected, exchequer was protected and some degree of deterrence was also achieved with the culprits being brought to book and many being prosecuted by DRI.

Cases booked by DRI w.r.t misuse of Export Promotion Schemes during the period 01.04.2015 to 31.03.2020

S. No.	Export Promotion Scheme	No. of Cases	Duty Evasion Detected (Rs.)	Recoveries (Rs.)
1	Advance Licence/DEEC Scheme	411	43,18,75,92,666	22,23,18,92,923
2	Duty Free Import Authorisation (DFIA) Scheme	15	16,49,22,213	8,68,50,00
3	EOU/EPZ/SEZ/EHTP/FTWZ Scheme	35	1,11,32,14,156	7,36,51,516

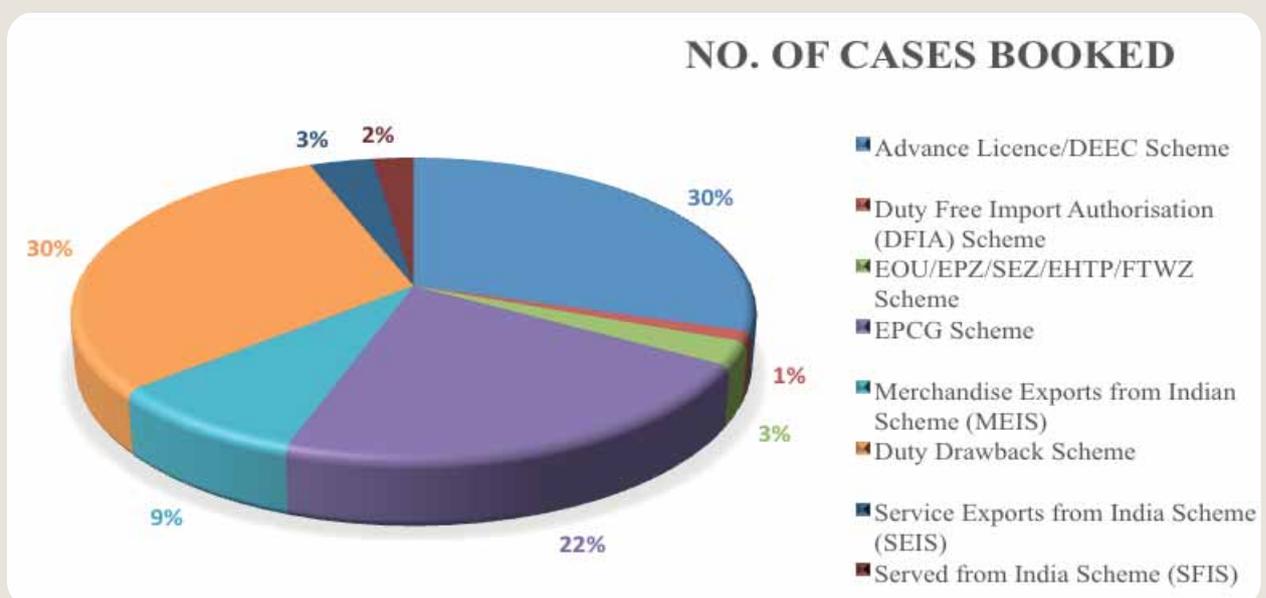


4	EPCG Scheme	303	16,62,36,83,261	3,56,08,06,681
5	Merchandise from Indian Scheme (MEIS)	118	2,37,39,70,982	2,28,87,90,842
6	Duty Drawback Scheme	420	11,99,03,55,058	1,53,03,32,902
7	Service Exports from India Scheme (SEIS)	48	1,93,63,99,262	93,43,55,716
8	Served from India Scheme (SFIS)	31	4,18,09,16,430	31,26,50,189
	Grand Total	1381	81,57,10,54,028	31,01,93,30,769

(Source: DRI Record Management System - DIGIT)

An analysis of the basic data concerning duty evasion detected and the amounts recovered from evaders, scheme wise, as above, allows insights for the government in taking broad decisions pertaining to overhauling (or even discontinuance) of specific export promotion schemes. At the policy level, the juxtaposition of the DRI data as above with the Ministry of Commerce / DGFT data as below enables strategic decision making:

(Source: DRI Record Management System - DIGIT)





DUTY EVADED

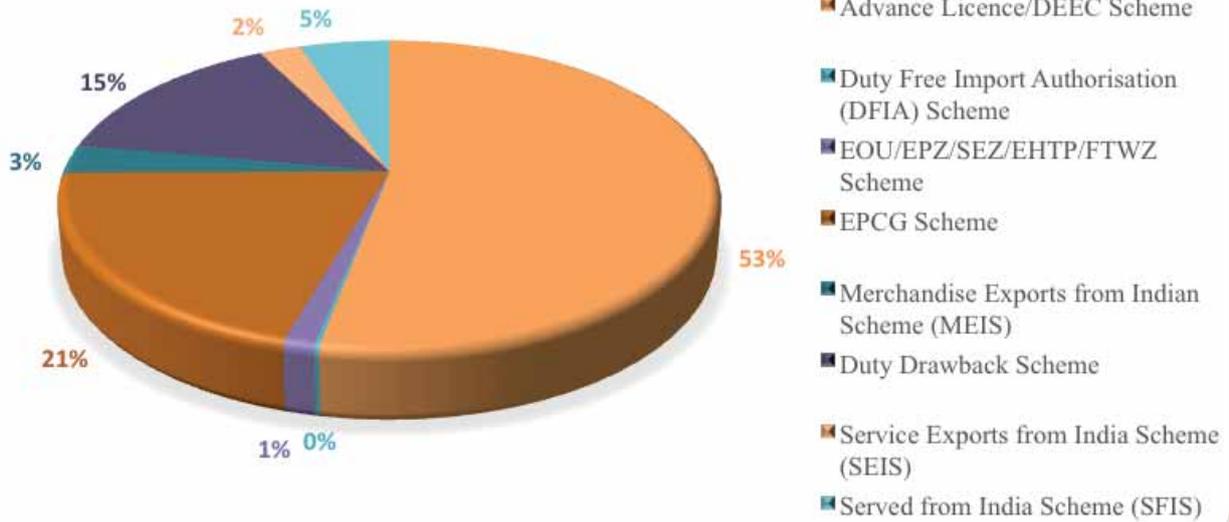
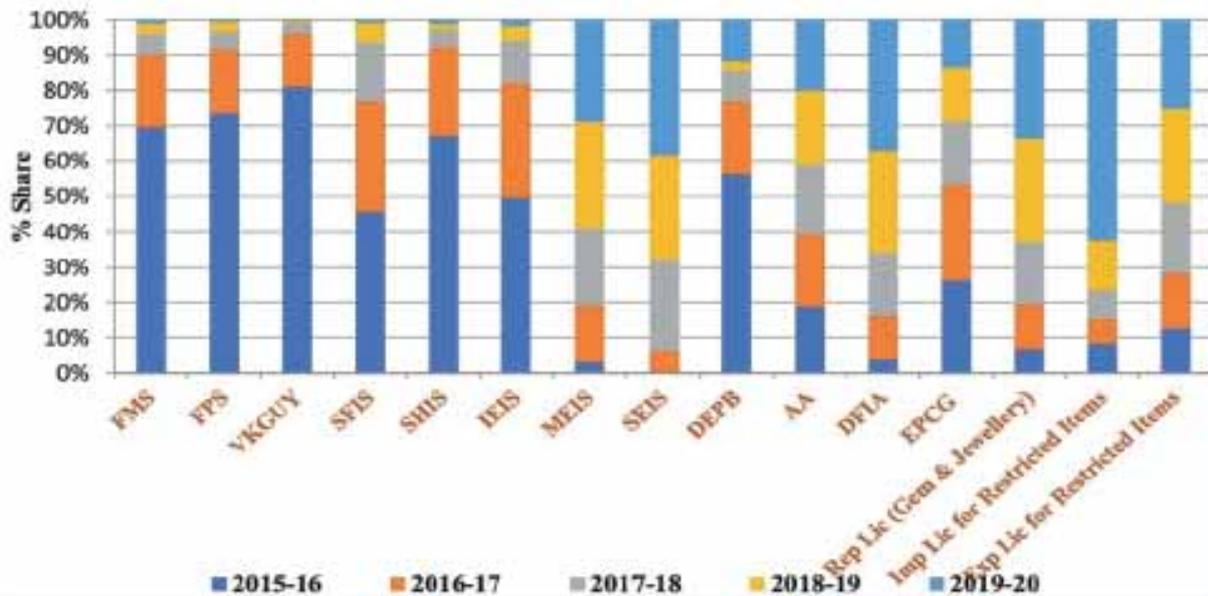


Table 10.2.1: Percentage Share of Scrips/Authorisation issued during 2015-16 to 2019-20



(Source: <https://www.dgft.gov.in/CP/?opt=bulletin-foreign-trade-statistics>)



Similarly, the study of modus-operandis' which are most commonly detected by DRI against particular schemes can allow the policy makers to introduce or modify

the regulatory frameworks pertaining to each such scheme. The most commonly detected modus against each of these schemes is as follows:

Advance Licence/DEEC Scheme	<ul style="list-style-type: none">• Clandestine diversion of duty-free goods (inputs) into DTA without payment of duty.
Duty Free Import Authorisation (DFIA) Scheme	<ul style="list-style-type: none">• Mis-using the scheme by using forged documents.
EOU/EPZ/SEZ EHTP/FTWZ Scheme	<ul style="list-style-type: none">• Mis-using through forgery of documents; also, clandestine diversion of duty-free goods (inputs) into DTA without payment of duty.
EPCG Scheme	<ul style="list-style-type: none">• Non fulfilment of Export Obligation within the prescribed time limit.
Merchandise from Indian Scheme (MEIS)	<ul style="list-style-type: none">• Mis-classification and mis-declaration of ineligible export products for availment of higher rate of MEIS benefits.
Duty Drawback Scheme	<ul style="list-style-type: none">• Overvaluation of export goods in order to avail higher amount of duty drawback.
Service Exports from India Scheme (SEIS)	<ul style="list-style-type: none">• Availment of SEIS benefit against ineligible export services ; multiple claimants for same service.
Service Exports from India Scheme (SEIS)	<ul style="list-style-type: none">• Availment of benefits by foreign brands although the scheme applies only to uniquely Indian brands.



Detailed discussions between the Ministry of Commerce officials with the case officers of DRI can lead to fine tuning of specific measures of control to reduce system vulnerabilities and minimize revenue leakages through manipulations.

DRI has multifarious responsibilities. It handles outright smuggling cases pertaining to gold, narcotics, endangered flora & fauna, antiques etc as also books commercial fraud cases pertaining to normal imports and exports based on under valuation, concealment, misdeclaration, misclassification, misuse of notifications, country of origins and end use certificates etc. As discussed, detecting the mis-use of export promotion schemes and maintaining their integrity is only one of its many mandated functions.

The fact that 600 odd executive officers of DRI have been able to detect over Rs. 8157 crores of duty evasion pertaining to export promotion schemes, not only reflects on DRI's effectiveness as an organization but also points to deep insights which DRI officers possess in understanding the exploitable vulnerabilities of such schemes vis-a-vis the reaction of criminal minds to the same. In the backdrop of the constantly evolving tax evasion modus and scenarios, DRI stands ever ready to share its insights and capabilities with the Ministry of Commerce/DGFT, both at the policy and the field level, in order to assist them in the formulation and implementation of the export promotion schemes under the FTPs across the country.

CHAPTER 10

VARIED ACTION UNDER DIFFERENT LAWS





DRI is the leading intelligence agency mandated to enforce Customs laws. It works to secure India's national and economic security by preventing Duty-evasion and misuse of Incentives given to Trade for Import and Export. Sections 111(d) & 113(d) of the Customs Act 1962 provide for confiscation of improperly imported or exported goods contrary to any prohibitions imposed under Customs Act or any other law in force. Thus these provisions expand the mandate of DRI far beyond the violations of Customs Act and it is also required to directly or indirectly implement numerous related statutes like The Wildlife Protection Act, Food Safety and Standards Act, The Drugs and Cosmetics Act, NDPS Act, Arms Act, WMD Act, Foreign Trade (Development and Regulation) Act, The Antiquities and Art Treasures Act, FEMA, SEZ Act, etc.

A. Protecting Economic Interest & National Interest

In the present globalized world, protecting and promoting economic interests is sovereign function of any State. The Foreign Trade (Development and Regulation) Act, 1992 (FTDR) is the key statute providing for restriction/prohibition of import/ export of goods in order to protect local industry or agriculture or to promote domestic trade and commerce. As per Section 3 (3) of FTDR "All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly."

DRI has carried out this function very well and numerous cases have been booked based on notifications issued under

Section 3 of FTDR. Cases of current relevance touching lives of common man like seizure of PPE kits, gloves, sanitizers etc (when export was restricted), seizure of onions (when export restricted due to rising domestic prices), seizure of grams/pulses (when import restricted to maintain domestic prices) etc. have been effected under Customs Act for violation of FTDR.

Further, Section 5 of FTDR provides for formulation and implementation of Foreign Trade Policy (FTP) by the Central Government. Innumerable commercial fraud cases involving huge amounts of revenue have been booked by DRI for violation of FTP.

Besides, cases of SCOMET violations (violation of FTDR, Section 14 C Catch –all controls) were booked by DRI for instance case against manufacturing and exporting defence-related electronic equipments worth crores of rupees.

A. Protecting Wildlife

Wild Life Protection Act, 1972 provides for the protection of wild animals, birds and plants. Import and export of wildlife articles/derivatives are either restricted or prohibited under the EXIM Policy. As a general trend, it is seen that wildlife is smuggled from under- developed countries to the developed countries where they fetch very high value. DRI has observed that wildlife is smuggled into as well smuggled out of India and it has booked a number of cases as evident from the figures in the table below.



WILDLIFE				
	16-17	17-18	18-19	19-20
No. of Cases	8	23	34	28
Quantity (Cobra Snake Venom) in Grams	908	0	0	0
Quantity (Barasingha's Antlers/horns) in Kg.	0	6	0	0
Quantity (tortoise & articles of tortoise) in Nos.	477	3933	5684	9112
Quantity (Red Sanders) (In Kgs)	51000	189563	190120	151730
Quantity (Tiger skin and skeletal remains) in Kgs.	18	0	0	0
Quantity (Elephant tusk) in Kgs.	0	0	6	0
Quantity (Pangolin scales) in Kgs.	0	0	0	337
Quantity (Live Exotic Birds) in Nos.	0	0	0	203
Quantity (Wild Orchid) in Packets	0	0	0	4
Value (Rs. in Lakhs)	2708	8556	9721	7155

An interesting case is that of 27th July, 2019 wherein officers of DRI intercepted a person,



allegedly smuggling exotic animals. 20 Siamese Crocodiles and one Albino Monkey were rescued from his possession. He was apparently carrying them on a private bus from Bengaluru to Mumbai. These animals are not native to India and were illegally imported from Bangkok through Chennai Airport in personal baggage.





C. Protecting Cultural Heritages

India, with its redoubtable cultural heritage, and at times tardy implementation of antiquities protection laws, offers pilferers fertile ground to plunder the past and spirit away booty worth billions for sale in the international market. India has a vast basket of living and diverse cultural traditions, traditional expressions, intangible and tangible cultural heritage comprising masterpieces which need institutional support and encouragement with a view to addressing areas critical for the survival and propagation of these forms of cultural heritage. India's rich cultural heritage has unfortunately been threatened by unscrupulous elements and organized cartels that vandalize heritage sites with the objective of smuggling and selling antiques in illicit markets abroad for huge profits. In order to protect and safeguard our cultural heritage and to have an effective control

over the cultural property, The Antiquities and Art Treasures Act was enacted in the year 1972 to regulate the export trade in antiquities and art treasures, to prevent smuggling of and fraudulent dealings in antiquities. By virtue of this Act, the export of Antiques is prohibited.

DRI has remarkable track record in seizure of very ancient antique items of various periods like bronze statue of Chola period, stone idols of early Mauryan period, craftworks of Mughal period. Mostly these items are smuggled out through airports, but some large sized stone statues were also attempted to be smuggled out via sea route.

In a recent case booked by DRI, a company was exporting antiques outside India by declaring the same as Non-antique items in the export documents. During search, DRI recovered Standing Gandhara Buddha statue. The antique was seized.

TEST CASE: "VRIDDHACHALAM ARDHANARI" IDOL



A classic case is the "Vriddachalam Ardhanari", removed from its niche during renovation and left under a tree in the compound because its arms were broken. It was later stolen and sold to the National Gallery of Australia for \$4,00,000.



D. Protecting Public Health

Various items that are consumed by humans have prescribed guidelines. Attempts are made to smuggle into India low quality edibles which are not fit for human consumption or are not adhering to prescribed standards/guidelines by mis-declaration and concealment or are smuggled through porous border in the North East, Nepal and Bangladesh. In this context, FSSAI standards, Weights and Measures Act, The Cigarettes and Other Tobacco Products Act (COTPA), The Drugs and Cosmetics Act are commonly being violated in course of smuggling. Section 25 of FSSAI Act deals with import of food items and further provides that “The Central Government shall, while prohibiting, restricting or otherwise regulating import of article of food under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), follow the standards laid down by the Food Authority under the provisions of this Act and the Rules and regulations made there under”.

In the public interest, to avoid risk to human being or animals, Central Government, under Section 10 & 10A of The Drugs and Cosmetics Act 1972, can prohibit import of certain drugs or cosmetics. Section 11 of this Act provides for empowerment of officers of Customs under this Act.

Over the years, due to the steady rise in the price of domestic cigarettes post taxes, there has been a phenomenal rise in smuggling of foreign origin cigarettes into India. Recent trends show large quantity of smuggling of cigarettes from Dubai and Malaysia via sea routes in containerized cargo by misdeclaring the items and also by clearance through various SEZs. Smaller quantities are smuggled through airports (passenger carrier). Brands such as Win, Paris, Ruili River, Esse Light, Esse Black, Esse Gold, Gudang Garam etc. of Dubai, Korea and Myanmar origin are commonly smuggled cigarettes. The most interesting trend noticed in the recent times is smuggling of cigarettes through Myanmar border and subsequent distribution in India via rail and road networks. The frequency with which such smuggled items are transported from Myanmar border to the capital city of India via premium trains like Rajdhani Express is a matter of serious concern. Directorate of Revenue Intelligence foiled a number of attempts of smuggling of Cigarettes of foreign origin into India which involved not only violations of the Customs Act, 1962, but also the violation of the Cigarettes and Other Tobacco Products Act (COTPA). The seizure figures are reflected in table below:-

Table

CIGARETTES				
	16-17	17-18	18-19	19-20
Cases	24	29	24	42
Quantity (Number of Sticks in Lakhs)	386.87	377.47	407.91	347.22
Value (Rs. in Lakhs)	4288.67	3639.48	5692.4	4955.35



Major Seizures of Cigarettes

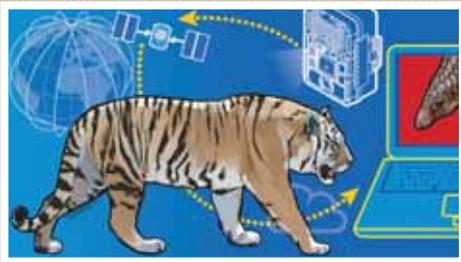
1. A special drive was launched at Old Delhi and New Delhi Railway stations and DRI intercepted 13 consignments from premium trains in a continuous operation from 07/02/2020 to 10/02/2020. A total quantity of 14,63,040 sticks of cigarettes of foreign origin brands collectively valued at Rs. 2,19,45,600/- were seized.
2. Further, in February, 2020, DRI intercepted a truck and recovered 7,47,000 sticks of cigarettes of foreign origin valued at Rs.1,12,14,000/-. These cigarettes were concealed in the truck beneath sacks of fine dross and were being transported illicitly to Delhi from Guwahati.

Way Forward

With the increase in intricacies of fraudulent activities violating multiple statutes and having global footprints, there is a need for better harmonized law enforcement. One plausible way is to provide for explicit empowerment of DRI officers under the Allied Acts.

CHAPTER 11

GLOBAL ENFORCEMENT FOOTPRINT





I. Introduction

DRI on behalf of the Indian Customs, remains firmly committed to the importance of international cooperation - multilateral, plurilateral and bilateral towards the objective of combating cross border crime in all its hues and manifestations. Towards this objective, DRI has in the financial year 2019-2020, participated in ten international enforcement operations under the aegis of World Customs Organisation targeting smuggling of various types of commodities such as Wildlife, Hazardous Wastes, Ozone Depleting Substances, Antiques, Drugs, narcotic & psychotropic substances such as Methamphetamine, Tobacco, Currency, and even vehicles involved in misuse of ATA Carnet provisions. In addition, DRI also successfully steered Operation Sessa-III between November and December 2019 for combating smuggling of CITES listed species of timber which was the first ever global Customs enforcement operation sponsored by India.

Recognizing the importance of bilateral cooperation for intelligence and information exchange, DRI also joined hands with US authorities of Food and Drug Administration – Office of the Criminal Investigation (US FDA-OCI) as also Customs and Border Protection (CBP) for jointly carrying out ‘Operation Broadsword’ targeting trafficking of controlled / banned narcotic and Psychoactive substances such as Alprazolam, Tramadol, Ecstasy (MDMA), Zolpidem taking place through the postal route. This intensive operation was successfully executed in the last week of Jan 2020. A bilateral enforcement exercise like Operation Broadsword allowed DRI to closely work with U.S. counterparts so as to share best practices, develop intelligence, better target suspect consignments, consignors and other bad actors at both ends. Such an exercise also has potential for long term capacity building. The Directorate of Revenue Intelligence is committed to fighting the menace of drugs and narcotics, and international cooperation with agencies like the U.S. FDA can help its efforts towards this cause.

II. India’s participation in the Global Enforcement Operations

Details of eighteen significant seizures reported by India while participating in the global enforcement operations during the Financial Year 2019-20 are tabulated as under:

SI No	Name of Operation	Objective: To counter -	No of cases reported by India	Details of the seizures effected by India
1	Operation Thunderball	Illegal wildlife trade	3	Seizure of 380 birds of foreign origin in Mumbai; 834 Star Tortoises in Kolkata and 590 Star Tortoises in Chennai.
2	Operation Tentacle	Smuggling of currency, diamonds and gold by airline passengers at primary international airports	2	Seizure of 2,15,800 USD; 2,75,000 Canadian Dollars and INR 32,00,000 at Kolkata Airport and seizure of 4,49,000 USD at IGI Airport, New Delhi



3	Operation Sessa-III	Smuggling of CITES listed species of timber	9	98.66 MT of Red Sanders
4	Operation Ice Break	Illicit trafficking of Methamphetamine and related precursor chemicals originating from the Golden Triangle and Mexico	1	16.513 kgs of Methamphetamine
5	Operation Broadsword (Bilateral)	Controlled drugs/ medicines	3	12000 pills of Tramadol, 500 pills of Zolpidem and 1050 pills of Alprazolam



Operation Broadsword - Seizure of Controlled drugs/ medicines



Operation Thunderball - Seizure of 834 Star Tortoises



Operation Thunderball - Seizure of Cockatoos



Operation Sesha III- Seizure of 699 kg of Red Sanders at Chennai Air Cargo



Operation Tentacle - Seizure of 2,15,800 USD; 2,75,000 Canadian Dollars and INR 32,00,000 at Kolkata Airport



In addition to the above operations, India also actively participated in certain other operations mentioned below, thereby, establishing the channels of communication for intelligence and information exchange with the objective of utilising the same on a continuous basis, long after the cessation of these operations with the larger goal of boosting long term international cooperation.

SI No	Name of Operation	Commodities targeted
1	Operation Mekong Dragon Asia-Pacific	Trafficking in the AP region of drugs and drug precursor chemicals produced in the Golden Triangle.
2	Operation Green Earth	Trans-boundary movement of waste
3	Operation DEMETER-V	Trans-boundary Movement of Waste and Illegal Trade in ODS
4	Operation ATHENA II	Trafficking of antiques threatening the cultural heritage
5	Operation Lynx	Illicit tobacco trade
6	Operation Jubilarian	Misuse of ATA carnets via the aviation traveller stream especially for importing jewellery/gemstones

III. Significant Seizures:

- i. During Operation Sessa III, on 15th December 2019, after interception of a consignment containing 9.8 MT Red Sanders bound for Malaysia from Krishnapatnam Port by the DRI, investigations revealed that one more consignment had already sailed to Malaysia belonging to the same syndicate. Immediate sharing of this intelligence resulted in a seizure 15.2 MT of Red Sanders by Royal Malaysian Customs.



Seizure of Red Sanders at Tanjung Pelepas Port, Malaysia



- ii. During Operation Broadsword, a significant quantity of controlled drugs was detected as a result of targeting of suspect consignments done in the run up phase itself. Approximately 12,000 tablets of Tramadol having a street value of about Rs. 16 Lakhs along with around 500 Tablets of Zolpidem having an estimated street value of Rs. 7.31 Lakhs and around 1,050 tablets of Alprazolam having an estimated valued in excess of Rs. 3 Lakhs that were destined for India were seized.
- iii. During Operation Tentacle, foreign currencies amounting to Rs 10.2 Crores were seized by India, while they were being smuggled out of the country. Thus, 4,49,000 USD amounting to Rs. 3.25 Crores which was being smuggled to Hong Kong was seized at IGI Airport, New Delhi and 5 persons were arrested. In another case, 2,15,800 USD; 2,75,000 Canadian Dollars and INR 32,00,000, totally amounting to Rs. 3.28 Crores being smuggled to Bangladesh was seized at Kolkata Airport and 6 persons were arrested. In a third case, 5 persons were intercepted on board a train called Maitree Express (which runs between India and Bangladesh) and a seizure was made at Kolkata Railway Station of USD 5,13,100 equivalent to Rs. 3.6 Crores. It may be noted that smuggling of Foreign Currency out of India is mainly carried out to make payments for the gold that is smuggled into the country.

IV. Operation Sesha III

“Operation SESH-III” to combat smuggling of endangered species of timber listed in CITES was launched under the aegis of WCO and RILO AP, after being proposed by Indian Customs during the Enforcement Committee meeting held at WCO in March 2019. Estimates of illegal trade in Timber vary from at least USD 30 Billion to USD 100 Billion globally. Smuggling of timber not only further endangers the existence of protected species but also fuels trade based money laundering since it entails financial transactions executed through informal and formal banking channels. It has also been observed that the syndicates involved in smuggling of timber have often been involved in other crimes as well. There were two regional phases of this Operation preceding the global phase. A summary of all the three phases is given below:

Operation (duration and participation)	Seizing Countries	Total Qty (MT)	Species of timber seized
Phase I (Feb - April 2015): 18 Countries; RILO AP & WCO	India, China, Hong Kong SAR, Indonesia, Malaysia, Pakistan, Sri Lanka, Vietnam	451 MT	Red Sanders, Agar Wood, Ebony, Diyar, Sri Lankan Sandalwood, Siamese Rosewood, Burmese Rosewood, Fujian Cypress
Phase II (April - May 2017): 21 Countries; RILO (AP, ME and ESA), WCO, UNODC, INTERPOL, UNFAO	India, Sri Lanka, China, Hong Kong SAR	215 MT	Red Sanders, Agar Wood, Siamese Rosewood, African Kino or Barwood



Phase III (Nov 2019 – Jan 2020): 62 countries, INTERPOL, RILO (AP, CIS, WE) & WCO	India, Cambodia, Malaysia, Thailand	682.36 MT and 709.14 cubic meters	Red Sanders, Siamese Rosewood, other Rosewoods, Burma Padauk, Guatemalan fir
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A total of 8 timber species were reported to be intercepted by participating members. Red Sanders seizures were reported in 10 cases in which 107.58 tons were seized. Illegal trade in Red Sanders (*Pterocarpus santalinus*) is fuelled by a very high demand of the same outside India (to which it is endemic), particularly, in China. The smugglers were found to use intermediate destinations for these illegal shipments, such as UAE, Hong Kong SAR (China), Malaysia or Singapore according to shipment documents. These intermediate destinations and routes have been used to avoid targeting of the shipments by Customs through Risk Profiling.

V. Conclusion

DRI remains committed to the cause of international enforcement cooperation through various platforms including international operations, both multilateral and bilateral as also by way of establishing and strengthening regular communication channels for intelligence and information exchange. While, it is imperative to facilitate international trade through strong global supply chains, it is equally important to prevent any mis-use of these supply chains for purposes other than what they are meant for. The objective of participating in these operations is not just to detect and seize the goods, but to disrupt these illegal supply chains and bust the multinational syndicates by joining hands of the global enforcement authorities.

CHAPTER 12

DISPUTE RESOLUTION





1. Adjudication of alleged contraventions under the Customs Act 1962 is an important function of the officers of Customs through which they determine whether or not such contraventions have been made and accordingly decide on the confirmation of demand, imposition of penalty and/ or redemption fine etc.
2. The empowered officers, known as Adjudicating Authorities are quasi

judicial authorities who decide such cases, on 'preponderance of probability', based on evidences collected during investigation, binding precedents, written arguments and oral submission of the parties put to notice before the said empowered officer. The Adjudicating Authorities pass orders under section 122 of the Customs Act, 1962, which are generally referred to as Order-in-Original.

3. Section 124 of the Customs Act, 1962 mandates that no order confiscating any goods or imposing any penalty on any person shall be made unless the owner of the goods or such person is given (i) a notice in writing, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty; (ii) an opportunity of making a representation in writing within such reasonable time, against the grounds of confiscation or imposition of penalty mentioned therein and (iii) a reasonable opportunity of being heard in the matter.
4. Section 122A of the Customs Act, 1962 sets out the procedure to be followed by an Adjudicating Authority under Chapter XIV of the Customs Act, 1962 or any other provisions of the Customs Act, 1962, wherein the Adjudicating Authority, in any proceedings, as a part of the principles of natural justice wherein it, gives an opportunity of being heard to a party put to notice in any proceedings. However, such opportunities shall not be provided more than three times.

Common Adjudicating Authority

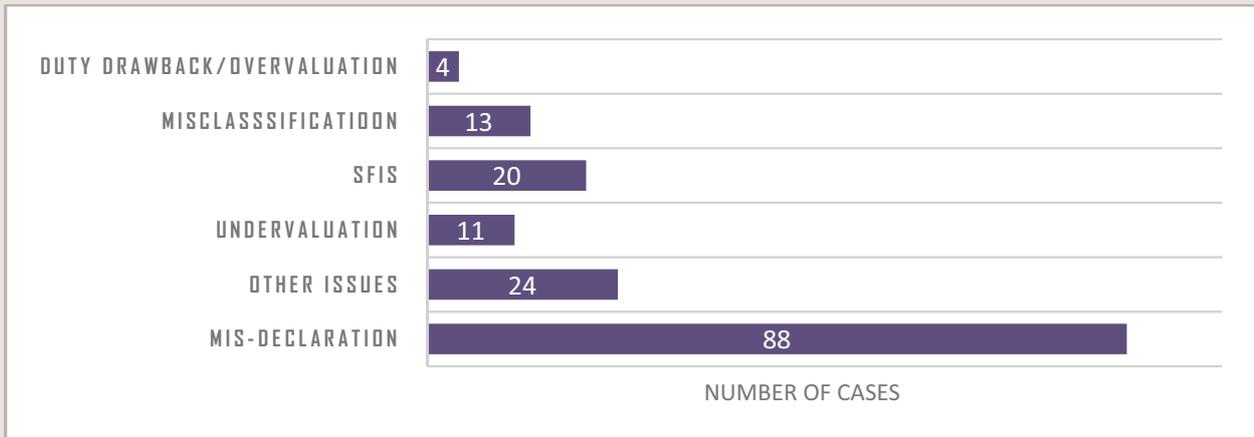
5. The Directorate of Revenue Intelligence (DRI) is the apex intelligence and investigative agency for matters relating to violation of the Customs Act, 1962.
6. The officers of DRI have an all India Jurisdiction of investigating cases of Customs duty evasion or smuggling and, in addition, are proper officers, inter alia, for the purpose of section 17 and 28 of the Customs Act, 1962 in terms of Notification No. 44/2011-Cus (NT) dated 6th July, 2011, as amended.
7. In the cases, where imports or exports have been made by the offender through number of Ports/Airports/ICDs/ Land Customs stations, DRI issues single show cause notice, answerable to multiple Adjudicating Authorities in charge of such ports/airports /ICDs/Land Customs stations through which such imports or exports have taken place.
- 7.1 The number of cases booked by DRI during 2018-19, 2019-20, 2020-21 (up to August) is reflected in Figure 1.



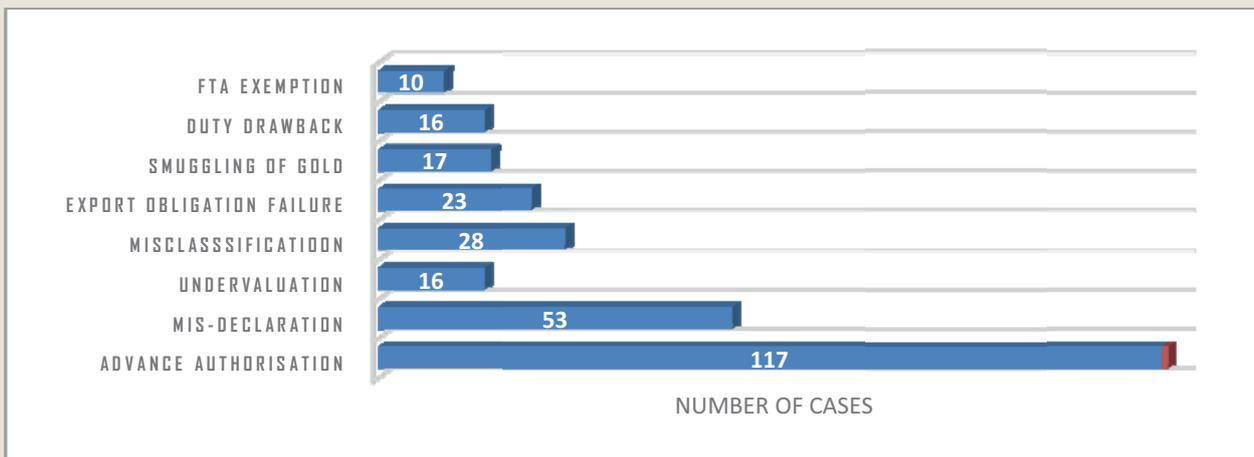
Figure 1

8. Initially, for the purpose of adjudication of such cases, a common and/or single Adjudicating Authority, known as Commissioner of Customs (Adjudication), was appointed by the CBIC, by issuing a non-tariff notification. However, keeping in view the fact that the cases investigated by the DRI are complex and multi-dimensional in nature, a need was felt for creation of a dedicated officer of the rank of Additional Director General who would be exclusively dealing with adjudication of the cases booked by DRI (Hqrs) and various Zonal Units of DRI. Hence, the post of Additional Director General (Adjudication) - one each at Mumbai and Delhi - came into existence. And, in exercise of the power under section 152 (a) of the Customs Act, 1962, the Central Government issued notification No. 60/2015-Customs (NT), dated 4th June, 2015 whereby the power of appointment of Common Adjudicating Authority, of the rank of Commissioner of Customs or Additional Director General of DRI, for the purpose of adjudication of cases investigated by DRI was delegated to the Principal Director General of DRI.

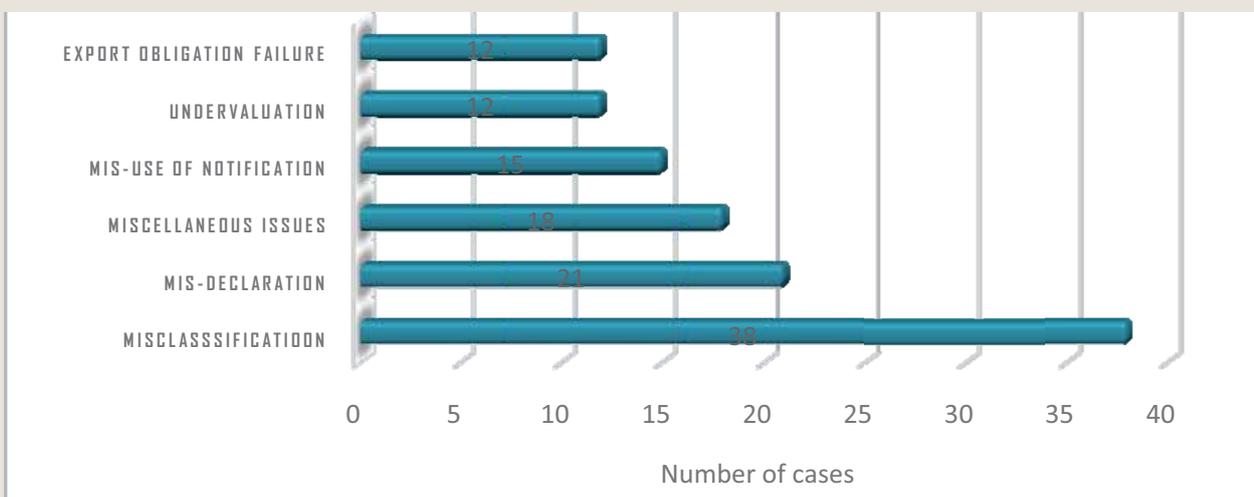
was conferred with extended powers for appointing officers of the rank of Additional Director General or Principal Commissioner or Commissioner or Additional Commissioner or Joint Commissioner or Deputy Commissioner or Assistant Commissioner of Customs for the purpose of adjudication of cases investigated by DRI.
9. Thereafter, vide Notification 133/2015-Customs (N.T.), dated 30th November, 2015, the DGRI
10. The Board initially prescribed guidelines for appointment of Common Adjudicating Authority vide Circular No. 18/2015- Customs dated 9th June, 2015, which was further amended vide Circular No. 30/2015-Customs dated 4th December, 2015, as per which certain specified cases initiated by DRI would be assigned to Additional Director General (Adjudication), DRI; the cases, other than the above, involving more than one Customs Commissionerate would be assigned to the jurisdictional Commissioner of Customs on the basis of the maximum duty evaded; cases other than these and involving a single Customs Commissionerate would be assigned to the jurisdictional Commissioner of Customs, etc.
- 10.1 The cases notified span different genres and the same is captured by Figure 2, 3 and 4.



Figures 2 - Cases booked by DRI on major issues during the year 2018



Figures 2 - Cases booked by DRI on major issues during the year 2018



Figures 2 - Cases booked by DRI on major issues during the year 2018



11. However, on account of increase in number of cases booked by the DRI another amendment to the above circulars was carried out vide Circular No. 39/2019-Customs dated 28th November, 2019, which now empower the Principal Director General/ Director General of Revenue Intelligence, New Delhi to appoint officers of the rank of Principal Commissioner/ Commissioner of Customs as Adjudicating Authorities in respect of even the said specified cases in addition to appoint Additional Director General (Adjudication) as an Adjudicating Authority.

COVID-19 - Personal Hearing through Video Conference facility.

12. While ensuring compliance with various guidelines and instructions issued by the Govt. and public health authorities with a view to contain the spread of COVID -19, CBIC vide instruction dated 27.04.2020 issued vide F. No. 390/Misc/3/2019/JC decided that personal hearing, in respect of any proceeding

under Customs Act 1962, given by Commissioner (Appeals), original Adjudicating Authorities etc. would be conducted through video conferencing facility. Such a facility for virtual hearing was provided to facilitate importers, exporters, advocates, tax practitioners and authorized representatives to maintain social distancing while performing their work at ease, from a place of their choice, and to complete the ongoing Customs work of appeals and adjudications expeditiously.

13. Later, on the basis of the feedback received from trade and field formations that the initiative has helped in speeding up passing of adjudication and appellate proceedings, saving cost of travel and time, and critically ensuring social distancing in these challenging times etc., CBIC have issued revised Guidelines dated 21.08.2020 making it mandatory to conduct personal hearings through video conference facility. This new system is working satisfactorily.



CHAPTER 13

JUDICIAL PRONOUNCEMENTS AND IMPLICATION





1. Electronic evidences under the Customs Act, 1962 – An Overview

1.1 With the exponential growth of use of computers and other electronic devices, manner of retrieval of electronic records and its admissibility has become very important. Electronic Evidences, like any other evidences are required to be admitted in any case before the quasi-judicial proceedings or in a competent court. Section 138C of the Act *ibid* is *pari materia* to Section 65B of Evidence Act, 1872 as held in the case of SN Agrotech *ibid* and therefore evidence in form of “computer printouts” etc. are required to meet the conditions precedent under Section 138C of the Customs Act, 1962.



1.2 It is interesting to note that Section 138C of the Customs Act, 1962 came to be inserted by Act 29 of 1988 with effect from 1.7.1988 even much before the Information Technology Act, 2000 came to be enacted. The Information Technology Act, 2000 has also brought amendments in the Indian Penal Code, 1860, the Indian Evidence Act, 1872 and several other laws. The admissibility of electronic evidences under the Customs Act, 1962 are to be read with the judgments rendered by the Hon'ble Supreme Court, which are discussed as under:

1.3 Chapter IV (Section 59-60) of Evidence Act deals with Oral Evidence. Section 59 says that “All facts, except the [contents of documents or electronic records], may be proved by oral evidence”. “Documentary Evidence” have been dealt with in Chapter V (Section 61-90A) of the said Act. Section 61 requires that

the contents of documents may be proved by a ‘Primary Evidence’ or by a ‘Secondary Evidence’. Section 62 defines ‘Primary Evidence’ to mean “the document itself produced for the inspection of the Court”. Section 63 of the Act defines ‘Secondary Evidence’.

1.4 As per Section 3 of Indian Evidence Act, 1872, “documentary evidence” after the year 2000 amendment also includes “electronic records”. Section 65A & 65B were also incorporated in the Evidence Act in the same year. Section 65A is an enabling provision which provides that the contents of electronic records may be proved in accordance with provisions of Section 65B. Section 65B deals with the conditions and requirements about admissibility of electronic records.

1.5 In *Anvar P.V vs. P.L Basheer & others*, (2014) 10 SCC 473, the Hon'ble



Supreme Court held that certificate is needed for secondary evidence and not for primary evidence.

- 1.6 In the case of Shafi Mohammad v. State of H.P., (2018) 2 SCC 801, Hon'ble Supreme Court placed reliance on "Anvar" to clarify that primary evidence of electronic record was not covered under Sections 65-A and 65-B of the Evidence Act. The Apex Court (Division Bench) further observed that the applicability of procedural requirement under Section 65-B(4) of the Evidence Act of furnishing certificate is to be applied only when such electronic evidence is produced by a person who is in a position to produce such certificate, being in control of the said device, and not of the opposite party. The court also stated that the necessity of the requirement of certificate being procedural can be relaxed by the court wherever the interest of justice so justifies.
- 1.7 In view of the inconsistencies between the decision of a two judge bench decision in Sonu Vs. State of Haryana, (2017) 8 SCC 570 [wherein it was held that electronic record is not admissible in evidence unless it is accompanied by a certificate] and Shafhi Mohammad Vs. HP vis a vis Anvar P.V Vs. Basheer P.K, a reference was made by the two judge bench in the Arjun Panditrao Khotkar Vs. Kailash Kushanrao Gorantyal and accordingly on the basis of the reference, a three bench was constituted and the three judge bench rendered its judgment on 14.7.2020, reported as 2020 SCC OnLine SC 571.
- 1.8 The court in Arjun Panditrao examined the entire law on Section 65-B from "Anvar P V" till "M.R. Hiremath (2019)

7 SCC 515". The Court reiterated that special provisions of Section 65-A and Section 65-B of Evidence Act is a complete code in themselves and that a written certificate under Section 65-B (4) is sine qua non for admissibility of such evidence, as correctly held in by the 3-judge bench in Anvar P.V. v. P.K. Basheer and incorrectly "clarified" by a division bench in Shafi Mohammed. The Apex Court also overruled Tomaso Bruno to the extent that "Secondary evidence" of contents of the document can also be led under Section 65 of the Evidence Act.

- 1.9 Aforesaid judgment is likely to have significant impact in determination of admissibility of electronic evidences as it has held:
 - i. Certificate under Section 65B(4) is not required if the original document itself is produced;
 - ii. Certificate under Section 65-B can be produced at any stage of the trial / proceedings.
 - iii. Secondary evidence" of contents of the document cannot be led under Section 65 of the Evidence Act.
 - iv. To provide solutions to the issue raised in Shafi Mohammed regarding the difficulty of producing a certificate by a party who is not in possession of an electronic device, the Court suggested that it is always possible for the trial court to exercise its power to summon "the certificate" from the requisite person.

- 1.10 Hon'ble Supreme Court also analysed the Legislative developments in U.S.A., U.K. and Canada on the



admissibility of electronic records and opined that development of law in India, unlike these countries, has not kept pace with technology to a great extent. It also observed that the major jurisdictions of the world have come to terms with the change of times and the development of technology and fine-tuned their legislations. Therefore, it is the need of the hour that there is a relook at Section 65B of the Indian Evidence Act, introduced 20 years ago, by Act 21 of 2000.

2. Use of Video Conferencing to record evidence:

2.1 Outbreak of global epidemic COVID-19 has necessitated the immediate adoption of suitable measures to ensure social distancing simultaneously with delivery of public services.

2.1 Hon'ble Supreme Court took the lead and immediately came up with significant Judgement about need for use of technology. Hon'ble Supreme Court vide Order dated 6th April 2020 in *Suo Motu Writ (Civil) No.5/2020*, issued guidelines for court functioning through video conferencing. Hon'ble Court in the aforesaid Order held that:

Para 3: Technology has facilitated advances in speed, accessibility and connectivity which enable the dispensation of justice to take place in diverse settings and situations without compromising the core legal principles of adjudication.

Para 4: The use of technology found judicial recognition in precedent of this Court in *State of Maharashtra v Praful Desai* [(2003) 4 SCC 601]. This Court

held that the term 'evidence' includes electronic evidence and that video conferencing may be used to record evidence. It observed that developments in technology have opened up the possibility of virtual courts which are similar to physical courts. The Court held:

"Advances in science and technology have now, so to say, shrunk the world. They now enable one to see and hear events, taking place far away, as they are actually taking place...Video conferencing is an advancement in science and technology which permits one to see, hear and talk with someone far away, with the same facility and ease as if he is present before you i.e. in your presence... In fact he/she is present before you on a screen. Except for touching one can see, hear and observe as if the party is in the same room. In video conferencing both parties are in presence of each other... Recording of such evidence would be as per "procedure established by law".

Para 5: This is not a matter of discretion but of duty.

Para 6: Video conferencing shall be mainly employed for hearing arguments whether at the trial stage or at the appellate stage.

2.3 Aforesaid judgement become the solid foundation for various departments / institutions to come up with guidelines for online processing of various government procedures including "conduct of personal hearing" . Initially advisory



vide Instructions dated 27.04.2020 was issued and later on mandatory Instruction dated 21-08-2020 was issued by CBIC (guidelines to be followed for conduct of personal hearing in virtual mode under Customs Act, 1962, Central Excise Act, 1944, CGST Act, 2017, IGST Act, 2017 and Chapter V of Finance Act, 1994 (available at https://www.cbic.gov.in/resources//htdocs-cbec/legalaffairs/Instruction_bkp_210820.pdf].

- 2.4 The advocates, lawyers, Authorised Representatives, Noticees, Appellants have found the new system comfortable as they can attend multiple hearings with multiple authorities (CESTAT, Commissioner (Appeals, Adjudicating Authorities etc.) located at various cities, by sitting in their home. It has significantly improved the efficiency of entire process while also ensuring that all health related guidelines are observed.

3. Valuation: interpretation of word “condition” under Rule 9 (1)(e) of Valuation Rules:

- 3.1 Another landmark judgement by Hon’ble Supreme Court in the field of valuation is Judgement dated 27 April 2020 in Civil Appeal No.6398 of 2009 in the case of Commissioner of Customs (Port) Kolkata Vs M/S Steel Authority of India Ltd
- 3.2 Dispute in this appeal related to valuation (basic design & engineering fee, supervision charges during manufacture of Indian equipments’

and for erection, commissioning and performance guarantee tests) under the Customs Act, 1962 of import of certain items made by the respondent M/s SAIL under two contracts.

- 3.3 SAIL paid import duty on the value of plant and equipments alone, whereas Customs authorities were of the view that such charges are to be added to the invoice value. There were two different contracts. One for supply of plant and equipments and the second for charges relating to aforesaid design and engineering fee etc.
- 3.4 Customs viewpoint was that the contractor was entrusted with the work on a turnkey basis, where the entire supplies and services were dependent on each other hence import of designs and drawings etc. even for post-importation activities should be treated as condition of import of the equipments –

Hon’ble Supreme Court relied upon Honble Apex Court earlier judgment in the case of Ferodo India Pvt. Ltd., reported as 2008 (224) E.L.T. 23 (S.C.) and held that even if main equipment and “services relating to post importation work” have been sourced from the **same supplier**, unless there is “condition by supplier that post importation activities are to be sourced necessarily from him”, addition of charges relating to “services relating to post importation work”, is not justifiable as “**condition**” cannot be implied”. It needs to be proved.



CHAPTER 14

SIGNIFICANT CASES & STATISTICS





Major Cases Gold

1. On 24.04.2019, on the basis of specific information that a company is suspected to be misusing the Advance Authorization and the Exhibition Re-import Scheme through circular trading of gold Jewellery exported under the guise of goods for exhibition purpose from India through hand carriage, the Officers of DRI intercepted one person at IGI, Airport. Search of his baggage resulted in the recovery of 51.172 Kg of assorted gold Jewellery. Simultaneous searches conducted at the factory premises of the said company resulted into recovery of 25 foreign origin gold bars totally weighing 25 Kg, cut pieces of gold bars, gold dust and assorted gold Jewellery weighing 26.404 Kg and silver bars and cut pieces weighing 45 Kg, totally valued at Rs. 14.84 Crore. A total of 102.576 Kg of Gold bars, gold dust and assorted gold Jewellery and 45 Kg Silver bars totally valued at Rs. 28.53 Crore was seized and four persons, including one Custom Officer (Jewellery Appraiser) were arrested under the provisions of the Customs Act, 1962.
2. On 08.12.2019, on the basis of specific information, the officers of DRI intercepted two persons travelling by train. On search of the said persons, 6.96 Kg and 8 Kg of Gold bars of foreign origin were recovered. Simultaneously, 26.65 Kgs of gold bars/biscuits/cut pieces of foreign origin and 552.03 grams of gold Jewellery made from the smuggled gold were recovered and seized from three different places at Kolkata. The investigation revealed that gold was smuggled into India from Myanmar through Indo-Bangladesh border. The recovered 42.17 Kgs of Gold valued at about Rs 10.57 Crores were seized and ten persons were arrested under the provisions of the Customs Act, 1962.
3. On 13.05.2019, on the basis of specific information, the officers of DRI apprehended six persons from three buses. On personal search of the said persons, 20 pieces (1 Kg each) of yellow metal bars and 25 pieces (166 gms each) of yellow metal biscuits believed to be gold of foreign origin were recovered and seized. The recovered Gold collectively weighing 24.150 Kgs valued at Rs. 7,98,76,125/- were seized and six persons were arrested.
4. On 21/22.10.2019, on the basis of specific intelligence, the officers of DRI, Headquarters intercepted two persons in a residential colony at New Delhi. Search of the person resulted in the recovery of 14.001 Kgs of remelted foreign origin Gold in bar form believed to be smuggled into India from Hong Kong. In a follow up action, a residential premise located in the same area was searched and a further 7.891 Kgs of remelted gold of foreign origin in pieces form was recovered which was smuggled in the candles of water purifier (RO) systems imported from Taiwan. There covered 21.949 Kgs of gold valued at Rs. 7.62 Crore was seized and two persons were arrested under the provisions of the Customs Act, 1962.
5. On 11.11.2019, the officers of DRI intercepted a vehicle with two occupants near Darjeeling in Siliguri. On search of the said vehicle, 101 pcs of Gold biscuits and 09 pcs of gold bars of foreign origin, collectively weighing 25.766 Kgs. were recovered from its rear axle. The investigation revealed that gold was smuggled into India from Myanmar. The recovered 25.766 Kgs of Gold valued at about Rs. 10.16 Crore along with the said vehicle were seized and two persons were arrested under the provisions of the Customs Act, 1962.
6. On 12/13.11.2019, the officers of DRI, Guwahati Zonal Unit intercepted a vehicle having two occupants at Manza, Assam. Extensive rummaging of the vehicle resulted in the recovery and seizure of 112 nos. of gold biscuits concealed in the cavity of the vehicle. The recovered 18.59 Kgs of Gold valued at Rs. 7.25 Crore along with the said vehicle were seized and two persons were arrested under the provisions of the Customs Act, 1962.



Silver

On 08/09.05.2019, on the basis of specific intelligence, officers of DRI intercepted three consignments imported from China declared to contain consumer items such as Hair Accessories, Wind Chimes, Photo Frames etc. Examination of the said consignments resulted in recovery of 520.640 Kgs of Silver Jewellery valued at Rs. 2.08 Crores. During further investigation, another four containers were examined on 17.05.2019, 20.05.2019 and 21.05.2019 at Nhava Sheva port which resulted in the recovery of Silver Jewellery weighing 302.10 Kgs valued at Rs. 1.26 Crores. The recovered Silver Jewellery totally weighing 822.74 Kgs valued at Rs. 3.34 Crores was seized and two persons were arrested.

NDPS

1. On 29.07.2019, on the basis of specific information, the officers of Customs, IGI Airport, New Delhi intercepted a passenger who arrived from Addis Ababa to New Delhi by Flight No. ET 686. Detailed examination of the baggage and personal search of the said passenger resulted in the recovery of 10.690 Kg of pale yellow coloured powder suspected to be Heroin which was concealed inside thin black plastic sheets rolled on the axis of two spools/wire rolls and further covered with rolled lengths of pipe. The recovered Heroin weighing 10.690 Kg valued at Rs. 53.45 Crore was seized and one person was arrested under the provisions of NDPS Act, 1985.
2. On 26.10.2019, on the basis of specific information, the officers of DRI intercepted a vehicle at MilanpurMouda Toll Booth, Bhandara Road, Nagpur. Examination of the said truck resulted into recovery of 1020 packets of Cannabis (Ganja) weighing 2080 Kgs concealed in 78 HDPE bags and 4 Jute bags, further concealed under 212 HDPE Bags containing Phosphate Fertilizer. The recovered 2080 Kgs of Cannabis (Ganja) valued in the illicit market at Rs 3.12 Crores along with the said vehicle were seized and one person was arrested under the provisions of the NDPS Act, 1985.
3. On 03.01.2020, the officers of DRI with the assistance of BSF personnel of 120 Battalion, BOP, Rayermura conducted a search operation in the residential premises of a person in a remote village in the Rayermura border area of West Tripura. During search of the said premises, a total of 16.513 kg of Methamphetamine tablets were recovered from the house and from a vehicle. The owner of the said house has been absconded since. The recovered 16.513 Kgs. of Methamphetamine Tablets totally valued at Rs. 8,42,50,000/- along with two vehicles valued at Rs. 9,01,467/- were seized under the relevant provisions of the NDPS Act, 1985.
4. On 02/03.08.2019, on the basis of specific information, the officers of DRI intercepted a vehicle in Kupwara (J&K). Search of the said vehicle resulted in the recovery of 2.828 Kg of Heroin. Follow up action was conducted by Jammu Regional Unit with the help of J&K Police at Prada Village in Tangdhar, near the Line of Control which resulted in further recovery of 4.003 Kg. Heroin. The totally recovered 6.831 Kg. of Heroin was seized and two persons were arrested under provisions of the NDPS Act, 1985.
5. On 09.08.2019, on the basis of specific information, the officers of DRI intercepted one lady passenger who had arrived by flight no. ET 610 at CSI Airport, Mumbai. Based on reasonable suspicion that the said lady was carrying NDPS substances concealed



in her body, medical examination was conducted by the doctors that indicate the presence of foreign objects in the abdomen of the said passenger. During the period of her admission in hospital from 09.08.2019 to 13.08.2019, the said passenger purged 80 capsules containing 796 Grams of Cocaine. The recovered 80 capsules containing 796 Grams of Cocaine was seized and one person was arrested under the provisions of the NDPS Act, 1985.

6. On 11.01.2020, on the basis of specific information, the officers of DRI apprehended one person. Search of his car resulted in the recovery of 50 Kg of white crystalline powder suspected to be Mephedrone having market value of Rs. 20 Crore. On the basis of further enquiry two more persons, associated with acquiring, transporting and supplying of the said psychotropic substance were apprehended. The recovered psychotropic substance was seized and three persons were arrested under the provisions of the NDPS Act, 1985.

Foreign Currency

1. On 19.05.2019, on the basis of specific information, the officers of Airport Customs, IGI Airport, New Delhi intercepted three passengers in the departure hall who intended to illegally export foreign currency to Bangkok by Air India Flight No. AI 332. On detailed examination of baggage and personal search of one of the passenger Foreign Currencies i.e. US\$ 85,800/-, Australian Dollar 34,100/-, Pound 55,105/-, Euro 62,710/-, New Zealand Dollar 36,050/-, Norwegian Kroner 45,100/-, Hong Kong Dollar 17,000/-, Yen 40,000/-, Swiss Franc 1,130, UAE Dirham 1,40,080/-, Saudi Riyal 23,200/-, Qatar Riyal 12,595/-, Omani Riyal 649/- and Bahrain Dinar 320/- were recovered which were concealed in the suitcase bags being carried by the said passenger. The recovered Foreign Currencies equivalent to Rs. 2,30,00,950/- were seized and three persons were arrested.
2. On 09.04.2019, the officers of AIU, NSCBI Airport, Kolkata received an information from the CISF that they had detected currency concealed in the hand baggage of some passengers who were travelling to Dhaka by US-Bangla Airlines flight. On checking the hand baggage of all the passengers Foreign Currency i.e. USD 6,88,100 kept concealed inside their bags were recovered. The recovered foreign currency equivalent to Rs. 4,66,18,775/- was seized and six person were arrested.
3. On the intervening night of 02/03.09.2019, on the basis of specific intelligence, the officers of DRI intercepted three passengers at IGI Airport, New Delhi travelling to Bangkok, Thailand by three different flights. Search of the personal baggage of the above said passengers resulted in the recovery of Foreign Currency equivalent to INR Rs. 2.32 Crore, which were concealed in the bottom of the stroller bags. On the same day, in the follow-up searches, two more persons of the same syndicate, involved in concealing the said foreign currency in suitcases and handing over of the same to the carriers were also apprehended. The recovered Foreign currency equivalent to Rs. 2.32 Crore was seized and all the five persons were arrested under the provisions of Customs Act 1962.



Environmental Crimes

1. On 10.06.2019, on the basis of specific information, the officers of DRI intercepted three persons in a car at the parking area beside Satragachi Railway Station and recovered 834 number of Indian Star Tortoise. The recovered Tortoises along with the vehicle were seized. The tortoises were then handed over to Alipore Zoological Garden, Kolkata for safe custody and further necessary action at their end. Preliminary investigation reveals that the tortoises were to be smuggled out of the country through the Bangladesh border. The above said three persons were arrested.
2. On 28/29.07.2019, on the basis of specific information, the officers of DRI apprehended two persons at Sealdah Railway Station. Personal search of their baggage resulted in recovery of 4.277 Kg of Elephant Tusks. Follow-up search at two residential premises resulted in recovery of 29 assorted ivory pieces and five pieces of tiger teeth along with Rs. 1,48,000/- in cash. The recovered Elephant Tusks and Ivory pieces collectively weighing 11.96 Kg and five pieces of Tiger teeth were seized and three persons were arrested under the provisions of the Customs Act, 1962 read with the Wildlife Protection Act, 1972.
3. On 14.01.2020, on the basis of specific intelligence, the officers of DRI intercepted a container mounted on a trailer truck at Mundra Port. Examination of the container resulted into recovery of 666 numbers of red sanders logs totally weighing 9.64 MTs valued at Rs. 4.82 Crore and 160 pieces of Sanitaryware used for concealment of red sanders. The recovered Red Sanders along with the other goods and one trailer estimated value at around Rs. 4.89 Cr were seized and one person was arrested under the provisions of Customs Act, 1962.

Cigarettes

1. On 03.05.2019, on the basis of specific information, the officers of DRI examined a suspicious container and recovered 30,81,600 no. of sticks of foreign origin cigarettes "GUDANG GARAM" valued at Rs. 4,62,24,000/- at Marine Tower, Chennai. The recovered cigarettes along with the cover cargo of 51452 retail packs of declared items were seized.
2. On 18.04.2019, on the basis of specific information, the officers of DRI intercepted a pickup van inside a parking place in Hooghly District, West Bengal. Search of the said vehicle resulted in recovery of 29 cartons containing 7,39,000 sticks of smuggled Cigarettes were recovered. The driver of the vehicle admitted that he was supposed to deliver the cigarettes to a godown at Kolkata. On immediate search at the said godown, several cartons of cigarettes containing 12,59,470 sticks were also recovered. The recovered 19,98,470 Sticks of Cigarettes of foreign origin valued at Rs. 1,98,44,700/- were seized along with two carrier vehicles and two persons were arrested.
3. On 21.06.2019, on the basis of specific information, the officers of DRI intercepted two trucks at Lucknow. Search of the said vehicles resulted in recovery of 93 bags containing 20,48,200 sticks of Foreign Origin Cigarettes along with 30 MTs. of natural rubber smoked sheets in 600 bundles that was smuggled by way of mis-declaration of the contraband as natural rubber sheets. On enquiry, three occupants of the said trucks showed the e-way bill and invoices generated for the natural rubber sheets which were being transported from Agartala to Jalandhar via Lucknow. Further, the cigarette packets and cartons did not bear the mandatory pictorial warning



and other details as prescribed under the Cigarettes and Other Tobacco Products Act (COTPA). Thus, 20,48,200 Sticks of Foreign Origin Cigarettes along with 30 MTs. of Natural Rubber smoked sheets and two trucks, collectively valued at Rs. 3.68 Crore were seized and three persons were arrested under provisions of Customs Act, 1962

4. On 24.04.2019, on the basis of specific information, the officers of DRI conducted searches at the premises of different transporters and godowns located at Chandni Chowk and Azad Market, Delhi. In the search 24,27,440 sticks of Cigarettes of various foreign brands viz., Black Djarum, PRIS, Esse Lights were recovered. The recovered 24,27,440 Sticks of cigarettes having market value Rs. 3.16 Crores have been seized.

FICN

1. On 13.01.2020, on the basis of specific intelligence, the officers of DRI apprehended one person in TajBagh area, Nagpur. Search of the said person resulted in a recovery of FICN having face value of Rs. 13,67,500/- (Rs. 2000/- x 386 notes and Rs. 500/- x 1191 notes). During follow-up searches three persons who had come to receive the FICN were apprehended and from their possession FICN having face value Rs. 89,000/- (Rs. 500/- x 178 notes) were recovered on 15.01.2020. Simultaneous operation was conducted by DRI, Indore Zonal Unit, which resulted in recovery of FICN having face value of Rs. 4,18,000/- (Rs. 2000/- x 190 notes, Rs. 500/- x 76 notes) from the residence of one of these three persons in Dhar, M.P on 15.01.2020. The said FICN is suspected to be smuggled from Bangladesh. The recovered FICN of face value Rs. 18,74,500/- were seized and four persons were arrested under the provisions of the Customs Act, 1962.
2. On 02.11.2019, on the basis of specific intelligence from DRI the officers of DRI apprehended one person hailing from Kishanganj, Bihar from Bidhannagar area, Siliguri. Search of his person resulted in a recovery of 60 pieces of Fake Indian Currency Notes (FICN) of denomination Rs. 2,000/- having a total face value of Rs. 1,20,000/-. The recovered Fake Indian Currency Notes were seized and one person was arrested under the provisions of Customs Act 1962.

Commercial Frauds

1. On the basis of specific intelligence, DRI initiated investigations against some importers for wrongly availing concessional benefit of S.NO. 448 A-F of Notification No. 50/2017-Cus dated 30.06.2017 as amended and paying the BCD @7.5% instead of appropriate BCD @15% on imports of automotive engines, automotive engine parts and automotive crankshafts falling under CTH 8407/8408/8409/84831091/8431092 pertaining to vehicles of CTH 8702/8703/8704/871. Acting upon the above said intelligence, investigation was initiated as a result of which the importers admitted to the duty liability and paid the differential duty along with interest an amount of Rs. 8.26 Crores.
2. On the basis of specific intelligence, DRI initiated investigation against certain importers for importing substandard 'Secondary Cold Rolled Grain Oriented (CRGO) Sheets' which was prohibited vide CBEC's instructions dated 09.07.2014 issued under F.No. 450/71/2014-Cus-IV read with Steel and Steel products (Quality Controls) order and ministry of Steels's Circular No. F.No. S.O. 3011(E) dated 01.10.2013 from European countries through Mumbai and Chennai ports by mis declaring the same as 'Prime' and accompanying the said consignments



- with forged "BIS/Test Mill Certificates. Acting on the aforesaid information 204.44 MTs of CRGO Steel Sheets were also seized. The importer admitted the violation and an amount of Rs. 53.50 Lakhs was deposited towards differential duty. Preliminary scrutiny of available data of imports all the group companies indicates total duty evasion to the tune of Rs. 10 Crores. During investigation 150.93 MTs. of CRGO Steel Sheets imported in past were also detained and import documents were resumed from the office premises of the CHA. Further investigation is under progress.
3. On the basis of specific intelligence, DRI initiated investigation that various exporters for engaging in exporting insecticides/herbicides falling under CTH 38091 by mis-classifying these products under CTH 3808 9910 as 'Pesticides not elsewhere specified' or under CTH 3808 9990 as 'other' in shipping bills at the time of export to avail higher rate of Merchandise Export Incentive Scheme (MEIS) benefit @3% provided under CTH 3808 9910 and 3808 9990 instead of their actual entitlement of MEIS @ 2% provided under CTH 380891 for insecticides/ Herbicides/ Fungicides. The authorized/concerned persons of the associated companies, in their statements admitted that the products exported by them were insecticides/Herbicides and classifiable under 380891 and entitled for MEIS benefit @2% and they have availed/ claimed higher rate of MEIS incentive @ 3% by way of misclassification of these products under 380899. Total undue benefit earned by such exporters under MEIS Scheme amounts to Rs. 47.46 Crore and the companies have voluntarily deposited an amount of Rs. 53.37 Crore (with interest) towards wrongful availment of excess MEIS benefit along with applicable interest. Further investigation is under progress.
 4. On the basis of specific intelligence, DRI initiated investigation against certain importers for adopting incorrect classification in respect of "Aluminium Formwork Material/System" imported from Republic of Korea under Customs Tariff Heading 76109010/20 and claiming ineligible exemption under SI No. 610 of the Notification No. 152/2009 Customs dated 31.12.2009 instead of adopting correct classification under Customs Tariff Heading 84806000, investigation was initiated against eight importers. The total duty liability in respect of eight importers has been estimated to be around Rs. 21.50 Crores. The importers have voluntarily deposited an amount of Rs. 13.85 Crores towards their adjudication liabilities.
 5. On the basis of specific intelligence, DRI initiated investigation in the export incentives such as Duty Drawback, MEIS etc. on the various products exported to exporter's wholly owned overseas subsidiaries and also raising credit notes on a quarterly, half yearly or yearly basis to their wholly owned overseas subsidiaries on account of transfer price adjustment. The exporter availed the export incentive on the entire value of the export proceeds, based on the bank realization certificate (BRC) submitted by them. The exporter accepted the error and deposited Rs. 35 Crores voluntarily on account of excess export incentives availed by him. Further investigation is under progress.
 6. On the basis of specific intelligence, DRI initiated investigation against import of miscellaneous electronic items made by Delhi based importers. Investigation revealed under-valuation/ mis-declaration in import as well as payments to actual suppliers by adopting the 'hawala' channel. Statement recorded under Sec 108 of Customs Act, 1962, indicated that Director of



the importing companies is the master mind behind the fraudulent import hence he was arrested and remanded to judicial custody by the competent Court. The total Customs duty evasion in the case is Rs. 60 Crore (approx). Further investigation is in progress.

7. On the basis of specific intelligence, DRI initiated investigation for evasion of Customs duty on imported viewing card and Set top box by mis-classification, undervaluation, wrong claim of country of origin exemption etc. Investigation revealed that importer is importing smart cards, classifying them under CTH 8523 5290 & claiming BCD exemption under Notification No. 24/2005 dated 01.03.2005 (Sl. No.15) as amended. However, these smart cards are fully loaded with proprietary software, specifically used in Set Top boxes falling under CTH 8528 7100 and cannot be used anywhere else. The importer is also importing cardless Set Top Box from Thailand and Indonesia which are covered under ASEAN treaty, and claiming exemption vide notification no. 46/2011 as amended. However, ASEAN contribution is less than the prescribed 35%, hence these imports are not eligible for exemption under notification no. 46/2011 as amended. Approximate duty liability is estimated to be Rs. 50 Crore, further investigation is in progress.
8. Intelligence was received by DRI that certain importers, namely (i) M/s Sharma Chemicals & Adhesive, New Delhi (ii) M/s A M Vinyl Pvt. Ltd. New Delhi (iii) M/s Petcon Thermal Pvt. Ltd., New Delhi and (iv) M/s VCRM Petrochemicals Pvt. Ltd, Shahjahanpur (UP) have imported PVC Resin under advance Authorization Scheme through various ports like Mundra SEZ, ICD Tughalakabad, ICD Sonapat, however no export have been made so far. During the investigation, one of the importers accepted diversion of Duty-Free imported goods into domestic market. Evasion of duty of approximately Rs. 38 Crores has been detected so far. One person was arrested. Further investigation is under progress.
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STATISTICS

Anti-Smuggling Performance by DRI

The Charter of the DRI enumerates the areas in which it functions. Besides its core functions, the DRI is also tasked with the responsibility of safeguarding the economic and social interest of the country. Even as the profile of the DRI has changed over the years, and indeed for the betterment, its fundamentals have always stood firm. The statistical data captures the results concisely and helps to indicate the trend over the years and is a useful tool for comparative analysis. The table depicts the diverse nature of seizures of specified commodities, booked by DRI and Customs formations.



Seizure of Specified Commodities

(Value in crore)

Sl. No.	Commodity	2017-18		2018-19		2019-20	
		All India	DRI	All India	DRI	All India	DRI
I	Gold	974	410.14	1,264.36	457.46	1,361.20	466.97
II	Foreign Currency	89.67	31.08	163.83	51.81	513.30	31.40
III	Narcotic Drugs	266.9	223.59	484.30	369.84	4,551.39	1,265.24
IV	Electronic Items	25.48	3.69	58.86	9.49	19.50	6.51
V	Fabrics/ Silk Yarn etc.	524.58	406.81	121.84	5.53	165.53	0.06
VI	Diamonds	11.39	0.32	28.94	14.74	223.58	1.28
VII	Indian Currency	4.77	2.07	28.01	24.08	24.33	15.14
VIII	Watches / Parts	2.63	0.75	9.66	3.58	1.37	-
IX	Machinery / Parts	21.35	18.91	20.45	17.90	64.10	49.79
X	Veh. / Vess. / Air-crafts	23.88	5.19	27.03	10.48	55.80	15.67
XI	Indian Fake Currency	0.77	0.69	0.99	0.53	0.62	0.28

ARREST, DETENTION AND PROSECUTION

Executive officers of the DRI are empowered to exercise the powers specified in Section 100, 101, 103, 104, 106, 106A, 107 and 110 of the Customs Act, 1962 (including the powers of search, seizure and arrest) vide Ministry of Finance, Department of Revenue, Notification No. 37 dated 01.02.1963 as amended by Notification No. 237 dated 27.11.1963. Power to arrest is exercised by the Directorate with a great sense of responsibility and circumspection. The details of arrests, COFEPOSA detentions and prosecution for the year 2017-18, 2018-19 and 2019-20 are as follows:-



Arrests, Detentions made and Prosecutions initiated by DRI

Year	No. of Persons Arrested	No. of Persons detained under COFEPOSA	No. of Prosecutions Launched
2017-18	1357	15	29
2018-19	819	9	24
2019-20	833	9	91

Anti- Smuggling Performance by Other Agencies

Indo – Tibetan Border Police

Details of Interception/Seizure for the Period 2019-20									
S. No	Type of goods (e.g Gold, Firearms, Drugs, Wild life, FICN etc.	Quantity	Value (in Lakh)	Location of seizure/ international border	Name of State/ International border	Number of Persons arrested/intercepted		Modus Operandi	Remark
						Indian	Foreign national with nationality		
1	Bharmar Rifle	4	-	-	Chhatisgarh	-	-		All restricted items seized during Area Domination Patrol in (Chhatisgarh) by ITBP and handed over to Chhatisgarh police with seizer memo.
2	303 Rifle	1	-	-		-	-		
3	Pistol	1	-	-		-	-		
4	Single Shot	1	-	-		-	-		
5	12 Bore Gun	5	-	-		-	-		
6	Ammunition	303 Rds	-	-		-	-		
7	Ganja	48 Kg	4.8	-		2	-	10 Packets inside the boot space of Car.	



Indian Coast Guard

Details of Interception/Seizure for the Period 2019-20									
S. No	Type of goods (e.g Gold, Firearms, Drugs, Wild life, FICN etc.	Quantity	Value (in Lakh)	Location of seizure/ international border	Name of State/ International border	Number of Persons arrested/intercepted		Modus Operandi	Remark
						Indian	Foreign national with nationality		
1	Heroin	217.4 Kg	1,000 Cr.	Gujarat Coast	Gujarat Coast	-	6 Pakistani	Pakistani fishing boat "AL-Madina'	21-May-19
2	Ketamine	1160 Kg	300 Cr.	Andaman & Nicobar Sea	Andaman & Nicobar Sea	-	6 Myanmarese	Myanmarese boat (Unnamed)	21-Sep-19
3	Methaqualone	371.6 Kg	185 Cr.	Andaman & Nicobar Sea	Andaman & Nicobar Sea	-	6 Myanmarese	Myanmarese boat (Unnamed)	20-Dec-19
4	Heroin	35 Kg	175 Cr.	Gujarat Coast	Gujarat Coast	-	5 Pakistani	Pakistan Fishing boat "AL Zam Zam'	6-Jan-20
5	Gold	15 kg	6.7 Cr.	Tamil Nadu Coast	Tamil Nadu Coast	02 Indian	-	Recovered during diving operation conducted at suspicious coordinates saved in GPS of the boat	4-Mar-20



Sashastra Seema Bal

Details of Interception/Seizure for the Period 2019-20									
S. No	Type of goods (e.g Gold, Firearms, Drugs, Wild life, FICN etc.	Quantity in Kgs/ Nos	Value (in Lakh)	Location of seizure/ international border	Name of State/ International border	Number of Persons arrested/intercepted		Modus Operandi	Remark
						Indian	Foreign national with nationality		
	Narcotics	5306.32	0	Indo-Nepal, Indo Bhutan Border, LWE areas, J& K & Assam	Indo-Nepal, Indo Bhutan Border, LWE areas, J& K & Assam	368	1 Maxico	Smugglers tried to smuggle contraband/ prohibited/ Narcotics etc. carrying by foot/ bicycle/vehicles an passing through illicit/ illegal route and dense forest without GST bill on taking advantage of open and porous border. For smuggling of Forest products, wooden logs are dumped in a remote place of forest area after cutting and further carried through Bullock Carts, Hand Carts & Bicycles etc. during night at odd hours taking advantage of darkness.	Value not given/ evaluated
	FICN	0	11.69			22	-		-
	India Currency	0	415.68			280	-		-
	Other Currencies	0	145.64			131	6 Bangladesh		-
							1 Ivory		-
							1 China		-
	Prohibited Items/ ContraBand	0	15939.6			6032	1 tibet		-
							5 Ukraine		-
							1 Nigeria		-
							1 Iran		-
							25 Bangladesh		-
	Foresh Products	0	2440.64			274	-		-
	Wildlife Products	0	0			75	-		Value not given/ evaluated
	Cattles	8918	1435.14			542	-		-
	Gold	3.54	371.49			18	-		-
	Silver	68.88	31.69	33	-	-			
	Psychotropic Synthetic Drugs	0	8.87	18	-	-			
	Arms								
	Factory made	70	0	39	-	-			
	Country made	229	0	161	-	-			



Ammunitions										
Cartridges	1929 Nos. & 1.050 Kgs Pellets	0		Indo-Nepal, Indo Bhutan Border, LWE areas, J& K & Assam	Indo-Nepal, Indo Bhutan Border, LWE areas, J& K & Assam	157	-	-	-	
Explosive										-
Detonator	579 Nos.	0				6	-	Most of the smuggling of Arms/ ammunition are being done through couriers, In rural are, Motor Cycle/Bicycle are used for trafficking. However, in the other area concealed part/ containers of vehicles & Trains are used for smuggling of Arms/ ammunitions etc.	-	
IED	20 Nos.	0				4	-		-	
Hand Grenade	4 Nos.	0				3	-		-	
Neogel Sticks	5 Kgs	0				1	-		-	
Gun Powder	20.40 kgs	0				9	-		-	
Power Gel Exp.	41 Nos.	0				0	-		-	
Explosive	21.10 Kgs	0				2	-		-	
bomb	13 Nos.	0				7	-		-	
Ammonium Nitrate	50 Kgs	0				0	-		-	
Giletine Stick	7.50 Kgs & 437 Nos	0				10	-		-	



Assam Rifles

S/No	Items	Quantity	Value (In Lakh)
1.	Firearms	276	-
2	Ammunition	7763	-
3.	Magazine	170	-
4.	Banned Drugs (Tab)	6968748	6776.04
5.	Banned Drugs (Kg)	79.421	5555.82
6.	Banned Drugs (Litres)	10	17517.20
7.	Ganja (kg)	580.30	25.27
8.	Brown Sugar (Kg)	91.828	10902.96
9.	Heroin (Kg)	12.089	1880.39
10.	Opium (Kg)	15.265	61.85
11.	Ginseng (Kg)	859	35.95
12.	IMFL (Btls)	105994	311.65
13.	Areca/ Betel Nuts (Kg)	1153206	3668.36
14.	Foreign Cigarettes (Pkt)	338500	385.72
15.	FICN (Rs)	1849300	18.49
16.	Gold (Kg)	25.807	902.00
17.	Pangolin Shells (Kg)	99.8	57.00
18.	Rhino Horn (Nos)	01	35.00
Total			48,133.70



Central Reserve Police Force (CRPF)

S.No	Type of goods (e.g Gold, Firearms, Drugs, Wild life, FICN etc.	Quantity (in No)	Name of State/ International border	Number of Persons arrested/intercepted	
				Indian	Foreign national with nationality
1	Gold	-	-	-	-
2	Firearms	189	J&K	60	
		7	Arunachal Pradesh	7	
		82	Assam	76	
		3	Tripura	3	
		5	Andhra Pradesh	0	
		38	Bihar	14	
		42	Chhattisgarh	6	
		70	Jharkhand	34	
		17	Maharashtra	0	
		15	Odisha	0	
		2	West Bengal	0	
		10	Uttar Pradesh	2	
3	Drugs/Narcotics	30.45	J&K	5	
		1.55	Arunachal Pradesh	6	
		455	Assam	55	
		9002	Andhra Pradesh	66	
		172.8	Chhattisgarh	12	
		17	Odisha	3	
		1687.35	Telangana	27	
		357	Tripura	3	
		25	Bihar	0	



Summary of Recovered Drugs/Narcotics:-

S.No	Type of Drugs/Narcotics	Quantity (in Kg)
1	Ganja	11694.13
2	Charas	15.6
3	Brown Sugar	1.71
4	Bhang	8
5	Opium	18.4
6	Fukhi	6
7	Heroin	1.31
8	Ketamine	2
9	W/Y Tablet	1

Summary of recovered other Narcotics

Type of Narcotics	Qty (in No)
Spasmo-Proxyvon Tab	2207
Nitrosun Tab	39
Liquor	408 Bottles



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