

BRIEF ON THE CHANGES TO THE IMPORTS AND EXPORTS (CONTROL) ACT NO.1 OF 1969 IN MAY 2022

INTRODUCTION

This is the 10th brief in a series that presents an analysis of the amendments to the regulations on the Imports and Exports (Control) Act (since April 2020¹). This brief analyses the Gazettes that were issued on May 6th, 2022 and May 31st, 2022 (refer below). In addition, the Customs Ordinance gazette too was analyzed given its relevance to the recent changes in the Import and Export (Control) regulations.

- Gazette 1: [Imports and Exports \(Control\) Regulations No. 7 of 2022 published in the Gazette Extraordinary No. 2278/21 dated 06 May 2022](#)
- Gazette 2: [Imports and Exports \(Control\) Regulations No. 8 of 2022 published in the Gazette Extraordinary No. 2282/21 dated 31 May 2022](#)
- Gazette 3: [Imports and Exports \(Control\) Regulations No. 9 of 2022 published in the Gazette Extraordinary No. 2282/22 dated 31 May 2022](#)
- Gazette 4: [Section 10 A of the Customs Ordinance \(Chapter 235\) Act No.83 of 1988 published in the Gazette Extraordinary No. 2282/25 dated 31 May 2022](#)

KEY TAKEAWAYS

- Gazette 1 imposed restrictions on payment terms under Open Account (OA) or Consignment Account, Documents against Acceptance (DA) and Documents Against Payments (DP) for the importation of goods.
- Gazette 2 rescinded the Gazettes issued on March 9th, 2022 and April 9th, 2022 imposing Import Control Licenses (ICLs) on imported goods.
- Gazette 3 extended the effective date of the open account ban for goods that arrived at sea ports and airports on or before June 07th, 2022.
- Gazette 4 imposed a customs duty surcharge on 75% of the products that were previously under the ICL requirement implemented by the Gazettes issued on March 9th, 2022 and April 9th, 2022. These ICL Gazettes as stated above were rescinded through Gazette 2.
- Observing the surcharge on customs duty, the highest increase in effective tax rate rates was seen in the machinery/electrical sector followed by the food sector and miscellaneous sector,

¹ Summary of these regulations can be accessed in Annexure 2

which comprises of goods such as furniture, sunglasses, gaming devices, keyboard instruments, etc.

KEY CHANGES OBSERVED

Gazette 1

- This Gazette covers overall imports without any separation on HS codes and is applicable to the most frequently used payment terms i.e. Open Account or Consignment Account, DP and DA payment terms shipments.
- It is observed that a large amount of trade has been on the above-stated payment terms covering all imports, especially including essential goods and raw materials for manufacturing. These changes would put further controls on imports creating shortages of items/products in the market while expecting to save the country's limited foreign exchange.

Key Changes

1. Under Gazette regulation No 4 - Open Account payment shall be only be allowed to;
 - a) Exporters paying for the importation of goods for their export purposes through their business Foreign Currency (FC) account or offshore FC account
 - b) Local suppliers, supplying goods for exporters, receiving payments in FC received to their Business Foreign Currency (BFC) account of offshore FC account
2. An importer under the Gazette regulation No 4, will adhere to the following when clearing goods;
 - a) Importer shall get his Invoices endorsed by his bank confirming that he has required funds in his FC or offshore FC account for payments
 - b) Such endorsed commercial invoices should be submitted for shipment clearance.
3. Any importer except referred under Gazette regulation No 4, when transacting under DP or DA terms, should obtain prior approval on the relevant proforma invoice from his bank prior to the "shipped on board date" of the bill of lading (BL), and such endorsed PFI, together with other documents would be required for shipment clearance
4. Any licensed banks when settling payments under Open Account or Consignment Accounts, should share payment details electronically to the Director General of Customs (DGC) relating to every Customs declaration (CUSDEC)
5. All violations of the above regulations would be dealt with under the provisions of the Customs Ordinance.
6. For any issues related to the interpretation of this regulation should be referred to the Controller General of Imports and Exports.
7. This regulation does not cover blanket approvals for shipments, partial shipments, and timelines for bank approvals or shipment periods.

Transacting under DP or DA terms

- The traditional DA or DP terms suggests that all documents should be channeled through the supplier's and importer's bank account.

Gazette 2

- This Gazette effective from June 1st, 2022, rescinded the Gazettes issued on March 9th 2022, and April 9th 2022 imposing Import Control Licenses on imported goods. Therefore, the goods specified in the Gazettes will no longer be under ICL regulations. Please refer to our last brief, which demonstrated the goods that came under ICL regulations².
- Therefore, goods imported during the period from March 10th, 2022 to May 31st, 2022 without an ICL were authorized to be released from Customs.

Gazette 3

- This Gazette, postponed the effective date of banning the importation of goods under Open Account payment terms (specified in Gazette 1) by two weeks to June 7th, 2022.
- Based on requests from the trade, the Ceylon Chamber made submissions to the policymakers requesting rationalization of the operative date on banning Open Account transactions. Since, currently, there are many shipping delays experienced globally resulting in long lead times for import consignments.
- The Imports and Exports Controller General has stated that the Department has informed DGC to consider any goods that may arrive after 7 June on a case-by-case basis and may allow goods shipped from long distances or subject to unforeseeable delays during shipment to be released, subject to a Customs penalty.
- The Gazette also allows the Imports and Exports Controller General to issue operating instructions to banks simplifying the procedures for imports under open accounts for re-exportation.

Gazette 4

- This Gazette that came into effect on June 1st, 2022, imposed a customs duty surcharge on 75% of the products that were previously under the ICL requirement implemented by the Gazettes issued on March 9th, 2022 and April 9th, 2022. These ICL Gazettes as stated above were rescinded through Gazette 2.

² https://www.chamber.lk/trade-watch/backend/public/uploads/attachments/article/BriefonChangesinImportExportRegulation_22March2022_1648026891.pdf

OVERVIEW OF THE SECTOR IMPLICATIONS

The machinery/electrical sector saw the highest number of goods coming under a customs duty surcharge with a share of 26% followed by the food sector (21%) and the miscellaneous sector (17%), which comprises of goods such as furniture, sunglasses, gaming devices and keyboard instruments. The Chemical and Allied industry and Metal industry had a share of 6% each. The table below provides a brief summary of the items that were subjected to a Surcharge of Customs Duty from June 1st, 2022.

Table 01: Summary of Products (at HS 8-digit level) under Surcharge of Customs Duty

HS Chapter Range	Product Description	No. of HS codes at 8-digit under Surcharge on Customs Duty	Coverage of Customs Duty Surcharge
01-05	Animal and Animal Products	7	2%
06-15	Vegetable Products	9	3%
16-24	Food Stuff	70	21%
25-27	Mineral Products	0	0%
28-38	Chemical and Allied industries	20	6%
39-40	Plastics/Rubbers	13	4%
41-43	Raw Hides, Skins, Leather, and Furs	13	4%
44-49	Wood and Wood Products	1	0%
50-63	Textiles	4	1%
64-67	Footwear/Headgear	15	5%
68-71	Stone/Glass	15	5%
72-83	Metals	19	6%
84-85	Machinery/Electrical	86	26%
86-89	Transportation	0	0%
90-97	Miscellaneous	55	17%
Total		327	100%

Source: EIU calculations based on Customs Data

Annexure 1

List of the Extraordinary Gazettes implemented since April 2020 to curtail imports.

1. [Imports and Exports \(Control\) Regulations No. 01 of 2020 published in the Gazette Extraordinary No. 2171/5 dated 16 April 2020](#)
2. [Imports and Exports \(Control\) Regulations No. 02 of 2020 published in the Gazette Extraordinary No. 2176/19 dated 22 May 2020](#)
3. [Imports and Exports 6 \(Control\) Regulations No. 03 of 2020 published in the Gazette Extraordinary No. 2182/10 dated 30 June 2020](#)
4. [Imports and Exports \(Control\) Regulations No. 04 of 2020 published in the Gazette Extraordinary No. 2184/21 dated 16 July 2020](#)
5. [Imports and Exports \(Control\) Regulations No. 05 of 2020 published in the Gazette Extraordinary No. 2189/04 dated 18 August 2020](#)
6. [Imports and Exports \(Control\) Regulations No. 06 of 2020 published in the Gazette Extraordinary No. 2189/05 dated 18 August 2020](#)
7. [Imports and Exports \(Control\) Regulations No. 07 of 2020 published in the Gazette Extraordinary No. 2193/9 dated 15 September 2020](#)
8. [Imports and Exports \(Control\) Regulations No. 08 of 2020 published in the Gazette Extraordinary No. 2198/2 dated 19 October 2020](#)
9. [Imports and Exports \(Control\) Regulations No. 09 of 2020 published in the Gazette Extraordinary No. 2199/20 dated 29 October 2020](#)
10. [Imports and Exports \(Control\) Regulations No. 10 of 2020 published in the Gazette Extraordinary No. 2206/05 dated 14 December 2020](#)
11. [Imports and Exports \(Control\) Regulations No. 11 of 2020 published in the Gazette Extraordinary No. 2207/15 dated 24 December 2020](#)
12. [Imports and Exports \(Control\) Regulations No. 1 of 2021 published in the Gazette Extraordinary No. 2209/18 dated 05 January 2021](#)
13. [Imports and Exports \(Control\) Regulations No. 3 of 2021 published in the Gazette Extraordinary No. 2214/56 dated 11 February 2021](#)
14. [Imports and Exports \(Control\) Regulations No. 04 of 2021 published in the Gazette Extraordinary No. 2222/31 dated 06 April 2021](#)
15. [Imports and Exports \(Control\) Regulations No. 05 of 2021 published in the Gazette Extraordinary No. 2224/43 dated 23 April 2021](#)
16. [Imports and Exports \(Control\) Regulations No. 06 of 2021 published in the Gazette Extraordinary No. 2224/44 dated 23 April 2021](#)
17. [Imports and Exports \(Control\) Regulations No. 07 of 2021 published in the Gazette Extraordinary No. 2226/48 dated 06 May 2021](#)
18. [Imports and Exports \(Control\) Regulations No. 08 of 2021 published in the Gazette Extraordinary No. 2231/16 dated 11 June 2021](#)
19. [Imports and Exports \(Control\) Regulations No. 09 of 2021 published in the Gazette Extraordinary No. 2231/17 dated 11 June 2021](#)
20. [Imports and Exports \(Control\) Regulations No. 10 of 2021 published in the Gazette Extraordinary No. 2231/18 dated 11 June 2021](#)
21. [Imports and Exports \(Control\) Regulations No. 12 of 2021 published in the Gazette Extraordinary No. 2247/12 dated 29 September 2021](#)
22. [Imports and Exports \(Control\) Regulations No. 13 of 2021 published in the Gazette Extraordinary No. 2249/10 dated 11 October 2021](#)

23. [Imports and Exports \(Control\) Regulations No. 14 of 2021 published in the Gazette Extraordinary No. 2252/30 dated 03 November 2021](#)
24. [Imports and Exports \(Control\) Regulations No. 15 of 2021 published in the Gazette Extraordinary No. 2256/23 dated 30 November 2021](#)
25. [Imports and Exports \(Control\) Regulations No. 01 of 2022 published in the Gazette Extraordinary No. 2262/16 dated 11 January 2022](#)
26. [Imports and Exports \(Control\) Regulations No. 02 of 2022 published in the Gazette Extraordinary No. 2262/17 dated 11 January 2022](#)
27. [Imports and Exports \(Control\) Regulations No. 03 of 2022 published in the Gazette Extraordinary No. 2262/18 dated 11 January 2022](#)
28. [Imports and Exports \(Control\) Regulations No. 4 of 2022 published in the Gazette Extraordinary No. 2262/34 dated 13 January 2022](#)
29. [Imports and Exports \(Control\) Regulations No. 5 of 2022 published in the Gazette Extraordinary No. 2270/18 dated 09 March 2022](#)
30. [Imports and Exports \(Control\) Regulations No. 7 of 2022 published in the Gazette Extraordinary No. 2278/21 dated 06 May 2022](#)
31. [Imports and Exports \(Control\) Regulations No. 8 of 2022 published in the Gazette Extraordinary No. 2282/21 dated 31 May 2022](#)
32. [Imports and Exports \(Control\) Regulations No. 9 of 2022 published in the Gazette Extraordinary No. 2282/22 dated 31 May 2022](#)

Annexure 2

The table below provides an overview of Import Restrictions seen across regulations imposed since April 2020:

Table 02: Summary of Import Restrictions at HS 8-digit level

Gazette Number and Date	Number of HS Codes in TS	Number of HS Codes in C - 90 days	Number of HS Codes in C -180 days	Changes in HS Codes in ICL	Changes in HS Codes in B
No. 2171/05 of 16 April 2020	749	633	N/A	N/A	N/A
No. 2176/19 of 22 May 2020	1076	734	Given under broad classifications - IT equipment, communication equipment, cement, sugar, and palm oil	Added - 1 Removed - 5 Suspended ³ - 418	6
No. 2182/10 of 30 June 2020	1079 ⁴	767 ⁵	117	Added ⁶ - 33	Removed - 4

³ Suspension was valid till 17th August

⁴ Removed -19 from May and added -22 to May Gazette

⁵ Removed -18 from May and added -51 to May Gazette

⁶ 4 items out of 33 were imposed with an Import Control License Fee as given below

1. Salt- 0.2% of CIF value
2. Face mask- 0.2% of CIF value
3. Grain sorghum- 0.3% of CIF value

				Removed -10 Suspended ⁷ - 27	Added - 2
No. 2184/21 of 16 July 2020	829	796	132	N/A	N/A
No. 2189/04 of 18 August 2020	N/A	N/A	N/A	Added - 40 ⁸ Suspended indefinitely- 451	Removed - 2 Added - 7
No. 2193/9 of 15 September 2020	594 ⁹	1013 ¹⁰	131 ¹¹	N/A	N/A
No. 2198/2 of 19 October 2020	524 ¹²	1087 ¹³	130 ¹⁴	N/A	N/A
No. 2199/20 of 29 October 2020	N/A	N/A	N/A	Added - 9 ¹⁵	N/A
No. 2206/05 of 14 December 2020	N/A	N/A	N/A	Added - 251 ¹⁶ Removed -1	N/A
No. 2207/15 of 24 December 2020	503 ¹⁷	1036 ¹⁸	125 ¹⁹	N/A	N/A
No. 2209/18 of 05 January 2021	508 ²⁰	1031 ²¹	125	N/A	N/A

4. Saws- 0.4% of CIF value

⁷ Suspension was valid till 17th August 2020

⁸ The Import Control License Fee introduced in June continued

⁹ Removed – 16 from the July Gazette and 219 Transfers to C-90 days

¹⁰ Added – 219 (this was a transfer from the TS schedule of July to C-90 days). Removed -2 from the July Gazette

¹¹ Removed -1 from the July Gazette

¹² 70 transferred to C-90 days

¹³ 70 transferred to C-90 days and 4 more items added with description changes

¹⁴ Removed one HS code

¹⁵ An Import Control License Fee was also imposed on Sugar items of 0.4% of CIF value

¹⁶ An Import Control License Fee was also imposed as given below

1. Apparels and Fabrics - 1.0% of CIF value

2. Fishing vessels and Yachts - 10.0% of CIF value

¹⁷ 4 deleted from TS, 18 transferred from TS to C-90 and 1 transferred from C to TS

¹⁸ 18 transferred from TS to C, 95 new additions, 1 transfer from C to TS and 163 removals

¹⁹ 6 new additions and 1 removal

²⁰ 5 transferred from C-90 days to TS,

²¹ 5 transferred from C-90 days to TS

No. 2214/56 of 11 February 2021	505 ²²	1034 ²³	130 ²⁴	Removed - 3	N/A
No. 2222/31 of 06 April	N/A	N/A	128 ²⁵	Added - 3 ²⁶	Added - 3
No. 2224/43 of 23 April 2021	N/A	N/A	N/A	Added - 8	N/A
No. 2224/44 of 23 April 2021	512 ²⁷	N/A	N/A	N/A	N/A
No. 2226/48 of 06 May 2021	N/A	N/A	N/A	Added - 21	Added - 16
No. 2231/16 of 11 June 2021	N/A	N/A	N/A	Added - 5 Removed - 1	N/A
No. 2231/17 of 11 June 2021 ²⁸	N/A	N/A	N/A	N/A	N/A
No. 2231/18 of 11 June 2021	442 ²⁹	N/A	N/A	N/A	N/A
No. 2247/12 of 30 September 2021	N/A	N/A	N/A	Removed - 2	N/A
No. 2252/30 of 03 November 2021	439 ³⁰	N/A	N/A	N/A	N/A
No. 2256/23 of 29 November 2021	N/A	N/A	N/A	Added - 1	Added - 1
No. 2262/17 of 11 January 2022	N/A	N/A	N/A	Added - 7 Removed - 5	N/A
No. 2262/18 of 11 January 2022	438 ³¹	N/A	N/A	N/A	N/A

²² 5 transferred from TS to C-180days and 2 new additions

²³ 3 transfers from ICL to C-90 days

²⁴ 5 transferred from TS to C-180days

²⁵ Removed - 2

²⁶ Palm oil - 0.4% of CIF value

²⁷ Added 7

²⁸ This Gazette did not relate to import controls but rather required the recommendation of the NMRA to export Oxygen and respiratory apparatuses

²⁹ Repealed July 2020 schedules and added 8 and removed 78 to TS (when compared to July 2020)

³⁰ Removed - 3

³¹ Removed – 3 and added - 2

No. 2262/34 of 13 January 2022	N/A	N/A	N/A	Removed - 3	N/A
No. 2270/18 of 10 March 2022	N/A	N/A	N/A	Added - 367	N/A
No. 2282/21 of 31 May 2022	N/A	N/A	N/A	Removed- 367 ³²	N/A

Note: the products mentioned above are calculated based on the products specified in each Gazette.
N/A (Not Applicable) - Gazette did not cover this schedule

Past briefs can be accessed through [Trade Watch](#). This is compiled by the Ceylon Chamber of Commerce (CCC) and the United States Agency for International Development (USAID) Partnership for Accelerating Results in Trade, National Expenditure, and Revenue (PARTNER) Activity.

For further details, /clarifications



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³² Rescinded Gazette No. 2270/18 of 10 March 2022