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Argentina Accused of Import Licensing in WTO Court

Nationalisation of Spanish Oil Giant Triggers EU Retaliation



The European Union launched a challenge at the World Trade Organization on Friday, 25 May against Argentinian restrictions on imports, escalating a trade war triggered when Buenos Aires seized Spanish oil assets.

The EU exports more than 11 billion euros' (\$13.8 billion) worth of goods and services to Argentina each year, importing a similar amount in return, but complained that "Argentina's restrictive measures are extending to more and more sectors."

Announcing the move, De Gucht highlighted procedures to obtain an import licence as well as an obligation on companies to balance imports with exports.

De Gucht said the trend began in 2005 with restrictions on cars, household appliances, laptops and mobile phones, but that in February this year, "Argentina tightened the screws" by subjecting "all products" to a non-written "illegal" accreditation regime.

De Gucht was at pains to dissociate the import restrictions from the decision by Argentina earlier this month to formally nationalise YPF, majority owned by Spanish energy giant Repsol.

Spanish Prime Minister Mariano Rajoy said the seizure would trigger a "tremendous" loss in international investor confidence in the country.

YPF accounts for 34 percent of Argentina's domestic oil production, 25 percent of domestic gas production and 54 percent of domestic refining, according to the Argentine Oil Institute.

Argentine President Cristina Kirchner argued the move was justified because Argentina faces sharp rises in its bill for imported oil and Repsol has failed to make agreed investments needed to expand domestic production.

Repsol has said it wants at least \$10 billion in compensation and on Friday cancelled its contract to supply liquid natural gas to Argentina.

Buenos Aires said Repsol is leaving a \$9 billion debt, while in just over a decade it earned more than \$15.7 billion, most of it sent overseas and not reinvested in the country.

The EU has clear concerns in respect of Argentina's import measures which run contrary to WTO rules for a transparent, free and fair trading system. These include:

1. Argentina subjects the import of all goods to a pre-registration and pre-approval regime, called the "Declaración Jurada Anticipada de Importación". Since February 2012, this pre-approval requirement is applied to all imports.

2. Hundreds of goods also need an import license. On the basis of these procedures, imports are systematically delayed or refused on non-transparent grounds. In early 2011, more than 600 product types were affected by this licence regime, such as electrical machinery, auto parts and chemical products.
3. Argentina requires importers to balance imports with exports, or to increase the local content of the products they manufacture in Argentina, or not to transfer revenues abroad. This practice is systematic, non-written and non-transparent. Acceptance by importers to undertake this practice appears to be a condition for obtaining the license allowing imports of their goods. These measures delay or block goods at the border and inflict major losses to industry in the EU and worldwide.

The restrictions which were in place in 2011 affected about €500 million of exports in the same year. As of 2012, the extension of the measures to all products raised the magnitude of the potentially affected trade to all EU exports to Argentina, which amounted to €8.3 billion in 2011. The long-term impact of a negative trade and investment climate is significantly higher.

The EU, together with other major world trading partners, has raised the issue with Argentina repeatedly over the past years without success.

Background

Trade facts and figures

Trade in goods (directly impacted by the restrictive measures and subject to this WTO case)

- EU goods exports to Argentina 2011: €8.3 billion
- EU goods imports from Argentina 2011: €10.7 billion

EU imports from Argentina primarily consist of agricultural products (food and live animals, 53%), chemicals (16%) and raw materials (14%), while the EU mainly exports manufactured goods such as machinery and transport equipment, such as cars and car parts (50%) and chemicals (20%) to Argentina.

Trade in commercial services

- EU services exports to Argentina 2010: €3 billion
- EU services imports from Argentina 2010: €2.1 billion

The EU has a surplus in services trade with Argentina of €0.9 billion

Argentina's restrictive measures are extending to more and more sectors; in this regard, the EU is also closely monitoring the services sector and evaluating the extent to which it is affected.

New Foreign Trade Policy due on 5 July 2012

Dollar Shortage in World Economy as Assets Seek Safety



The dollar is proving scarce, even after the Federal Reserve flooded the financial system with an extra \$2.3 trillion, as the amount of the highest-quality assets available worldwide shrinks.

From last year's low on July 27, the greenback has risen against all 16 of its major peers. Intercontinental Exchange Inc.'s Dollar Index surged 12 percent, higher now than when the Fed began creating dollars to buy bonds under its extraordinary stimulus measures at the end of 2008.

International investors and financial institutions that are required to own only the highest quality assets to meet investment guidelines or new regulations are finding fewer options beyond dollar-denominated assets. The U.S. is one of only five major economies with credit-default swaps on their debt trading at less than 100 basis points, meaning they are viewed as almost risk free. A year ago, eight Group-of-10 nations fit that category.

Euro Depreciation

The dollar is gaining mainly at the expense of the euro, which has depreciated almost 5 percent in the past six months against a basket of nine major currencies tracked by Bloomberg as nations from Spain to Italy see their credit ratings downgraded amid the region's sovereign crisis.

Spain, which has about \$917.5 billion of debt, has been cut six levels by Moody's Investors Service to A3 from Aaa in September 2010. Italy, with more than \$2 trillion of debt, has been reduced four levels to A3 from Aa2 in October.

The U.S. currency appreciated 2.06 percent last week to \$1.2517 per euro in New York after touching \$1.2496, the strongest since July 2010. It gained 0.84 percent to 79.68 yen. The Dollar Index jumped 1.37 percent to 82.402, its fourth-straight weekly rally.

The dollar added 0.1 percent to \$1.2527 per euro on 28 May, while it was little changed at 79.45 yen.

Bigger Share

The five economies with default swaps trading at less than 100 basis points have a combined

\$14 trillion in debt, with the U.S. accounting for 75 percent, according to CMA data. A year ago, when there were eight nations, the total was \$24 trillion, with America making up 38 percent.

Hungary's central bank is among reserve managers diversifying foreign-exchange holdings as the credit quality of European assets declines. The central bank said it will include dollars, yen and British pounds in its reserves, currently invested exclusively in euro-denominated securities.

No 'Master Plan'

China Investment Corp. President Gao Xiqing said May 10 the nation's sovereign wealth fund stopped buying government debt in Europe as the region's turmoil intensifies. With an estimated \$440 billion in assets, CIC is the world's fifth-largest country fund, according to the Sovereign Wealth Fund Institute.

The greenback's share of global foreign-exchange reserves climbed in the last three-months of 2011 to 62.1 percent, the highest since June 2010, while holdings of euros fell to the lowest since September 2006 at 25 percent, according to the latest quarterly data from the International Monetary Fund.

Bank Demand

Demand for dollars is also showing up in financial institutions needing to meet Basel III regulations set by the Bank for International Settlements. The new rules on capital reserves will "increase the price of safety" embedded in assets deemed a reliable store of value, the IMF wrote in an April 18 report.

The cost for banks to convert euro interest payments into dollars through the swaps market for three years has increased to 67.8 basis points below the euro interbank offered rate, or Euribor, from 34.8 basis points below in March 29. Negative spreads show a premium for dollar funding.

Dollar assets are also looking attractive on a relative basis, with yields on Treasuries due in 10 years averaging 0.37 percentage point more than German bunds of similar maturity. As recently as November, Treasuries yielded about 0.33 percentage point less than bunds.

India Plays Catch-Up on Myanmar as China, S. Korea Rush In

Prime Minister Manmohan Singh seeks to make up lost ground in the charge to secure resources and business ties in Myanmar when he next week becomes India's first leader to visit its eastern neighbor in a quarter of a century.

India, which in British colonial days oversaw the monetary and financial system of what was then Burma, ranked 13th last year in investments in Myanmar, with \$189 million pledged in five projects, according to data compiled by IHS Global Insight.China

led with \$8.3 billion, and South Korea, whose president visited Myanmar earlier this month, pledged \$2.95 billion.

India is resurrecting ties to a neighbor with 64 million people and reserves of natural gas and lumber, as Myanmar reconnects with the global economy following five decades of isolation during military rule. Also on the agenda for Singh's three-day trip is cooperation to contain insurgent groups with bases in Myanmar that have sought independence or greater autonomy for some of India's northeastern states.

Next 'Frontier'

The Indian prime minister, beset by political challenges at home that have seen his economic agenda stymied and contributed to a sell-

Gold on Falling Trend as Dollar Gains 4.4%



Gold declined for the first time in three days, set for the worst run of monthly losses since 1999, as concern that

Europe's fiscal turmoil is worsening boosted the dollar. Platinum fell.

Spot gold lost as much as 0.6 percent to \$1,571.43 an ounce and was at \$1,573.80 in Singapore. Bullion is 5.5 percent lower this month, the biggest drop since December and the fourth straight monthly decline. The dollar has gained 4.4 percent against a six-currency basket including the euro in May.

Economists from Bank of America Merrill Lynch to JPMorgan Chase & Co. predict that Greece, which faces a June 17 election, leaving the currency bloc would threaten global prosperity as trade and financial ties spread the fallout. The possibility of a Greek departure sent the cost of insuring Spanish government and financial-institution debt to a record this month and put the euro on track for the biggest monthly decline in eight.

Gold is still up 0.7 percent this year as investors joined central banks in buying the metal to diversify their assets. Holdings in the SPDR Gold Trust, the biggest bullion-backed exchange-traded fund, rose 1.3 percent this year and stood at 1,270.26 metric tons on May 25, according to company data.

Gold consumption in China was 761 tons last year, Wang Shengbin, vice-chairman at the China Gold Association, said on 28 May. That compares to the estimate of 769.8 tons from the producer-funded World Gold Council. The country may become the biggest user this year, displacing India, the council predicts.

off in the rupee, arrives in Myanmar May 27. Singh, 79, will meet Myanmar's leaders as well as pro-democracy icon Aung San Suu Kyi, according to the Indian Foreign Ministry. He brings a business delegation to discuss trade and investment.

Myanmar Prime Minister Thein Sein's efforts to end military rule have been rewarded with an easing of U.S. and European sanctions, bolstering prospects for a nation the International Monetary Fund said in January could be "the next economic frontier in Asia." South Korean President Lee Myung Bak last week pledged to increase aid to Myanmar and the countries agreed to enhance cooperation on energy and developing resources.

Singh will relax terms on a \$500 million line of credit, announce a new bus service between India's northeast and the tourist city of Mandalay and oversee the opening of branches of Indian banks, according to an Indian Foreign Ministry official who asked not to be named because he isn't authorized to speak publicly on the matter.

WEEKLY INDEX OF CHANGES

Anti-dumping Duty on White Cement from UAE and Iran Extended upto 11 April 2013

Ntnf 28-ADD 21.05.2012
Whereas, the designated authority vide notification No. 15/13/2011-DGAD, dated the 9th April, 2012, published in

Part I, Section 1 of the Gazette of India, Extraordinary, dated the 9th April, 2012, had initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on imports of 'White Cement', originating in, or exported from, UAE and Iran imposed vide notification of the Government of India in the Ministry of Finance (Department of Revenue), 56/2007-Customs, dated the 12th April, 2007, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 288 (E), dated the 12th April, 2007, and had requested

for extension of anti-dumping duty upto one more year, in terms of sub-section (5) of Section 9A of the said Customs Tariff Act;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of Section 9A of the said Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), 56/2007-Customs, dated the 12th April, 2007, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 288(E), dated the 12th April, 2007, namely: -
In the said notification, after para 2, the following shall be added, namely: -

"3. Notwithstanding anything contained in para 2 this notification shall remain in force up to and inclusive of the 11th day of April, 2013, unless revoked earlier".

F.No.354/27/2001-TRU (Pt-II)

Anti-dumping Duty on Zinc Oxide from China Extended upto 6 May 2013

Ntnf 27-ADD 18.05.2012
Whereas, the designated authority vide notification No. 15/14/2011-DGAD, dated the 2nd May, 2012, published in

Part I, Section 1 of the Gazette of India, Extraordinary, dated the 2nd May, 2012, had initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on imports of 'Zinc Oxide', originating in, or exported from, China PR imposed vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 64/2007-Customs, dated the 7th May, 2007, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 329 (E), dated the 7th May, 2007, and had requested for

extension of anti-dumping duty upto one more year, in terms of sub-section (5) of Section 9A of the said Customs Tariff Act;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of Section 9A of the said Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 64/2007-Customs, dated the 7th May, 2007, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 329(E), dated the 7th May, 2007, namely: -

In the said notification, at the end, the following shall be added, namely: -

"4. Notwithstanding anything contained in para 3, this notification shall remain in force up to and inclusive of the 6th day of May, 2013, unless revoked earlier".

F.No.354/30/2001-TRU (Pt-III)

DGAD Initiates Investigation on Pentaerythritol from Saudi Arabia on Complaint by Kanoria Chemicals

[Ref: F.No. 14/11/2011-DGAD dated 22nd May 2012]

Subject: Initiation of anti-dumping investigation concerning imports of Pentaerythritol originating in or exported from Saudi Arabia.

Whereas M/s Kanoria Chemicals & Industries Ltd has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), alleging dumping of

"Pentaerythritol" (hereinafter referred to as subject goods) originating in or exported from Saudi Arabia (hereinafter referred to as subject country) and requested for initiation of anti-dumping investigation for levy of anti-dumping duties on the subject goods.

Product under Consideration

2. The product under consideration in the present investigation is Pentaerythritol (also referred to as subject goods hereinafter).

Pentaerythritol is claimed to be an organic compound. The name "erythritol" is claimed to have been derived from "Pentaerythritol" which indicates presence of four hydroxyl groups, and the prefix "Penta" indicates that there are five carbon atoms in the molecule.

3. As stated by the applicant, Pentaerythritol can be of technical grade or nitration grade. The principal difference in the two grades is claimed to be in purity, crystal size and uniformity of crystals. Both the grades are claimed to be produced out of the same process. It has been submitted that gradation comes into picture only after production and at the stage of analytical testing of the product. Pentaerythritol having purity above 98% and better crystal formation is stated to be used in the explosive industry and therefore, this grade has been designated as "Nitration Grade" in commercial parlance. However, Pentaerythritol considered as "Nitration Grade" can also be used for production of Alkyd Resins and other products (wherever the other grade "Technical Grade" Pentaerythritol is used).

4. The product is mostly used in the manufacture of Alkyd Resins, Resin Esters, Plasticizers, Printing inks, Synthetic rubber, Stabilizers for plastics, Modified drying oils, Detonators, Explosives, Pharmaceuticals, and Core oils and Synthetic lubricants, etc. The product falls under customs classification 29054200. However, Customs classifications are indicative only and in no way binding on the scope of the investigations.

Like Articles

5. The applicant has claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods. The two are technically and commercially substitutable and hence should be treated as 'like article' under the Anti-dumping Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the Indian industries are being treated as 'Like Article' to the subject goods being imported from the subject country for the purpose of the present investigation.

Domestic Industry Standing

6. The application has been filed by M/s. Kanoria Chemicals & Industries Ltd, the major producer of the subject goods in India. The applicant has claimed that there are two more producers of the subject goods in the country namely M/s Asian Paints (India) Ltd (APL) and M/s Perstrop Chemicals India Pvt Ltd (PCIL). While APL is claimed to be primarily engaged in producing the subject goods for captive consumption purposes, PCIL is claimed to have switched over to importing subject goods in significant volumes and closed the production during POI. On the basis of information available, Authority notes that the applicant company constitutes a major proportion in Indian production. The Authority, therefore, determines that the applicant industry constitutes domestic industry within the meaning of the Rule 2(b) and the application satisfies the criteria of standing

in terms of Rule 5 of the anti-dumping Rules supra.

Country Involved

7. The country involved in the present investigation Saudi Arabia.

Normal Value

8. The applicant has constructed normal value based on estimates of cost of production of domestic industry, due to unavailability of the evidence of the price at which the material is being sold in the subject country. The Authority has therefore considered prima facie the normal value of subject goods in the subject country on the basis of constructed value for the purpose of initiation of investigation.

Export Price

9. Export price of the subject goods from the subject countries has been estimated by the applicant considering transaction-wise import data collected from Secondary Sources, after making price adjustments on account of Ocean Freight, Marine Insurance, Inland Freight and Port expenses.

Dumping Margin

10. Based on the normal value and export price, the applicant has determined dumping margin for the product. It is found that the normal value of the subject goods in the subject country is significantly higher than the net export prices, prima-facie, indicating that the subject goods originating in or exported from the subject country are being dumped, to justify initiation of an antidumping investigation. The dumping margins are estimated to be above *de minimis*.

Injury and Causal Link

11. The applicant has furnished evidence regarding the 'injury' having taken place as a result of the alleged dumping in the form of increased volume of dumped imports, price undercutting, price suppression and decline in profitability, return on capital employed and cash flow for the domestic industry. There is sufficient evidence of the 'injury' being suffered by the applicant caused by dumped imports from subject countries to justify initiation of an antidumping investigation.

Initiation of Anti Dumping Investigations

12. In view of the above the Authority finds that sufficient prima facie evidence of dumping of the subject goods from the subject country, injury to the domestic industry and causal link between the dumping and injury exist and therefore the Authority, in terms of Rule 5 of the Anti Dumping Rules hereby initiates an investigation into the alleged dumping and consequent injury to the domestic industry, to determine the existence, degree and effect of any alleged dumping and recommend the amount of anti dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

Period of Investigation (POI)

13. The petitioner had proposed 1st April, 2010 to 30th June, 2011 (15 months) as the POI. However, for ensuring fair analysis on the basis of updated data, the Authority determines the

Period of Investigation (POI) for the purpose of the present investigation as 1st January, 2011 to 31st December, 2011 (12 months). The injury investigation period will, however, cover the period 2008-09, 2009-10, 2010-11 and the POI.

14. Submission of Information

The exporters in the subject country, Government through the Embassy, importers in India known to be concerned with this investigation and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Designated Authority at the following address:

The Designated Authority, Ministry of Commerce & Industry, Department of Commerce Directorate General of Anti-Dumping & Allied Duties (DGAD), Room No. 240, Udyog Bhavan, New Delhi-110011

Any other interested party may also make its submissions, relevant to the investigation, within the time limit set out below.

15. Time Limit

Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than 40 (forty) days from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however required to submit the information within forty days from the date of the



Sugar Contract Email Registration with DGFT Procedure – Export Permitted on Cash Against Documents Basis Also

- Validity of RC Raised to 60 Days from 30 Days
- Quota Raised to 25,000 MT from 10,000 MT per RC

Subject: Amendment in the conditions and modalities for registration of contracts with DGFT for export of sugar.

63-Pol.Cir 2010/2009-14 dated 16.05.2012 (DGFT) 14.05.2012 prescribed the conditions and modalities for registration of contracts with DGFT for export of sugar in the current sugar season (1st October, 2011-30th September, 2012).

2. It has been decided to modify certain provisions of the Policy Circular No. 62(RE-2010)/2009-14 dated 14.05.2012 as under:

(i) The application for issue of RC can be for an amount **upto a maximum quantity of 25,000 MT (Twenty five thousand metric tons)**. Earlier this limit was 10,000 MT per RC. [Please refer Para 3 of Policy Circular No. 62(RE-2010)/2009-14 dated 14.05.2012].

(ii) In addition to export against Letter of Credit (LC) and/or FIRC, **export would also be permitted against Cash Against Documents (CAD)**. Exporters have to indicate type of instrument (LC/FIRC/CAD) while applying for issue of RC. [Please refer Sub- para (i) of Para 4 of Policy Circular No. 62(RE-2010)/2009-14 dated 14.05.2012].

(iii) Export against RC shall be **completed within a period of 60 days** from the date of

letter addressed to them separately. If no information is received within the prescribed time limit or the submitted information is incomplete, the Designated Authority may record its findings on the basis of the facts available on record in accordance with the Rules. It may be noted that no request, whatsoever, shall be entertained for extension in the prescribed time limit.

16. Submission of Information on Non-Confidential Basis

In terms of Rule 6(7) of the Rules, the interested parties are required to submit non-confidential summary of any confidential information provided to the Authority and if in the opinion of the party providing such information, such information is not susceptible to summarization, a statement of reason thereof, is required to be provided. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Designated Authority may record findings on the basis of facts available and make such recommendations to the Central Government as deemed fit.

17. Inspection of Public File

In terms of Rule 6(7), the Designated Authority maintains a public file. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by the interested parties.

issuance of such certificate. Earlier this was given as 30 days. [Please refer Para 5 of Policy Circular No. 62(RE-2010)/2009-14 dated 14.05.2012].

(iv) An applicant is at liberty to seek split RCs for export through more than one port, within the overall quantity limit of 25,000 MTs.

(v) Application for second and subsequent RC can be submitted only on completion of at least 50% of export against RC issued to the exporter (quantity permitted in the RC as a whole is to be taken for calculation, not quantity split RC-wise). **Exporters have to submit the proof of such exports.** [Please refer Para 7 of Policy Circular No. 62(RE-2010)/2009-14 dated 14.05.2012].

3. Export against Release Order issued prior to 14.05.2012 (date of issue of Notification No. 117) by the Directorate of Sugar, Department of Food & PD will continue to be governed by the terms and conditions of the relevant Release Order.

4. There shall be no other change.

5. This issues with the approval of Director General of Foreign Trade.

Cotton Export to be Controlled on Actual Weight in Kg, with 170 kg Standard

Sub: Clarification regarding standard weight and tolerance in weight of 1 bale of cotton.

03-TN Notification Number 113
24.05.2012 issued on 4th May, 2012 deals
(DGFT) with registration of contracts
for export of cotton. Para 2(iii)
of this notification clearly mention that 1 bale =
170 kgs. [Thus 1 standard bale would be of 170
Kg weight]

2. It has been brought to our notice
that some exporters find it convenient
to have bales of lesser weight, and
also that various bales may contain
different quantity of cotton depending
on local condition. Thus a bale of
cotton may weigh more or less than
the exact 170 Kg. A similar clarifica-
tion was issued last year to Cotton Association
of India on 04.02.2011 and this should have
settled the issue. For greater clarity the follow-
ing be noted:

(i) Presumption is that 1 bale would contain
170 Kgs. Hence if the allotment is 10 bales, then



the exporter is permitted to export a maximum
of 1700 Kgs or 1.7 MT. But if bales are of smaller
weight it may be more than 10 bales, or if they
are of greater weight, it may be less than 10
bales. Thus when the permission is for 10
bales, the implication is that there are 10 stan-
dard bales, each weighing 170 Kg. If the bales
are non-standard, then it would be im-
portant to watch the weight which must
not exceed 1.7 MT irrespective of the
number of such non-standard bales.

(ii) RC holders who are found
to have defaulted in exporting the quan-
tity allowed would be liable for penal
action as mentioned in Policy Circular No. 51
dated 28.12.2011. Here critical test on "quan-
tity" would be weight (taking 1 bale= 170 Kg) and
not number of bales. Any shortfall upto 5% in
weight, however, will not invite penal action.

3. This issues with the approval of DGFT.

Gold and Silver Jewellery Drawback Rates Hiked for Price

46-Cus(NT) In exercise of the powers
24.05.2012 conferred by sub-sections (2)
(DoR) and (3) of section 75 of the
Customs Act, 1962 (52 of
1962), sub-sections (2) and (2A) of section 37 of
the Central Excise Act, 1944 (1 of 1944), and
section 93A read with sub-sections (2) and (3)
of section 94 of the Finance Act, 1994 (32 of
1994), read with rules 3, 4 and 5 of the Customs,
Central Excise Duties and Service Tax Draw-
back Rules, 1995, the Central Government,
hereby makes the following amendments in the

notification of the Government of India in the
Ministry of Finance (Department of Revenue),
No.68/2011-Customs(N.T.), dated the 22nd Sep-
tember, 2011 published *vide* number G.S.R.
712 (E) dated the 22nd September, 2011,
namely:-

In the said notification, in the Schedule, in
Chapter 71, for tariff items falling under heading
7113 and the entries relating thereto, the follow-
ing tariff items and entries shall be substituted,
namely :-

711301	Articles of jewellery and parts thereof made of gold	Gms.	Rs.100.70 per gram of net gold content (.995 or more purity) in the jewellery	Rs.100.70 per gram of net gold content (.995 or more purity) in the jewellery	
711302	Articles of jewellery and parts thereof made of silver	Kg.	Rs. 2590.80 per Kg of net silver content (.999 purity) in the jewellery	Rs.2590.80 per Kg of net silver content (.999 purity) in the jewellery	
711399	Others		Nil	Nil	"

Structural Components Used as Part of Boiler System Classifiable as Parts of Boiler under Heading 8402 and CENVAT Credit Admissible

Sub: Clarification regarding classification of Structural Components of Boiler and Admissibility of CENVAT Credit on these Structural Components.

966-CBEC References have been
18.05.2012 received from the field
(DoR) formations seeking clarification
in respect of the Circular No

964/07/2012-CX issued vide F No 84/1/2011-
CX.1 dated 2nd April 2012 on the above subject.
In the said circular it has been clarified that
structural components of Boiler which are es-
sentially parts of the boiler are to be classified
under heading 8402 and CENVAT credit shall
be admissible in respect of such structural com-
ponents/ parts (of the Boiler), as they are not
used for laying of foundation or making of struc-
tures for support of capital goods.

2. Clarifications have been sought as to

whether in view of the said circular, CENVAT
Credit will be admissible on structural compo-
nents used for the support of the Capital Goods.

3. The circular dated 2nd April 2012 was is-
sued in the context of a dispute as to whether
certain structural components were to be treated
as boiler parts or as goods for making structures
to support the boilers. Whether a particular
structural component is a part of the Boiler or a
component to make structure for supporting the
Boiler is a question of facts and needs to be
examined on a case to case basis, depending
on the nature and use of the said structural
component as per the existing legal provisions
and judicial pronouncements on the subject.

Betel Nut Import under Advance Authorisation – SION Tightened

Subject: Areca nut (i.e. Betel nut) under SIONs (including Leather SIONs), disallowing import thereof

112-PN(RE) In exercise of the powers
15.05.2012 conferred under Paragraph
(DGFT) 2.4 of the Foreign Trade
Policy, 2009-2014 and
Paragraph 1.1 of Handbook of Procedures



(Vol.1), the Director
General of Foreign
Trade hereby notifies
the following amend-
ment in the Handbook
of Procedures, Vol.2,
2009-2014:

2. The following General Note (No. 9) is
added to the General Notes for Leather and
Leather Products (Product: G) of the Stan-
dard Input Output Norms (SION) book after
General Note No. 8.

"9. Areca nut (i.e. Betel nut) shall be
permitted for imports

(a) only if Areca nut (i.e. Betel nut) is
specifically mentioned in the SIONs;

Or

(b) by actual users either when this input
item is specifically mentioned in the SION of
the respective export product or when Areca
nut (i.e. Betel nut) technically falls under the
'generic description' given in a specific SION
(like under G7, G46), though not mentioned
specifically.

3. For greater clarity, this General Note
(No. 9 of Leather and Leather Products
(Product: G)) given in para 2 above will also
be included as General Note No. 12 to the
General Notes for all Product Groups, be-
low the existing General Note No. 11.

4. Effect of this Public Notice:

Henceforth, import of Areca nut (i.e. Betel
nut) as an input would be permitted only
when it is by an actual user; or by anybody
(including the actual user) if it is specifically
mentioned in the SION of the export prod-
uct.

4. As clearly stated in para 3 of Boards' above
circular dated 2.4.2012, it is once again reiter-
ated that in terms of the Rule 2(k) of the CENVAT
Credit Rules, 2004, while CENVAT Credit is
available in respect of parts of Boiler, the same
is not admissible in respect of the structural
components used for laying of foundation or
making of structures for support of capital goods/
Boiler. The above clarification is in conformity
with the views expressed in the judgments of the
Hon'ble Supreme Court/ different benches of
the CESTAT.

5. Trade, industry and field formations may be
suitably informed.

F No 84/1/2011-CX.1

Service Tax Incidence on Date of Payment vs Date of Invoice

Subject: Clarification on Rate of Tax.

158-ST 08.05.2012 (DoR) The rate of service tax has been restored to 12% w.e.f. 1st April 2012. Representations have been received requesting clarification on the rate of tax applicable wherein invoices were raised before 1st April 2012 and the payments shall be after 1st April 2012. Clarification has been requested in case of the 8 specified services provided by individuals or proprietary firms or partnership firms, to which Rule 7 of Point of Taxation Rules 2011 was applicable and services on which tax is paid under reverse charge.

2. The rate of service tax prevalent on the date when the point of taxation occurs is rate of service tax applicable on any taxable service. In case of the 8 specified services and services wherein tax is required to be paid on reverse charge by the service receiver the point of taxation is the date of payment. Circular No 154/5/2012 – ST dated 28th March 2012 has also clarified the same. Thus in case of such 8

specified services provided by individuals or proprietary firms or partnership firms and in case of services wherein tax is required to be paid on reverse charge by the service receiver, if the payment is received or made, as the case maybe, on or after 1st April 2012, the service tax needs to be paid @12%.

3. The invoices issued before 1st April 2012 may reflect the previous rate of tax (10% and cess). In case of need, supplementary invoices may be issued to reflect the new rate of tax (12% and cess) and recover the differential amount. In case of reverse charge the service receiver pays the tax and takes the credit on the basis of the tax payment challan. Cenvat credit can be availed on such supplementary invoices and tax payment challans, subject to other restrictions and conditions as provided in the Cenvat Credit Rules 2004.

4. Trade Notice/Public Notice may be issued to the field formations accordingly.

F.No 354/69/2012- TRU

Karaikal Seaport Notified for Export Promotion

Ntfn 37 24.05.2012 (DoR) In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the

Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column (2) of the Table below, shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said Table, namely :-

The following changes have been incorporated in the original notifications.

In the said notification, in the opening paragraph, in condition –

for the words and brackets “and Ennore (Tamil Nadu)” the words and brackets, “Ennore (Tamil Nadu) and Karaikal (Union territory of Puducherry)” shall be substituted;

Table

SNo	Notification number and date	Condition No.
(1)	(2)	(3)
1.	53/2003-Customs, dated the 1 st April, 2003	in condition (5)
2.	54/2003-Customs, dated the 1 st April, 2003	in condition (4)
3.	90/2004-Customs, dated the 10 th September, 2004	in condition (iv)
4.	91/2004-Customs, dated the 10 th September, 2004	in condition (vi)
5.	92/2004-Customs, dated the 10 th September, 2004	in condition (iv)
6.	93/2004-Customs, dated the 10 th September, 2004	in condition (iv)
7.	94/2004-Customs, dated the 10 th September, 2004	in condition (6)
8.	97/2004-Customs, dated the 17 th September, 2004	in condition (6)
9.	32/2005-Customs, dated the 8 th April, 2005	in condition (5)
10.	41/2005-Customs, dated the 9 th May, 2005	in condition (3)
11.	89/2005-Customs, dated the 4 th October, 2005.	in condition (iv)
12.	40/2006-Customs, dated the 1 st May 2006	in condition (iv)
13.	73/2006-Customs, dated the 10 th July, 2006.	in condition (5)
14.	90/2006-Customs, dated the 1 st September, 2006	in condition (4)
15.	91/2006-Customs, dated the 1 st September, 2006	in condition (4)
16.	14/2009-Customs, dated the 19 th February, 2009	in condition (4)
17.	91/2009-Customs, dated the 11 th September, 2009	in condition (iv)
18.	92/2009-Customs, dated the 11 th September, 2009	in condition (iv)
19.	93/2009-Customs, dated the 11 th September, 2009.	in condition (iv)
20.	94/2009-Customs, dated the 11 th September, 2009	in condition (iv)
21.	95/2009-Customs, dated the 11 th September, 2009	in condition (iv)

Dollar Exchange Rates Revised to Rs. 55.95 and Rs. 55.15 from Rs. 53.10 and Rs. 52.25 w.e.f. 25 May 2012

45-Cus(NT) 24.05.2012 (DoR) In exercise of the powers conferred by Section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of

Excise & Customs hereby makes the following further amendments in the Notification of the Government of India, Ministry of Finance (Department of Revenue) No. 38/2012-CUSTOMS

(N.T.) dated the 26th April, 2012 published in the Gazette Of India, Part-II, Section 3, Sub-Section (ii), Extraordinary vide number S. O. 924 (E) dated, the 26th April, 2012, namely:-

In the SCHEDULE-I of the said Notification, for Serial Nos. 5 and 11 and the entries relating thereto, the following shall be substituted, namely:-

Schedule-I

SNo.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(a)	(b)
		(For Imported Goods)	(For Export Goods)
5.	Hong Kong Dollar	7.20	7.10
11.	US Dollar	55.95	55.15

These rates will be effective from 25th May, 2012.

[F. No. 468/9/2012-Cus.V]

Japanese Yen Exchange Rate Revised to 69.65 and 67.90 from 65.50 and 63.85 w.e.f. 22 May 2012

44-Cus(NT) 21.05.2012 (DoR) In exercise of the powers conferred by Section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of

Excise & Customs hereby makes the following amendments in the Notification of the Government of India, Ministry of Finance (Department of Revenue) No. 38/2012-CUSTOMS (N.T.)

dated the 26th April, 2012 published in the Gazette Of India, Part-II, Section 3, Sub-Section (ii), Extraordinary vide number S. O. 9024 (E) dated, the 26th April, 2012, namely:-

In the SCHEDULE-II of the said Notification, for Serial No. 1 and the entries relating thereto, the following shall be substituted, namely:-

Schedule-II

SNo.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
(1)	(2)	(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	69.65	67.90

These rates will be effective from 22nd May, 2012.

[F. No. 468/8/2012-Cus.V]

22	96/2009-Customs, dated the 11th September, 2009	in condition (vii)	the 11th September, 2009.
23	97/2009-Customs, dated the 11th September, 2009	in condition (iv)	28 102/2009-Customs, dated the 11th September, 2009
24	98/2009-Customs, dated the 11th September, 2009	in condition (vi)	29 103/2009-Customs, dated the 11th September, 2009
25	99/2009-Customs, dated the 11th September, 2009	in condition (vii)	30 104/2009-Customs, dated the 14th September, 2009
26	100/2009-Customs, dated the 11th September, 2009	in condition (10)	31 112/2009-Customs, dated the 29 th September, 2009
27	101/2009-Customs, dated	in condition (13)	[F. No.605/01/2011-DBK]

Changes in Tariff Value

- Brass Scrap Up by US\$64/MT
- Silver Down by US\$91 per kg and Gold US\$34 per 10 grams

42-Cus(NT) In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue),

No. 36/2001-Customs (N.T.) dated, the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for **TABLE-1** and **TABLE-2**, the following Tables shall be substituted namely:-

“Table-1

SNo.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	447 (i.e. no change)
2	1511 90 10	RBD Palm Oil	476 (i.e. no change)
3	1511 90 90	Others – Palm Oil	462 (i.e. no change)
4	1511 10 00	Crude Palmolein	481 (i.e. no change)
5	1511 90 20	RBD Palmolein	484 (i.e. no change)
6	1511 90 90	Others – Palmolein	483 (i.e. no change)
7	1507 10 00	Crude Soybean Oil	580 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	4362
9	1207 91 00	Poppy seeds	3680

Table-2

SNo.	Chapter/heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	507 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	920 per kilogram”

[F. No. 467/01/2012-Cus.V Pt.I]

Amendments in Cenvat Credit Rules 2004

25-CE(NT) In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944) and section 94 of the Finance Act, 1994 (32 of 1994), the Central Government, hereby makes the following rules further

to amend the CENVAT Credit Rules, 2004, namely:-

- (1) These rules may be called the CENVAT Credit (Fifth Amendment) Rules, 2012.
- (2) Save as otherwise provided in these rules, they shall come into force on the date of their

Dollar-Rupee Rate at NSE Futures

Trade Date	Open Price	High Price	Low Price	Close Price	Daily Settlement Price	Open Interest	No. of Contracts	Value (Rs. lakhs)	RBI Reference rate
28-May-12	55.3500	55.3800	55.0000	55.2175	55.2175	989290	2488911	1374320	55.2625
25-May-12	55.9050	56.0925	55.1975	55.3975	55.3975	1363603	3155252	1753393	55.7253
24-May-12	56.2050	56.4150	55.6650	55.7175	55.7175	1390106	2869942	1610247	56.2870
23-May-12	55.6000	56.2750	55.5800	56.0675	56.0675	1488305	2734739	1531325	55.9300

[Source: NSE and RBI Website]

publication in the Official Gazette

2. In the CENVAT Credit Rules, 2004, in sub-rule (6) of rule 6,-

(A) in clause (iva), for the words and figures, “6/2006-Central Excise, dated the 1st March, 2006, number G.S.R. 96(E), dated the 1st March, 2006”, the words and figures “12/2012-Central Excise, dated the 17th March, 2012, number G.S.R. 163(E), dated the 17th March, 2012” shall be substituted;

(B) in clause (vii), for the words and figures, “6/2006-Central Excise, dated the 1st March, 2006”, the words and figures “12/2012-Central Excise, dated the 17th March, 2012” shall be substituted;

(C) after clause (vii) and the entries relating thereto, the following shall be inserted, namely:-

“(viii) supplies made for setting up of solar power generation projects or facilities”;

[F. No. 334/1/2012- TRU]

RBI Slaps Cuts in Forex Open Position F&O Limits

Sub: Risk Management and Inter Bank Dealings

AP(DIR Srs) Attention of Authorized Cir.129 Dealers Category – I (AD 21.05.2012 Category – I) banks is (RBI) invited to para 2 (v) of the A.P.(DIR Series) Circular

No.58 dated December 15, 2011 and the subsequent clarifications issued by the Foreign Exchange Dealers’ Association of India(FEDAI) vide its circular SPL-58/Risk Mgmt./2011 dated 21st December 2011 on the Net Overnight Open Position Limit (NOOPL) of the Authorised Dealers.

2. In view of the recent developments in the foreign exchange market, until further review, it has been decided as under:

i. The current NOOPL of the banks as applicable to the positions involving Rupee as one of the currencies shall not include the positions undertaken in the Currency Futures/Options segment in the exchanges.

ii. The positions in the exchanges (both Futures and Options) cannot be netted/offset by

Customs Valuation Exchange Rates

May 2012	Imports	Exports
Schedule I		
1 Australian Dollar	54.95	53.70
2 Canadian Dollar	54.05	52.65
3 Danish Kroner	9.50	9.20
4 EURO	70.35	68.70
5 Hong Kong Dollar	6.85	6.75
6 Norwegian Kroner	9.35	9.05
7 Pound Sterling	86.00	84.15
8 Swedish Kroner	7.95	7.70
9 Swiss Franc	58.50	57.10
10 Singapore Dollar	42.70	41.80
11 U.S. Dollar	53.10	52.25
Rate of exchange of one unit of foreign currency equipment to Indian Rupees		
Schedule II		
1 Japanese Yen	65.50	63.85
Rate of exchange of 100 units of foreign currency equivalent to Indian rupees		

(Source: Customs Notification 38(NT)/26.04.2012]

undertaking positions in the OTC market and vice-versa. The positions initiated in the exchanges shall be liquidated/closed in the exchanges only.

iii. The position limit for the trading member AD Category-I bank in the exchanges for trading Currency Futures and Options shall be US\$ 100 million or 15 per cent of the outstanding open interest, whichever is lower.

3. Further, the AD Category- I banks are ad-

vised that they may bring down their positions to the above limits within June 30, 2012.

4. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

ances in the EEFC account which may be arrived at by netting off earmarked amounts on account of outstanding forward / option contracts booked before May 10, 2012.

3. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

4. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Forwards before 10 May to be Honoured in 50% Cut in EEFC Balance Circular

Sub: Exchange Earner's Foreign Currency (EEFC) Account

AP(DIR Srs) Attention of Authorised Dealer
Cir.128 Category – I (AD Category – I)
16.05.2012 banks is invited to A.P. (DIR
(RBI) Series) Circular No. 124 dated
May 10, 2012 on the captioned
subject in terms of which 50% of the balances in
the EEFC accounts should be converted forth-

with into rupee balances and credited to the rupee accounts as per the directions of the account holder.

2. Based on various queries received from Authorised Dealers, it is clarified that the conversion of the EEFC balances into rupee balances will only be applicable to available bal-

Forex Remittance Raised to US\$25,000 from US\$5,000 without Documentation including Form A-2

Sub: Release of Foreign Exchange for Miscellaneous Remittances

AP(DIR Srs) Attention of Authorised
Cir.118 Dealers in foreign exchange is
07.05.2012 drawn to A.P. (DIR Series)
(RBI) Circular No. 16 dated
September 12, 2002, in terms

of which the Authorised Dealers were advised to release amounts up to USD 500 or its equivalent for all permissible transactions on the basis of a simple letter from the applicant containing the basic information, viz., names and the addresses of the applicant and the beneficiary, amount to be remitted and the purpose of remittance. It was clarified in the circular that Authorised Dealers need not insist upon submission of A2 Forms in such cases. The limit was subsequently enhanced to USD 5000 in terms of the A.P. (DIR Series) Circular No. 55 dated December 23, 2003.

2. With a view to further liberalizing the documentation requirements, the limit for foreign exchange remittance for miscellaneous purposes without documentation formalities, has been raised from USD 5000 to USD 25000 with immediate effect.

3. It is clarified that Authorised Dealers need not obtain any document, including Form A-2, except a simple letter as stated above as long as the foreign exchange is being purchased for a current account transaction (not included in the Schedules I and II of Government Notification on Current Account Transactions), and the amount does not exceed USD 25000 or its equivalent and the payment is made by a cheque drawn on the applicant's bank account or by a Demand Draft. AD banks shall prepare dummy A-2 so as to enable them to provide purpose of remittance for statistical inputs for Balance of Payment.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

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