



**OFFICE OF THE COMMISSIONER OF CUSTOMS  
CUSTOM HOUSE KANDLA  
NEAR BALAJI TEMPLE, NEW KANDLA**

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DIN-20240871ML0000504425

A	File No.	S/20-02/R&I/Inv/Albatross 1/2023-24
B	Order-in-Original No.	KDL/ADC/DPB/19/2024-25
C	Passed by	Shri Dev Prakash Bamanavat, Additional Commissioner, Custom House, Kandla
D	Date of order	06.08.2024
E	Date of issue	06.08.2024
F	Show Cause Notice Nos. & Date	NIL
G	Noticee	<b>Mr. Vipin Viswanath Nair, Master of Vessel MT Albatross 1, (Through vessel's agents M/s Atlantic Global Shipping Pvt. Ltd, Gandhidham, Kutch)</b>

1. This Order - in - Original is granted to the concerned free of charge.
2. Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

**The Commissioner of Customs(Appeals), Kandla,  
Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,  
Ashram Road, Ahmedabad - 380009**

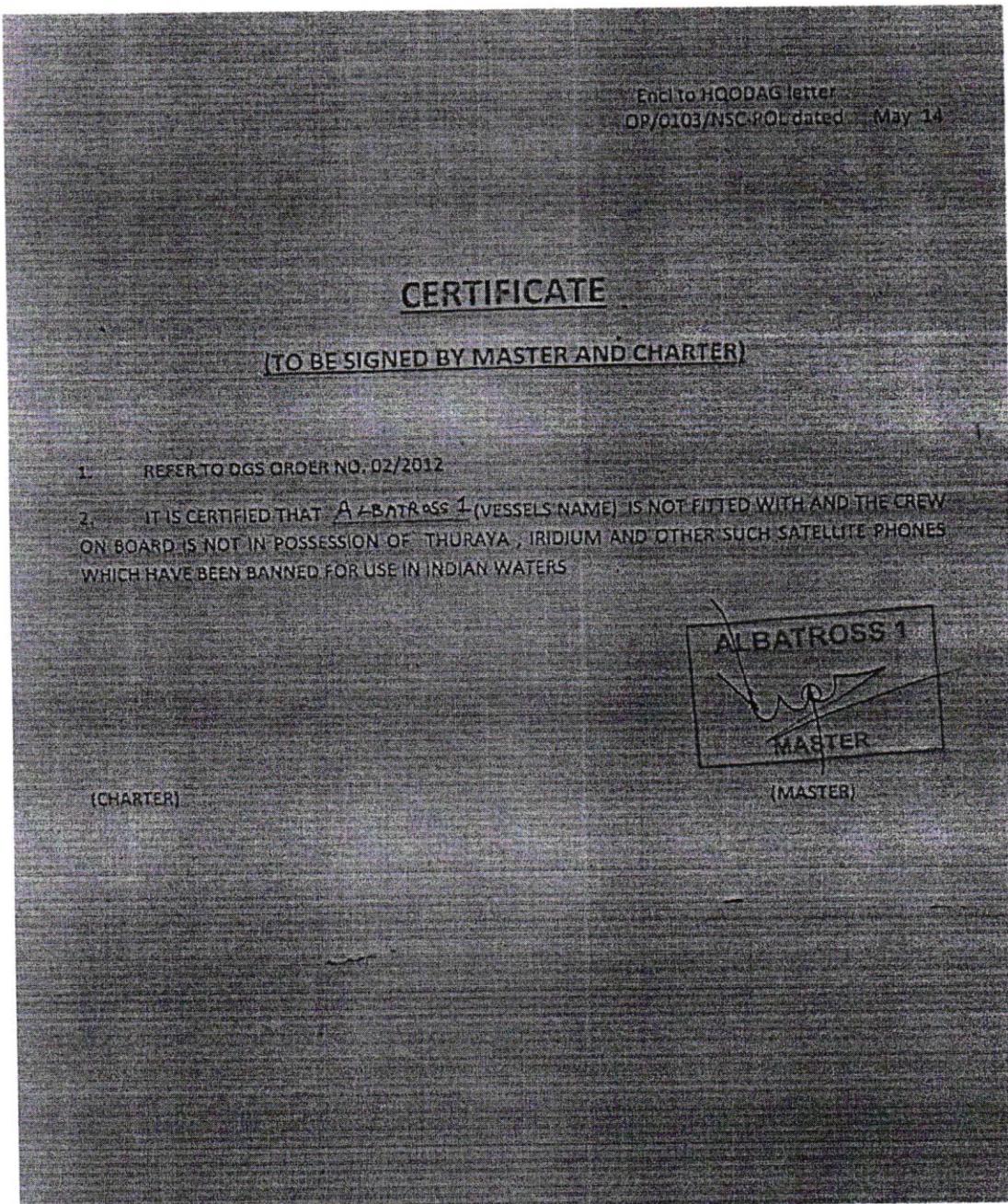
3. Appeal shall be filed within three months from the date of communication of this order.
4. Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs. 10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.
5. The appeal should bear Court Fee Stamp of Rs. 5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
6. Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.

## **1. BRIEF FACTS:**

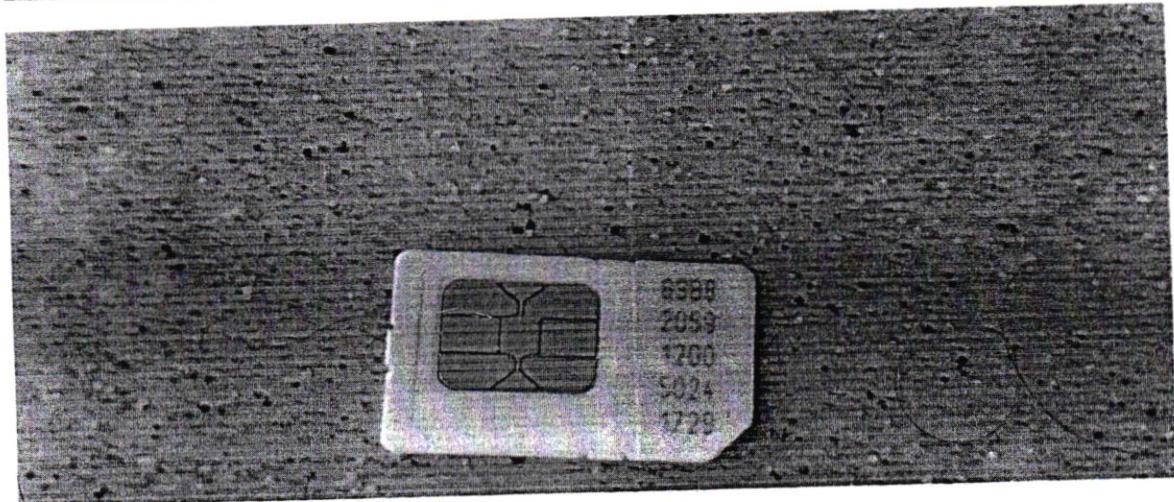
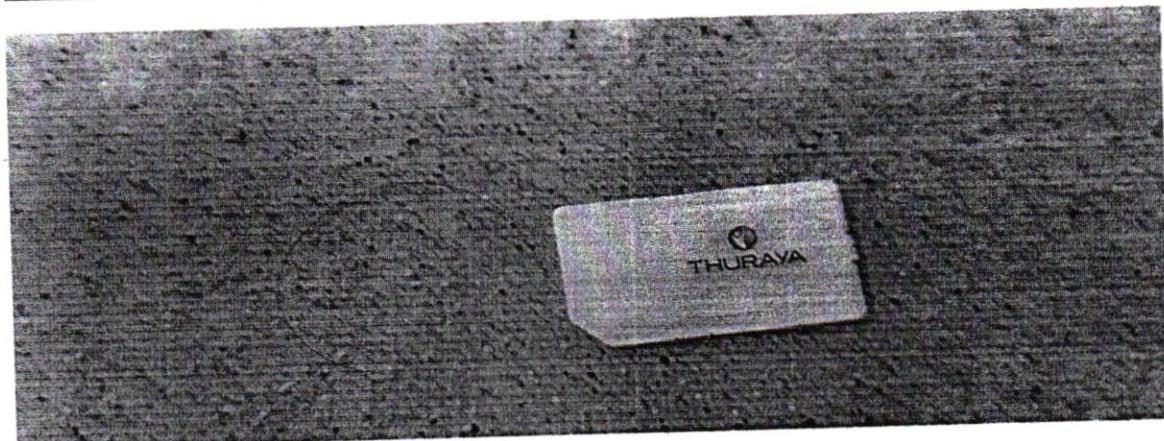
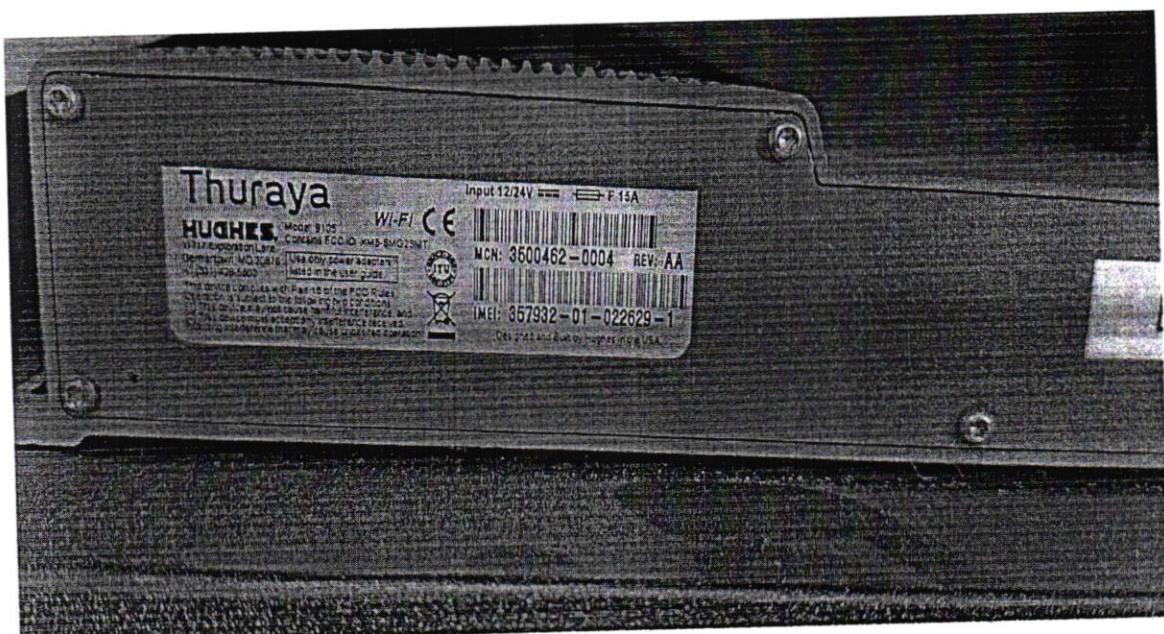
1.1 The vessel MT Albatross 1 having Panama flag, registered at Panama, arrived in Indian Territorial waters on 05.02.2024 and berthed on 07.02.2024 at Oil jetty-07, Deendayal Port, Kandla.

1.2 Input received from Pradhan Adhikari, ICGs, Mundra vide File No,- 616/2 dated 07.02.2024, that few thuraya satellite Phone transmissions have been intercepted and there is likely involvement of MT Albatross 1 is suspected, owing to the vessel coinciding GPS position in and around GoK (Gulf of Kutch) on 05 & 06.02.2024.

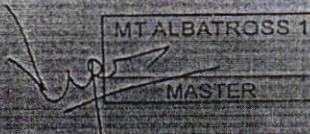
1.3 On receipt of the above information, the vessel was boarded on 07.02.2024 at 1030 hrs at oil jetty no.7 by Shri Sudhir Kumar, PO(R&I), Shri Naveen, PO(R&I), Shri T M Sindhav, SOG,Gandhidham, Shri Shri R H Jhala, ASI Marine Police, Kandla, Shri B VRao, P/NVK ICGS Mundra and Shri Kunal, Inspector, CISF. The officers went to the Master and the second officer and explained the purpose of visit. The Master was asked to call all the crew members. The Captain of the vessel and all crew members were asked about the possession/use of Thuraya Satellite phone, the Master told that they had only V-SAT phone on board and did not have any Thuraya Phone on the vessel and the same had already been declared by him in the pre arrival Custom documents. The copy of Master's declaration for satellite phone is as under: -



1.4 For investigation, all the officers visited deck of the vessel and there they found that vessel was fitted with Thuraya Modem. The photo of the Thuraya Modem bearing IMEI: 357932-01-022629-1 and its SIM Card (No 8988 2059 1200 5024 1729) is as under-



1.5 In this regard, on enquiring the Master, he stated that Thuraya Modem was for data connection backup which is used for exchanging emails when V-SAT is non-operational. Further, he stated that he was unaware about the declaration of fixed Thuraya Modem unit i.e. for email backup communication. The statement of master in this regard is as :-

	<b>CROWNWELL SHIPPING (OPC) PRIVATE LIMITED</b> <b>INTEGRATED MANAGEMENT SYSTEM MANUAL</b> <b>MASTERS STATEMENT</b>	Form: Appendix G Page 1 of 1 Issue 01 – Rev. 00 Dated 14.04.2023
<b>TO</b> <b>WHOM IT MAY CONCERN</b>		
<b>Master Statement</b>		
<p>I, Vipin Viswanath Nair, Master of vessel MT ALBATROSS 1 would like to state that vessel is equipped with V-SAT connections for ships email, internet and telephone communication. In the event of V-SAT issue or no signal there is provision of using Thuraya fixed modem unit for email communication. For this V-SAT Lan will have to be replaced with Thuraya Lan and Thuraya fixed modem unit will have to be powered on. This is a backup system of communication provided for the vessel to exchange emails when V-SAT is down.</p> <p>Vessel does not have independent and dedicated Thuraya or Iridium handheld phones onboard which was declared in pre-arrival documents. I hereby state that V-SAT system was running throughout the voyage and there was no need to manually switch to the backup mode of communication.</p> <p>The backup arrangement is designed to keep only the ships email communication running on single PC restricting all WiFi and internet services onboard.</p> <p>Self-misunderstood that only hand-held phones need to be declared and fixed modem unit for email backup communication was not required to be declared. Sincere apologies for the same.</p> <p>Upon investigation today on 07th Feb 2024, found the IMEI no: 357932-01-022629-1 located at the back of Thuraya fixed unit inside the V-SAT cabinet. V-SAT cabinet is always kept locked and key is retained with master.</p> <p>To support the ongoing investigation, vessel has submitted all requested documents and masters statement to the investigating authority.</p>		
 <b>MASTER</b> <b>MT ALBATROSS 1</b> 07 <sup>th</sup> February 2024		

1.6 Further, thorough checking of the vessel along-with the crew effects was carried out by the team and no other Thuraya Satellite Communication device was found on the vessel.

1.7 The coordinates provided by ICGS Mundra and Co-ordinates (Aprox) of the vessel provided by Master at the time of thuraya Transmission interception, are as under-

Sr. No.	Time/Date of thuraya transmission interception	Coordinates of Thuraya Interception provided by ICGS, Mundra	Co-ordinates(Aprox) of the vessel provided by Master at the time of thuraya Transmission interception
01	1332 Hrs / 05-02-2024	22°47'88"N 068°40'22"E	Not Available in System

02	1600 Hrs / 05-02-2024	22°24'32"N 068°51'17"E	22°24'486"N 068°51'253"E
03	1804 Hrs / 05-02-2024	22°37'34"N 069°10'40"E	22°37'754"N 069°10'126"E
04	2210 Hrs / 05-02-2024	22°42'59"N 069°58'08"E	22°43'037"N 069°58'263"E
05	0028 Hrs /06-02-2024	22°46'13"N 070°01'07"E	22°46'229"N 070°01'134"E
06	1735 Hrs /06-02-2024	22°46'11"N 070°01'09"E	22°46'191"N 070°01'140"E

From the above coordinates, it seems that the vessel was in the close vicinity at the time of Thuraya transmission interception.

1.8 Also, the Thuraya modem was used for test checking from 1141.00 hrs to 1141.02hrs and 1631.00hrs to 1653.00hrs and it was found that the Thuraya modem was in operational condition.

1.9 Further, the use of Thuraya is not freely allowed in India under Section 6 of the Indian Wireless Act and Section 20 of the Indian Telegraph Act. However, as per DGS Order No. 02 of 2012 dated 16.05.2012 issued by the Director General of Shipping, Satellite phones can be used only after getting No-objection-Certificate from the department of Telecommunication. The said vessel did not have No-Objection Certificate from the Department of Telecommunication. The relevant paras of DGS Order No. 02 of 2012 dated 16.05.2012 are as under:-

*“2. The use of Thuraya, Iridium and other such Satellite phone is banned in India under Sec 6 of Indian Wireless Act and Sec 20 of Indian Telegraph Act. It is intimated to all Shipping companies / Shipping agents that use of Thuraya, Iridium and other such Satellite is banned in Indian waters and seafarers should not use the same.*

3.....

4.....

*5. The unauthorized holder of Thuraya, Iridium and other such Satellite phone can be prosecuted under Sec 6 of Indian Wireless Act and Sec 20 of Indian Telegraph Act.”*

1.10 Prima facie, it appears that provision of Section 111(D) of the Customs Act, 1962 was violated as the captain in his statement dated 07.02.2024 accepted the existence of Thuraya Modem on the vessel and the same was in operational condition and was not declared in custom documents. Also the vessel was in close vicinity of Coordinates of the Thuraya transmission interception, therefore the said Thuraya modem was liable for confiscation under section 111 of the Customs Act 1962 and therefore, the said Thuraya modem was seized under Section 110(1)

of Customs Act, 1962 under seizure memo dated 07.02.2024. It also appeared that Section 6 of the Indian Wireless Act, Section 20 of the Indian Telegraph Act and DGS Order No. 02 of 2012 dated 16.05.2012 have been violated.

1.11 The master of the vessel (MT Albatross 1), vide letter dated 08.02.2024, authorized M/s Atlantic Global Shipping Pvt. Ltd (Shipping Agent of the vessel MT Albatross 1) for further procedure in the matter. M/s Atlantic Global Shipping Pvt. Ltd, as Shipping Agent, on behalf of the Master of the vessel MT Albatross 1 undertake to make the payment of the applicable penalty charges as per the order by Kandla Customs against the vessel/master of the vessel within seven working days, whenever adjudication is completed. M/s Atlantic Global Shipping Pvt. Ltd has also submitted Bond dated 08.02.2024 in this regard.

1.12 M/s Infinity Ships Ltd (Owner of the Ship MT Albatross 1) vide letter dated 20.02.2024 and M/s Atlantic Global Shipping Pvt. Ltd vide letter dated 21.02.2024 has requested to take a lenient view in the matter as master of the vessel in his statement has already admitted the erroneous use of the Thuraya Satellite phone. Further, they requested that they do not wish a Show Cause Notice to be issued to the master/owner or personal hearing to be held in this regard and case may be adjudicated on the basis of the evidences on the record.

## **2. FINDINGS:**

2.1 I have carefully gone through the facts of the case, and the documents available on record. I proceed to decide the case accordingly. M/s Atlantic Global Shipping Pvt. Ltd as Shipping Agent on behalf of the Master of the vessel MT Albatross 1 has requested for waiver of SCN in the case, and requested to issue a speaking order and decide the case on merit which is taken on record.

2.2 The issue involved in the present case is regarding use of Thuraya Satellite Phone in Indian waters on 05.02.2024 and 06.02.2024 which is banned/ prohibited in India/ Indian Waters.

2.3 The master vessel in his statement dated 07.02.2024 stated that vessel is equipped with V-SAT connection for emails, internet and telephone communication. In the event of V-SAT issue or no signal, there is a provision of using the Thuraya fixed modem unit for email communication. This is a backup system of communication provided for the vessel to exchange emails when V-SAT is down. Further, the master stated that he self-misunderstood that only hand-held phones needs to be declared and fixed modem unit for email backup communication was not to be declared and sincerely apologies for the same.

2.4 It is a fact that THURAYA Transmission had been activated on the vessel MT Albatross 1 and the satellite signals were intercepted by various government agencies which lead to this investigation as directed by various Authorities. Also, the master of the vessel in his statement dated 07.02.2024 has accepted the existence of Thuraya Modem on the vessel and the same was in operational condition and was not declared in custom documents. Also, the vessel was in close vicinity of Coordinates of the Thuraya transmission interception.

2.5 I find that the voluntary statement of the master of vessel given on 07.02.2024 in presence of various other agencies, no antinational activity or mala fide intention was noticed. Hence, after taking undertaking from Shipping agents M/s Atlantic Global Shipping Pvt. Ltd and no objection for sailing/departure of the vessel MT Albatross 1 from ICGS Mundra, Marine Police Kandla, CISF Kandla, SOG Gandhidham and not noticing anything to the contrary, the Port Clearance was given to the vessel.

2.6 I find, that the use of Thuraya Satellite Phone violates the provision of section 111 (D) of Customs Act, 1962 and Section 6 of the Indian Wireless Act, Section 20 of the Indian Telegraph Act and DGS Order No.06 of 2012 dated 16.05.2012. I therefore, find the subject Thuraya Satellite Phone is liable for absolute confiscation for violating Section 111(D) of the Customs Act, 1962.

2.7 I find that the master of the vessel is liable to pay penalty under section 112(A) of the Customs Act, 1962 for violating Section 111(D) of the Customs Act, 1962.

**3.** In view of the above, I pass the following order:-

**ORDER**

(a) I order for absolute confiscation of the Thuraya Modem bearing IMEI: 357932-01-022629-1 and its SIM Card (No 8988 2059 1200 5024 1729) which was seized on board from the vessel MT Albatross 1 at Oil Jetty-07 of Deendayal Port, Kandla under Seizure Memo dated: 07.02.2024 for violating Section 111(D) of the Customs Act, 1962.

(b) I impose penalty of Indian Rs. 1,00,000/- (Rupees One Lakh only) under section 112(a) of the Customs Act, 1962 on Mr. Vipin Viswanath Nair, Master of Vessel MT Albatross 1, (Through vessel's agents M/s Atlantic Global Shipping Pvt. Ltd, Gandhidham, Kutch).

This order is passed without prejudice to the any other action which may be contemplated against the Master/Managers/Owners or any other person in terms of any provision of the Customs Act, 1962 and any other law for the time being in force.



देव प्रकाश बमनावत  
अपर आयुक्त

(Dev Prakash Bamanavat)  
Additional Commissioner,  
Customs House, Kandla.

To,

**Mr. Vipin Viswanath Nair, Master of Vessel MT Albatross 1, (Through vessel's agents M/s Atlantic Global Shipping Pvt. Ltd, Gandhidham, Kutch)**

Copy To:

1. The Commissioner of Customs, Custom House, Kandla.
2. The Assistant Commissioner (RRA), Custom House, Kandla.
3. The Assistant Commissioner (TRC), Custom House, Kandla.
4. The Commandant, Central Industrial Security Forces, Kandla.
5. The Assistant Commandant, Indian Coast Guard, Mundra.
6. The ACIO-I, Central Intelligence Bureau, Gandhidham.
7. The Police Inspector, Marine Police, Kandla.
8. The Police Inspector, Special Operations Group, Gandhidham.
9. The Police Inspector, State Intelligence Bureau, Gandhidham.
10. The Inspector, Central Special Bureau, Gandhidham.
11. Guard file.