

Postal Regn.No. DL(C)-01/1251/12-14
Licence to Post without
Prepayment U(C)-30/12-14
RNI No. 42906/84

WORLD TRADE SCANNER

ISSN: 0971-8095

Single copy Rs. 20 \$2

Vol. XXIX No 15 04-10 July 2012

Promoted by Indian Institute of Foreign Trade, World Trade Centre,
Academy of Business Studies

Annual subscription Rs 750

WTO Panel on US Complaint against India for Avian Fowl Restrictions on Chicken Import



The US introduced its request for a panel (WT/DS430/3). The US said that, as it had explained at the May 2012 DSB meeting, the US and other members had concerns about India's measures prohibiting the importation of various agricultural products into India from members reporting outbreaks of Low Pathogenic Notifiable Avian Influenza (LPAI). The US was of the view that such measures had no scientific basis; were inconsistent with the guidelines of the World Organization for Animal Health; and appeared to be inconsistent with a number

of India's WTO obligations. Thus, the US requested, for the second time, the establishment of a panel to examine the matter.

India said that during the consultations, it had provided explanations and scientific rationale and was disappointed that the US had chosen to litigate rather than negotiate the matter. India considered that its measures were consistent with its WTO obligations and stood ready to defend them.

The DSB established a panel with standard terms of reference. China, Colombia, Ecuador, EU, Guatemala, Japan and Viet Nam reserved their third party rights to participate in the panel's proceedings.

US-Iran Spar in Trade War- False Flags, Weak Sanctions

The United States has pressured countries to curtail their imports of Iranian crude oil and is now threatening to penalize banks that participate in oil deals with Iran. In keeping with the U.S. sanctions campaign, the European Union on July 1 implemented an oil embargo against Iran. The bloc already has begun banning European countries from reinsuring tankers carrying Iranian oil.

Journalists have painted a dire picture of hyperinflation in Iran and plummeting oil revenues. But Iran's response to sanctions deadlines has been relatively nonchalant. Contrary to the sanctions lobbyist narrative, this response does not suggest Iran will halt its crude oil shipments, nor does it portend a popular uprising in the streets of Tehran.

The sanctions applied thus far certainly have complicated Iran's day-to-day business operations. However, Iran is well versed in deception tactics to allow itself and its clients to evade sanctions and thus dampen the effects of the U.S. campaign.

One way in which Iran circumvents sanctions is through a network of front companies that enable Iranian merchants to trade under false flags. To enter ports, merchant ships are required to sail under a flag provided by national ship registries. Tax havens, such as Malta, Cyprus, the Bahamas, Hong Kong, the Seychelles, Singapore and the Isle of Man, profit from selling flags and company registries to businesses looking to evade the taxes and regulations of their home countries. Iranian businessmen rely heavily on these havens to switch out flags, names, registered owners and agents, and addresses of owners and agents.

Many of Iran's clients turn a blind eye to these shell practices to maintain their crude oil supply at steep discounts. Notably, the past few months have been rife with

reports of countries cutting their Iranian oil imports under pressure from the United States. However, after factoring in the amount of crude insured and traded via shell companies, the shift in trade patterns is likely not as stark as the reports present.

The United States already has exempted China, Singapore, India, Turkey, Japan, Malaysia, South Africa, South Korea, Sri Lanka, Taiwan and the 27 members of the European Union from the sanctions. Many of these countries imported higher than average quantities of Iranian crude in the months leading up to their announcements that they had cut down their supply of Iranian crude. China, South Korea, India and Japan also are finding ways to provide sovereign guarantees in lieu of maritime insurance to get around the latest round of sanctions. Even though many of these countries claim to have reduced

their oil imports from Iran to negotiate an exemption, falsely flagged tankers carrying Iranian crude likely compensate for much of Iran's officially reduced trade.

The United States has tried to maintain a foothold in Iraq, but there is little question that Iraq now sits in an Iranian sphere of influence. With Iraq now practically conceded to Iran, the other components of the negotiation are largely reduced to atmospheric.

Iran's biggest deterrent rests in its threat to close the Strait of Hormuz. The leverage Tehran holds over the strait allows Iran room to negotiate over its nuclear program. Of course, the United States would prefer that Iran abandon its nuclear ambitions and will continue efforts to impede the program, but a nuclear Iran might in the end be tolerated as long as Washington and Tehran have an understanding that allows for the free flow of oil through the strait.



Dollar Values of Export and Import Fall in May

A. Exports (including re-exports)

Exports during May, 2012 were valued at US \$ 25681.38 million (Rs. 139895.48 crore) which was 4.16 per cent lower in Dollar terms (16.26 per cent higher in Rupee terms) than the level of US \$ 26796.54 million (Rs. 120328.54 crore) during May, 2011. Cumulative value of exports for the period April-May 2012-13 was US \$ 50136.76 million (Rs 266603.94 crore) as against US \$ 50486.91 million (Rs 225442.71 crore) registering a negative growth of 0.69 per cent in Dollar terms and growth of 18.26 per cent in Rupee terms over the same period last year.

B. Imports

Imports during May, 2012 were valued at US \$ 41947.14 million (Rs.228500.74 crore) representing a negative growth of 7.36 per cent in Dollar terms (growth of 12.38 per cent in Rupee terms) over the level of imports valued at US \$ 45281.90 million (Rs. 203336.09 crore) in May, 2011. Cumulative value of imports for the period April-May, 2012-13 was US \$ 79888.84 million (Rs. 425084.64 crore) as against US \$ 81871.27 million (Rs. 365683.12 crore) registering a negative growth of 2.42 per cent in Dollar terms and growth of 16.24 per cent in Rupee terms over the same period last year.

C. Crude Oil and Non-Oil Imports:

Oil imports during May, 2012 were valued at US \$ 14987.2 million which was 14.02 per cent higher than oil imports valued at US \$ 13144.0 million in the corresponding period last year. Oil imports during April-May, 2012-13 were valued at US\$ 28896.3 million which was 10.51 per cent higher than the oil imports of US \$ 26148.0

million in the corresponding period last year.

Non-oil imports during May, 2012 were estimated at US \$ 26959.9 million which was 16.11 per cent lower than non-oil imports of US \$ 32137.9 million in May, 2011. Non-oil imports during April - May, 2012-13 were valued at US\$ 50992.5 million which was 8.49 per cent lower than the level of such imports valued at US\$ 55723.2 million in April - May, 2011-12.

D. Trade Balance

The trade deficit for April - May, 2012-13 was estimated at US \$ 29752.08 million which was lower than the deficit of US \$ 31384.36 million during April -May, 2011-12.

Exports & Imports : (US \$ Million)

	May	April-May (Provisional)
Exports(including re-exports)		
2011-12	26796.54	50486.91
2012-13	25681.38	50136.76
%Growth2012-13/ 2011-2012	-4.16	-0.69
Imports		
2011-12	45281.90	81871.27
2012-13	41947.14	79888.84
%Growth2012-13/ 2011-2012	-7.36	-2.42
Trade Balance		
2011-12	-18485.36	-31384.36
2012-13	-16265.76	-29752.08

US, EU in Pow Wow on Trade

The possibility of a Brussels-Washington trade and investment pact received new momentum last week, following the release of an EU-US report which found that a broad, comprehensive bilateral deal was the option with "greatest potential" for supporting jobs and spurring economic growth on both sides of the Atlantic.

The report was prepared by the EU-US High Level Working Group on Jobs and Growth, which was tasked by Washington and Brussels last November to explore trade and investment expansion within the world's largest trading partnership as both sides seek to remedy their ailing economies. This interim report is a precursor to a final recommendation that will be forwarded to US and EU leaders later this year. The report outlined a series of areas where Washington and Brussels could likely find convergence; however, it noted that other subjects would require additional substantive work before the working group could make a more definitive recommendation regarding whether the two sides should ultimately pursue a bilateral deal.

Though the US-EU trade partnership already exceeds US\$500 billion annually, the US Chamber of Commerce estimates that reducing trans-Atlantic trade barriers could increase annual trade volume by up to US\$120 billion.

Tariffs, IPRs, regulatory issues

Provided that both sides do decide to pursue a bilateral deal, the report suggested that negotiators aim to eliminate all duties on bilateral trade, starting with a large elimination of tariffs on some tariff lines upon the pact's entry into force, and phasing out all but the "most sensitive" tariffs within a short time frame.

Negotiators should also work to develop a set of "21st century rules" focusing on areas such as trade facilitation and customs; trade-related aspects of competition and state-owned enterprises; trade-related aspects of labour and environment; small- and medium-sized enterprises; supply chains; and access to raw materials and energy, the report said.

In the area of services, both sides would aim to "bind the existing autonomous level of liberalisation of both parties at the highest level of liberalisation captured in existing FTAs," while at the same time working to address remaining market access barriers and taking into account the sensitive nature of some sectors.

With regards to intellectual property rights (IPRs), both sides "agree[d] that it would not be feasible in negotiations to seek to reconcile across the board differences in the IPR obligations that each typically includes in its comprehensive trade agreements."

Washington and Brussels have examined

options for lowering trade barriers between them in the past, only to find difficulty in achieving consensus in areas such as regulatory standards and health protections. These issues were also addressed in the report, which noted that a potential deal could include ambitious chapters that would be "SPS-plus" - SPS referring to sanitary and phytosanitary standards, or food safety and animal and plant health - and "TBT-plus," with TBT referring to technical barriers to trade.

US Senate Passes Farm Bill

Just weeks after formally opening debate on the omnibus legislation that will drive US agriculture spending over the next five years, the US Senate passed its version of US Farm Bill by a 64-35 vote last on 21 June.

The Senate's version of the Agriculture Reform, Food and Jobs Act of 2012 - which passed with bipartisan support after lawmakers debated 73 amendments over a period of three days, out of the 200-plus that were originally proposed - is projected to cost US\$969 billion over the next ten years. Compared with the existing 2008 Farm Bill, it will reduce spending by US\$23.6 billion over the same period, according to recent estimates from the Congressional Budget Office.

According to Mary Kay Thatcher of the American Farm Bureau Federation - an advocate of farm interests - the US\$23.6 billion in savings comes from US\$15 billion in cuts from the US\$45 billion commodity subsidy programme; US\$5 billion in cuts from the US\$64 billion conservation programme; and a US\$3.8 billion cut on the US\$770 billion tab on food stamps, also known as the Supplemental Nutrition Assistance Program (SNAP).

The major difference between the 2008 Farm Bill and the Senate's proposed 2012 version is the termination of direct payments and counter-cyclical payments under the commodity title. Farmers will instead receive support through a crop and revenue insurance mechanism that will cover "shallow" losses, protecting farmer's incomes up to 80-90 percent.

Supporters of the bill, however, have argued otherwise. The bill includes an amendment that places a US\$50,000 limit on revenue compensation, thereby ending the unlimited payments entailed in the 2008 law; it also reduces premium subsidies for farmers earning more than US\$750,000 a year. However, effective limits on revenue compensation, while attempted in past years, have yet to make it into final legislation.

US to Slap Sanctions on Russia on Human Rights Violation

Legislation that would sanction Russian officials for alleged human rights violations is moving swiftly through the US Congress, with a Senate panel unanimously approving its version of the bill on Tuesday. The potential linkage of the human rights bill with legislation that would remove Cold War-era trade restrictions on Moscow has sparked major debate among US lawmakers, particularly amid the backdrop of Russia's impending WTO accession and warnings of retaliation from Moscow should the

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WEEKLY INDEX OF CHANGES

CBEC Amends Customs Notifications in Deemed Exports and EPCG to Align them with FTP

Ntnf 42 In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), (DoR) the Central Government, being satisfied that it is necessary in the public interest so to do, hereby directs that 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 :-

Table

SNo. Notification number and date	Amendments
(1)	(2)
1. 100/2009-Customs, dated the 11th September, 2009 [Vide number G.S.R. 666 (E), dated the 11th September, 2009] [EPCG Scheme to Common Service Providers at 3% in FTP 2009-2014 (p Q26)]	In the said notification,- (a) in paragraph 2- (i) in condition (2) , after the words "each user would fulfil", the words, figures and letters "and for authorizations issued on or after the 5 th June, 2012, the details of the capital goods and the quantum of Export Obligation which Common Service provider shall fulfil shall be mentioned in the authorization." shall be inserted . (ii) in condition (5)- (A) after the first Table , the following proviso shall be inserted , namely:- "Provided that in case authorizations are issued on or after the 5 th June, 2012, the Common Service provider shall execute the bond with bank guarantee and the bank guarantee shall be equivalent to hundred percent. of the duty foregone, to be given by the Common Service provider or by any one of the users or a combination thereof, at the option of the Common Service provider." (B) after the proviso as so inserted , in the existing first proviso, for the words, "Provided that", the words, "Provided further that" shall be substituted. (C) in condition (7) , after the words "specific users", the words "or the Authorization Holder, as the case may be," shall be inserted . (b) in the Explanation, in clause 3,- (I) in sub-clause (1)- (A) for the words "Common Service provider and each of the specific users", the words "Common Service provider and each of the specific users endorsed in the authorization or the Common Service Provider and specific users whose details are informed prior to export by Common Service provider to the Regional Authority, as the case may be," shall be substituted. (B) in the second proviso , for the words "poultry and sericulture," the words "poultry, sericulture, carpet, coir and jute," shall be substituted. (C) for the fifth proviso, the following proviso shall be substituted, namely:- "Provided also that the exports made to such countries as notified by the Director General of Foreign Trade, shall not be counted for fixing average level of exports." (D) after the sixth proviso , the following proviso shall be inserted , namely:- "Provided also that in the case of authorisations issued on or after the 5 th June, 2012, for exports by users of the common service, to be counted towards fulfilment of export obligation of Common Service provider, the respective shipping bills of the users of common service shall contain the EPCG Authorization details of the Common Service provider and concerned Regional Authority must be informed about the details of the users prior to such export." (II) in sub-clause (2) , in item (a)- (A) in sub-item (v) , for the words, brackets, figures and letters, "power projects and refineries not covered in (iv) above under ICB procedure," the words, brackets, letter and figures, "mega power projects as provided in sub-clause (ii) of clause (f) of para 8.2 of Foreign Trade Policy," shall be substituted. (B) in sub-item (vi) , for the words and letters, "as opposed to ICB," the words brackets, letter and figures, "as provided in clause (j) of para 8.2 of Foreign Trade Policy," shall be substituted.

2. 101/2009-Customs, dated the 11th September, 2009 [Vide number G.S.R. 667 (E), dated the 11th September, 2009] **[EPCG to Common Service Providers at Nil Duty in FTP 2009-2014 (p Q22)]**
- In the said notification,-
(a) in **paragraph 2-**
(i) in **condition (3)**, after the words "each user would fulfil", the words, figures and letters "and for authorizations issued on or after the 5th June, 2012, the details of the capital goods and the quantum of Export Obligation which Common Service provider shall fulfil shall be mentioned in the authorization." shall be **inserted**.
(ii) in **condition (4)**, after the words "Government of India", the following proviso shall be **inserted**, namely:-
"Provided that this condition shall not be applicable where the benefit under TUFs has been obtained but exact line of business in TUFs is different from the line of business under EPCG or where benefits availed under TUFs are refunded, with applicable interest, before availing zero duty EPCG Authorization." shall be inserted.
(iii) in **condition (5)**, for the letters and words, "SHIS scrips which are not issued", the words and letters, "provided that this condition shall not be applicable where already availed SHIS benefit that is unutilized is surrendered or where benefits availed under SHIS that is utilized is refunded, with applicable interest, before availing zero duty EPCG authorization. SHIS scrips which are surrendered or benefit refunded or not issued" shall be substituted.
(iv) in **condition (8)**, after the Table, the following proviso shall be **inserted**, namely:-
"Provided that in case authorizations are issued on or after the 5th June, 2012, the Common Service provider shall execute the bond with bank guarantee and the bank guarantee shall be equivalent to hundred percent. of the duty foregone, to be given by Common Service provider or by any one of the users or a combination thereof, at the option of the Common Service provider."
(v) in **condition (10)**, after the words "specific users", the words "or the Authorization Holder, as the case may be," shall be **inserted**.
(b) in **paragraph 4**, for the figures, letters and word, "31st December, 2012", the figures, letters and word, "31st December, 2013" shall be substituted.
(c) in the **Explanation, in clause 3,-**
(I) in **sub-clause (1)-**
(A) for the words "Common Service provider and each of the specific users", the words "Common Service provider and each of the specific users endorsed in the authorization or the Common Service provider and specific users whose details are informed prior to export by Common Service provider to the Regional Authority, as the case may be," shall be substituted.
(B) in the **second proviso**, for the words "poultry and sericulture," the words "poultry, sericulture, carpet, coir and jute," shall be substituted.
(C) for the fifth proviso, the following proviso shall be substituted, namely:-
"Provided also that the exports made to such countries as notified by the Director General of Foreign Trade, shall not be counted for fixing average level of exports."
(D) after the **sixth proviso**, the following proviso shall be **inserted**, namely:-
"Provided also that in the case of authorisations issued on or after the 5th June, 2012 for exports by users of the common service, to be counted towards fulfilment of export obligation of Common Service the respective shipping bills of the users of common service shall contain the EPCG Authorization details of the Common Service provider and concerned Regional Authority must be informed about the details of the users prior to such export."
(II) in **sub-clause (2)**, in **item (a)-**
(A) in **sub-item (v)** for the words, brackets, figures and letters, "power projects and refineries not covered in (iv) above under ICB procedure," the words, brackets, figures and letters, "mega power projects as provided in sub-clause (ii) of clause (f) of para 8.2 of Foreign Trade Policy," shall be substituted.
(B) in **sub-item (vi)**, for the words and letters, "as opposed to ICB," the words, brackets, letter and figures, "as provided in clause (j) of para 8.2 of Foreign Trade Policy," shall be substituted.
3. 102/2009-Customs, dated the 11th September, 2009 [Vide number G.S.R. 668 (E), dated the 11th September, 2009] **[Nil Duty EPCG Scheme in FTP 2009-2014 in Eight**
- In the said notification,-
(a) in **paragraph 2-**
(i) in **condition (3)**, after the words "Government of India", the following proviso shall be **inserted**, namely:-
"Provided that this condition shall not be applicable where the benefit under TUFs has been obtained but exact line of business in TUFs is different from the line of business

Export Sectors with Negative List of Exports] (p Q20)]

under EPCG or where benefits availed under TUFs are refunded, with applicable interest, before availing zero duty EPCG Authorization.”

(ii) in **condition (4)**, for the letters and words, “SHIS scrips which are not issued”,

the words and letters, “provided that this condition shall not be applicable where already availed SHIS benefit that is unutilized is surrendered or where benefits availed under SHIS that is utilized is refunded, with applicable interest, before availing zero duty EPCG authorization. SHIS scrips which are surrendered or benefit refunded or not issued” shall be substituted.

(iii) in **condition (7)**, after the Table,-

(I) the following provisos shall be **inserted**, namely:-

“Provided that the export obligation shall be 75% of the normal export obligation specified above when fulfilled by export of following green technology products, namely, equipment for solar energy decentralized and grid connected products, bio-mass gassifier, bio-mass or waste boiler, vapour absorption chillers, waste heat boiler, waste heat recovery units, unfired heat recovery steam generators, wind turbine, solar collector and parts thereof, water treatment plants, wind mill and wind mill turbine or engine, other generating sets - wind powered, electrically operated vehicles – motor cars, electrically operated vehicles – lorries and trucks, electrically operated vehicles – motor cycle and mopeds, and solar cells: Provided further that for units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, the export obligation shall be 25% of the normal export obligation specified above:”

(II) **after the provisos** as so **inserted**, in the existing first proviso, for the words, “Provided further”, the words, “Provided also” shall be substituted.

(b) in **paragraph 4**, for the figures, letters and word, “31st December, 2012”, the figures, letters and word, “31st December, 2013” shall be substituted.

(c) in the **Explanation**, in **clause 2**,-

(I) in **sub-clause (1)**-

(A) in the **second proviso**, for the words “poultry and sericulture,” the words “poultry, sericulture, carpet, coir and jute,” shall be substituted.

(B) for the fifth proviso, the following proviso shall be substituted, namely:-

“Provided also that the exports made to such countries as notified by the Director General of Foreign Trade, shall not be counted for fixing average level of exports:”

(II) in **sub-clause (2)**, in **item (a)**,-

(A) in **sub-item (v)**, for the words, brackets, figures and letters, “power projects and refineries not covered in (iv) above under ICB procedure;”, the words, brackets, letter and figures, “mega power projects as provided in sub-clause (ii) of clause (f) of para 8.2 of Foreign Trade Policy;” shall be substituted.

(B) in **sub-item (vi)**, for the words and letters, “as opposed to ICB;”, the words, brackets, letter and figures, “as provided in clause (j) of para 8.2 of Foreign Trade Policy;” shall be substituted.

4. 103/2009-Customs, dated the 11th September, 2009 [Vide number G.S.R. 669 (E), dated the 11th September, 2009] **[EPCG Scheme at 3% in FTP 2009-2014 (p Q24)]**

In the said notification,-

(a) in **paragraph 2**, in **condition (4)**,

(i) **after the first Table**, the following provisos shall be **inserted**, namely,-
“Provided that the export obligation shall be 75% of the normal export obligation specified above when fulfilled by export of following green technology products, namely, equipment for solar energy decentralized and grid connected products, bio-mass gassifier, bio-mass or waste boiler, vapour absorption chillers, waste heat boiler,

waste heat recovery units, unfired heat recovery steam generators, wind turbine, solar collector and parts thereof, water treatment plants, wind mill and wind mill turbine or engine, other generating sets - wind powered, electrically operated vehicles – motor cars, electrically operated vehicles – lorries and trucks, electrically operated vehicles – motor cycle and mopeds, and solar cells: Provided further that for units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, the export obligation shall be 25% of the normal export obligation specified above:”

(ii) **after the provisos** as so **inserted**, in the existing first proviso, for the words, “Provided that”, the words, “Provided also that”, shall be substituted.

(b) in the **Explanation**, in **clause 2**,-

(I) in **sub clause (1)**-

(A) in the **second proviso**, for the words “poultry and sericulture,” the

words “poultry, sericulture, carpet, coir and jute,” shall be substituted. (B) for the **fifth proviso**, the following proviso shall be substituted, namely:-

“Provided also that the exports made to such countries as notified by the Director General of Foreign Trade, shall not be counted for fixing average level of exports:”

(II) in **sub-clause (2)**, in **item (a)**,-

(A) in **sub-item (v)** for the words, brackets, figures and letters, “power projects and refineries not covered in (iv) above under ICB procedure;”, the words, brackets, letter and figures, “mega power projects as provided in sub-clause (ii) of clause (f) of para 8.2 of Foreign Trade Policy;” shall be substituted.

(B) in **sub-item (vi)**, for the words and letters, “as opposed to ICB;”, the words, brackets, letter and figures, “as provided in clause (j) of para 8.2 of Foreign Trade Policy;” shall be substituted.

5. 104/2009-Customs, dated the 14th September, 2009 [Vide number G.S.R. 674 (E), dated the 14th September, 2009] **[Status Holders Incentive Scrip under FTP 2009-2014 for Capitals Goods Imports (p Q26)]**

In the said notification,-

(a) in the **opening paragraph**, for the portion beginning with the words “hereby exempts” and ending with the brackets and words “ (hereinafter referred to as the said scrip),”, the following shall be substituted, namely:-

“hereby exempts –

(i) capital goods; and

(ii) components and spares and parts, for capital goods imported earlier, when imported into India against a duty credit scrip issued under the Status Holders Incentive Scheme in accordance with paragraph 3.16 of the Foreign Trade Policy (hereinafter referred to as the said scrip).”

(b) for **Condition (4)**, the following condition shall be substituted, namely:-

“(4) that the said scrip shall be non-transferable and shall be used for import of capital goods relating to the sectors specified in condition (1): Provided that the capital goods specified in appendix 37B of the Hand Book of Procedures volume 1 shall not be allowed for import:

Provided further that the import of components and spares and parts against the said scrip shall be allowed only -

(i) in respect of capital goods imported earlier,

(ii) in respect of capital goods imported relating to the sectors specified in condition (1), and

(iii) upto ten *per cent.* of the duty credit amount in the said scrip originally issued:

Provided also that the said scrip shall be transferable amongst the status holders subject to the condition that the transferee status holder is a manufacturer and such transfer is endorsed by the Regional Authority, during the period of validity of the said scrip, mentioning the sectors for which the transferee has manufacturing facility and for which the transfer is granted:

Provided also that upon such transfer, the validity of the said scrip shall remain unchanged.”

(c) **after condition (5)**, the following condition shall be **inserted**, namely:-

“(5A) that the components and spares and parts, for capital goods imported earlier, imported against the said scrip shall be meant for use in the capital goods already imported and subject to actual user condition and the importer at the time of clearance of the said components and spares and parts, shall furnish an undertaking to this effect to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, that in case of non compliance of the said condition, he shall pay on demand an amount equal to the duty leviable, but for the exemption contained herein together with interest at the rate of fifteen percent. per annum from the date of clearance of the said materials.”

(d) in the **Explanation**,-

(I) **after clause (i)**, the following clauses shall be **inserted**, namely:-

“(ia) “Component” means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved and it includes an accessory or attachment to another component.

(ib) “Spares” means a part or a sub-assembly or assembly for substitution, that is ready to replace an identical or similar part or sub-assembly or assembly and it includes a component or an accessory.

(ic) “Part” means an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes which may be a component, spare or an accessory.”

(II) in **clause (iii)**, for the words “Licensing Authority”, the words “Licensing Authority or Regional Authority” shall be substituted.

[F.No.605/12/2012-DBK]

North Eastern Region Exports and Sikkim Entitled for Additional 1% VKGUY and FPS Scrip

Subject: Amendments in the Vishesh Krishi and Gram Udyog Yojana (VKGUY) and Focus Product Scheme (FPS) of Chapter 3 of Foreign Trade Policy 2009-14 - Appendix 37A and Appendix 37D of Handbook of Procedures (Vol. I).

07-PN(RE) In exercise of powers
26.06.2012 conferred under paragraph 2.4
(DGFT) of the Foreign Trade Policy
2009-14, the Director General
of Foreign Trade hereby adds a "Note" in Appendices 37A and 37D of the Handbook of Procedures (Vol. I) (Appendices and Aayat Niryat Forms) 2009-14.

The following Note is added in **Appendix 37A** of Handbook of Procedures (Vol. I) (Appendices and Aayat Niryat Forms) below Table 1 & Table 2 and in **Appendix 37D** of Handbook of Procedures (Vol. I) (Appendices and Aayat Niryat Forms) below Table 1 & Table 2 for export made

with effect from 5th June, 2012:

"Note: Export of product listed in Table 1 & Table 2 above through any of the Land Custom Stations (LCSs) situated in the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim shall be entitled for additional Duty Credit Scrip @ 1% of FOB value."

2. Effect of this Public Notice

Export of the specified products through all Land Custom Stations of North Eastern Region and Sikkim are entitled for additional 1% Duty Credit Scrip.

No Service Tax Leviable on CAG Audit Fees

Subject: Audit fees collected by the Comptroller and Auditor General (CAG).

159-ST A doubt has been raised
19.06.2012 whether service tax is leviable
(DoR) on the audit fees collected by
the CAG for conducting

directly, audit of corporations. Reportedly some field formations are inclined to take a view that such 'audit fee' collected by the CAG is leviable to service tax under the authority of the inclusive portion of the definition of "practicing chartered accountant" read with the relevant definition of the taxable service [Section 65(83) read with section 65(105)(s) of Finance Act, 1994].

2. The issue has been examined. The definition of the practicing chartered accountant in section 65(83) of Finance Act, 1994 reads as follows:

"practicing chartered accountant" means person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 (38 of 1949) and **includes any concern engaged in rendering services in the field of chartered accountancy**" [emphasis added].

3. According to the Law Lexicon [by Shri P. Ramanatha Aiyar] the expression "concern" means: "an organization or establishment for business". It further elaborates that the word "concern" is a mercantile term. CAG being a constitutional authority cannot be considered as a concern in the same manner as a firm of chartered accountants. CAG is a constitutional authority and by no stretch of imagination be covered by the meaning of expression "concern" appearing in the definition of "practicing chartered accountant".

4. It is further added that the words "in the field of chartered accountancy" would mean such services as are ordinarily rendered by a chartered accountant. The services of CAG are not services as are rendered by a chartered accountant even though both may be engaged in the sphere of the auditing. The scope of work of the CAG goes far beyond that of a statutory company auditor and is often carried out by

persons who may not even be professional chartered accountants. These audits are done in terms of section 18 of the CAG (Duties, Powers and Conditions of Service) Act, 1971, which is entirely different from the powers vested in a chartered accountant under the Chartered Accountant Act, 1949.

5. The services of CAG are also not covered by the heading Business Support Services specified in clause (zzzq) of section 65. When the business support services were taxed for the first time in the year 2006, the TRU circular stated as follows:

"Business entities outsource a number of services for use in business or commerce. These services include transaction processing, routine administration or accountancy, customer relationship management and tele-marketing. There are also business entities which provide infrastructural support such as providing instant offices along with secretarial assistance known as "Business Centre Services". It is proposed to tax all such outsourced services. If these services are provided on behalf of a person, they are already taxed under Business Auxiliary Service. Definition of support services of business or commerce gives indicative list of outsourced services."

It is evident that this circular has clarified that the new service was meant to capture such services as are ordinarily outsourced by business entities. The audit activity is not an outsourced function but is carried out in statutory fulfillment of duties. Thus the services by CAG would also not be covered by the service head "Business Support Service".

Commissioner Customs at Kolkata to Adjudicate DRI Case of Eastern Silk Industries

[Ref: F.No. 437/32/2012-Cus. IV dated 26th June 2012]

In terms of Notification No. 15/2002-Customs (N.T.) dated 07.03.2002 (as amended) issued under sub-section (1) of section 4 of the Customs Act, 1962 (52 of 1962), the Board hereby assigns the Show Cause Notice DRI F.No.153/KOL/APP/2008 (Pt.) dated 11.05.2012 issued

Bank Guarantee Allowed as Substitute for Fixed Deposit for Mega Power Project Import at Concessional Duty of Customs and Excise

Ntfn 43 In exercise of the powers
27.06.2012 conferred by sub-section (1)
(DoR) of section 25 of the
Customs Act, 1962 (52 of
1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) **No. 12/2012-Customs, dated the 17th March, 2012**, which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 185(E), dated the 17th March, 2012, namely:-

In the said notification, in the ANNEXURE, in **Condition No. 93**, for the words "Fixed Deposit Receipt", the words "Fixed Deposit Receipt or Bank Guarantee" shall be substituted.

[F.No.354/94/2011 -TRU]

27-CE In exercise of the powers
27.06.2012 conferred by sub-section (1)
(DoR) of section 5A of the Central
Excise Act, 1944 (1 of
1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), **No. 12/2012-Central Excise, dated the 17th March, 2012**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 163(E), dated 17th March, 2012, namely:-

In the said notification, in the ANNEXURE,-

A. in **Condition No. 42**, for the words "Fixed Deposit Receipt", the words "Fixed Deposit Receipt or Bank Guarantee" shall be substituted.

B. in **Condition No. 43**, for the words "Fixed Deposit Receipt", the words "Fixed Deposit Receipt or Bank Guarantee" shall be substituted.

[F. No. 354/94/2011- TRU]

6. This circular may be communicated to the field formations and service tax assesseees through Public Notice/Trade Notice. Hindi version would follow.

F.No.354/89/2012-TRU

Cenvat Credit Refund Procedures

27-CE(NT) In exercise of the powers
18.06.2012 conferred by rule 5 of the
(DoR) CENVAT Credit Rules, 2004
(hereinafter referred to as the
"said rules"), and in supersession of the notifica-
tion of the Government of India in the Ministry of
Finance (Department of Revenue), No 5/2006 –
Central Excise (N.T), dated the 14th March,
2006, published in Gazette of India, Extraordi-
nary, Part II, Section 3, Sub-section (i) vide
number G.S.R 156(E), dated the 14th March,
2006, the Central Board of Excise and Customs
hereby directs that refund of CENVAT credit
shall be allowed subject to the procedure, safe-
guards, conditions and limitations as specified
below, namely:-

2.0 Safeguards, conditions and limitations.-
Refund of CENVAT Credit under rule 5 of the
said rules, shall be subjected to the following
safeguards, conditions and limitations, namely:-

(a) the manufacturer or provider of output
service shall submit not more than one claim of
refund under this rule for every quarter:

provided that a person exporting goods and
service simultaneously, may submit two refund
claims one in respect of goods exported and
other in respect of the export of services every
quarter.

(b) in this notification quarter means a pe-
riod of three consecutive months with the first
quarter beginning from 1st April of every year,
second quarter from 1st July, third quarter from
1st October and fourth quarter from 1st January
of every year.

(c) the value of goods cleared for export
during the quarter shall be the sum total of all the
goods cleared by the exporter for exports during
the quarter as per the monthly or quarterly
return filed by the claimant.

(d) the total value of goods cleared during
the quarter shall be the sum total of value of all
goods cleared by the claimant during the quar-
ter as per the monthly or quarterly return filed by
the claimant.

(e) in respect of the services, for the purpose
of computation of total turnover, the value of
export services shall be determined in accor-
dance with clause (D) of sub-rule (1) of rule 5 of
the said rules.

(f) for the value of all services other than
export during the quarter, the time of provision
of services shall be determined as per the
provisions of the Point of Taxation Rules, 2011.

(g) the amount of refund claimed shall not be
more than the amount lying in balance at the
end of quarter for which refund claim is being
made or at the time of filing of the refund claim,
whichever is less.

(h) the amount that is claimed as refund
under rule 5 of the said rules shall be debited by
the claimant from his CENVAT credit account at
the time of making the claim.

(i) In case the amount of refund sanctioned
is less than the amount of refund claimed, then
the claimant may take back the credit of the
difference between the amount claimed and

amount sanctioned.

3.0 Procedure for filing the refund claim. - (a)
The manufacturer or provider of output service,
as the case may be, shall submit an application
in Form A annexed to the notification, to the
Assistant Commissioner of Central Excise or
Deputy Commissioner of Central Excise, as the
case may be, in whose jurisdiction,-

(i) the factory from which the final products
are exported is situated.

(ii) the registered premises of the provider of
service from which output services are exported
is situated.

(b) The application in the Form A along with
the documents specified therein and enclo-
sures relating to the quarter for which refund is
being claimed shall be filed by the claimant,
before the expiry of the period specified in
section 11B of the Central Excise Act, 1944 (1
of 1944).

(c) The application for the refund should be
signed by-

(i) the individual or the proprietor in the case
of proprietary firm or karta in case of Hindu
Undivided Family as the case may be;

(ii) any partner in case of a partnership firm;

(iii) a person authorized by the Board of
Directors in case of a limited company;

(iv) in other cases, a person authorized to
sign the refund application by the entity.

(d) The applicant shall file the refund claim
along with the copies of bank realization certi-
ficate in respect of the services exported.

(e) The refund claim shall be accompanied
by a certificate in Annexure A-I, duly signed by
the auditor (statutory or any other) certifying the
correctness of refund claimed in respect of
export of services.

(f) The Assistant Commissioner or Deputy
Commissioner to whom the application for re-
fund is made may call for any document in case
he has reason to believe that information pro-
vided in the refund claim is incorrect or insuffi-
cient and further enquiry needs to be caused
before the sanction of refund claim.

(g) At the time of sanctioning the refund
claim the Assistant Commissioner or Deputy
Commissioner shall satisfy himself or herself in
respect of the correctness of the claim and the
fact that goods cleared for export or services
provided have actually been exported and allow
the claim of exporter of goods or services in full
or part as the case may be.

[F No 268/07/2012-CX.8]

Annexure

Form A

**Application for refund of CENVAT Credit under rule 5 of
the CENVAT Credit Rules, 2004 for the Quarter ending**

dd mm yyyy

To,

The Assistant Commissioner or Deputy Commissioner of Central Excise,

.....

Sir,

I/ We have exported, the final products or output services during the Quarter and am/ are claiming the
refund of CENVAT Credit in terms of Rule 5 of the CENVAT Credit Rules, 2004 as per the details below:

SNo.	Description	Amount in Rs
1	Total value of the goods cleared for export and exported during the quarter.	
2	Export turnover of the services determined in terms of Clause D of sub- rule (1) of rule 5.	
3	Total CENVAT Credit taken on inputs and input services during the quarter.	
4	Amount reversed in terms of sub-rule (5C) of rule 3	
5	Net CENVAT Credit = (3) – (4)	
6	Total value of all goods cleared during the quarter including exempted goods, dutiable goods and goods for export.	
7	Export turnover of services and value of all other services, provided during the said quarter.	
8	All inputs removed as such under sub-rule (5) of rule 3, against an invoice during the quarter.	
9	Total Turnover = (6) + (7) + (8)	
10	Refund amount as per the formula = (1) * (5)/(9), in respect of goods exported.	
11	Refund amount as per the formula = (2) * (5)/(9), in respect of services exported.	
12	Balance of CENVAT Credit available on the last day of quarter.	
13	Balance of CENVAT Credit available on the day of filing the refund claim.	
14	Amount claimed as refund, [Amount shall be less than the minimum of (10), (12) and (13) in case of goods or the minimum of (11), (12) and (13) in case of services]	
15	Amount debited from the CENVAT account [shall be equal to the Amount claimed as refund (14)]	

**2.0 Details of the Bank Account to which the
refund amount to be credited:** Refund sanc-
tioned in my favour should be credited in my/ our

bank account. Details furnished below;

(i) Account Number:

(ii) Name of the Bank:

Service Tax Notifications – See Full Notification Text at our Website www.worldtradesScanner.com

Dept of Revenue Notifies Service Tax (Settlement of Cases) Rules, 2012

[Ref: Service Tax Notification No. 16/29.05.2012]

Service Tax (Compounding of Offences) Rules, 2012 Notified

[Ref: Service Tax Notification No. 17/29.05.2012]

Enactment of Finance Act 2012 Changes in Service Tax – Effective from 1 June 2012

[Ref: Service Tax Notification No. 19 to 23/05.06.2012]

New Works Contract Valuation Rules for Service Tax

[Ref: Service Tax Notification No. 24/06.06.2012]

39 Services Exempted from Tax

[Ref: Service Tax Notification No. 25/20.06.2012]

Effective Service Value for Tax Calculation

[Ref: Service Tax Notification No. 26/20.06.2012]

Service Tax Exempted on Services Rendered to Foreign Diplomatic Mission or Consular Post in India

[Ref: Service Tax Notification No. 27/20.06.2012]

Place of Provision of Services Rules 2012 Come into Effect from 1 July 2012

[Ref: Service Tax Notification No. 28/20.06.2012]

Service Tax Calculation on Immovable Property

[Ref: Service Tax Notification No. 29/20.06.2012]

Service Tax Payment Liability on Recipient of Service

[Ref: Service Tax Notification No. 30/20.06.2012]

Service Tax Exemption on Freight Goods on Way to Port

[Ref: Service Tax Notification No. 31/20.06.2012]

Service Tax Exemption to Tech Park Services

[Ref: Service Tax Notification No. 32/20.06.2012]

Service Tax Exemption on Service Turnover of Rs. 10 Lakhs per Year

[Ref: Service Tax Notification No. 33/20.06.2012]

Rescinding of 81 Old Service Tax Notification

[Ref: Service Tax Notification No. 34/20.06.2012]

Rescinding of 32/2007 ST

[Ref: Service Tax Notification No. 35/20.06.2012]

Service Tax Rules Amended for New Definitions

[Ref: Service Tax Notification No. 36/20.06.2012]

Point of Taxation (Amendment) Rules, 2012

[Ref: Service Tax Notification No. 37/20.06.2012]

Amendment in Works Contract

[Ref: Service Tax Notification No. 38/20.06.2012]

Exemption on Input Services for Service Exports

[Ref: Service Tax Notification No. 39/20.06.2012]

Service Received in SEZ for Authorised Operations Exempted

[Ref: Service Tax Notification No. 40/20.06.2012]

EU Body Rejects Counterfeiting Pact

In a key vote last on 21 June, the EU Committee on International Trade (INTA) officially recommended that the European Parliament (EP) reject the controversial Anti-Counterfeiting Trade Agreement (ACTA). The highly-anticipated result has cast further doubts over the ultimate approval of the treaty by the EU.

ACTA is a plurilateral trade pact seeking to strengthen global standards for the enforcement of intellectual property rights in order to combat counterfeiting and piracy. The deal's opponents fear that some of the provisions contained in the final text, which go beyond the standards set by the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), could have a detrimental effect on access to medicines and freedoms in the digital environment.

INTA is the fifth EU committee to ask for the rejection of the pact. Within the past month, four other committees issued critical opinions of the treaty, arguing that the deal is incompatible with EU fundamental rights and could have negative impacts on business and on the health of people living in developing countries.

along with the copies of shipping bill and bill of lading in case of the export of goods.

(ii) Copies of the Bank Realization Certificates for the export of services. [refer 3(d)]

(iii) Certificate in Annexure A-I from the Auditor (statutory or any other) certifying the correctness of refund claimed in respect of export of services. [refer 3(e)]

5.0 Refund Order No:

Date: dd mm yyyy

The refund claim filed by Shri/ Messrs _____ has been scrutinized with the relevant Central Excise/ Service Tax records. The said refund claim has been examined with respect to relevant enclosures and has/ has not been found in order. A refund of Rs _____ (Rupees _____) is sanctioned/ The refund claim filed is rejected.

Assistant Commissioner or Deputy Commissioner of Central Excise

Forwarded to-

(i) The Chief Accounts officer, Central Excise, for information and necessary action.

(ii) The Commissioner of Central Excise.

Assistant Commissioner or Deputy Commissioner of Central Excise

(i) Passed for payment of Rs _____ (Rupees _____). The amount is adjustable under head "0038 – Union Excise Duties – Deduct Refunds/ 0044 – Service tax – Deduct Refunds".

(ii) Amount credited to the account of the claimant as per the details below:

Amount refunded:

Account Number:

Reference No of transfer:

Name of the Bank:

Address of the Branch:

Date: dd mm yyyy Chief Accounts officer

(iii) Branch (with address):

3.0 Declaration

(i) I/ We certify that the aforesaid particulars are correct.

(ii) I/ We certify that we satisfy all the conditions that are contained in rule 5 of the CENVAT Credit Rules, 2004 and in notification No. / 2012– CE (N.T) dated June, 2012.

(iii) I/ We am/ are the rightful claimant(s) of the refund of CENVAT Credit in terms of rule 5, the same may be allowed in our favour.

(iv) I/ We declare that no separate claim for drawback or refund has been or will be made under the Customs and Central Excise Duties Service Tax Drawback Rules, 1995 or for claim

of rebate under Central Excise Rules, 2002 or the Export of Services Rules, 2005 or under section 93 or 93A of Finance Act, 1994(32 of 1994).

(v) I/ We declare that we have not filed or will not file any other claim for refund under rule 5 of CENVAT Credit Rules, 2004, for the same quarter to which this claim relates.

Date: dd mm yyyy

Signature of the Claimant.....

Name of the Claimant

Registration Number

Address of the Claimant.....

4.0 Enclosures:

(i) Copies of Customs Certified ARE-1 form

Annexure A –I

It is certified that:

- (a) I am qualified auditor to audit the books of account of M/s _____
- (b) I have audited the books of account of M/s _____ for the quarter ending _____
- (c) The value of the export turnover of services

and total turnover of services mentioned at S No 2 and 7 in the table in Form A

- (i) Is correct as per the books of account and relevant records of M/s _____
- (ii) Is in accordance with the provisions of rule 5 of the CENVAT Credit Rules, 2004.

Date: dd mm yyyy Auditor

Anti-Evasion Unit of Kolkata Excise Commissionerates Claims to nab Service Tax Evasion of Rs. 10 Lakhs by Singh Associates, Kolkata

[Anti-Evasion Unit: Kolkata-I Commissionerate incident Report No. 02 dated 19th June 2012]

Acting on an intelligence, officers of Hdqr. anti evasion unit of this commissionerate visited the registered premises of M/s. Singh associates, 120B. Maniktala Main Road, Kolkata – 700054 [A registered dealer], for enquiry on 13.03.2012.

During investigation and examination of records and documents, it revealed that M/s. Singh associates, 120B. Maniktala Main Road, Kolkata– 700054, had not paid service tax amounting to Rs.1078810.00. The principal

executive officer of the concern admitted the fact and on persuasion, agreed to pay the full amount of unpaid service tax. They were kept under constant persuasion and on 30.03.2012, they have deposited an amount of Rs.382047.00 [Rupees Three Lacs Eighty Two Thousand Forty Seven Only]. They have further assured to pay the rest amount shortly. Records and documents are under further scrutiny and investigation is in progress.

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human rights measure become law.

The human rights legislation - known as the Sergei Magnitsky Rule of Law Accountability Act - has quickly drawn support in both chambers of Congress, having now successfully passed both the House Foreign Affairs and Senate Foreign Relations committees. However, the legislation still needs formal approval from both the full House and Senate, as well as the US President, before it can become law.

The US trade chief has openly argued against linking the trade and human rights bills, which acknowledging that the latter issue will need to be addressed in Congress in some form.

For its part, the Russian Foreign Ministry has warned of retaliation should the Magnitsky bill become law, a response that US officials have cautioned against.

However, several high-profile administration officials and lawmakers - including Secretary of State Clinton, Republican Senator John McCain, and Senator Baucus - have said that the Syria question should be dealt with separately from PNTR.

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Customs Valuation Exchange Rates

June 2012		Imports	Exports
Schedule I			
1	Australian Dollar	57.60	56.35
2	Bahraini Dinar	152.50	144.40
3	Canadian Dollar	55.50	54.30
4	Danish Kroner	9.65	9.40
5	EURO	71.70	70.10
6	Hong Kong Dollar	7.25	7.15
7	Kenyan Shilling	68.35	64.50
8	Kuwaiti Dinar	206.10	194.45
9	New Zealand Dollar	45.10	43.85
10	Norwegian Kroner	9.55	9.25
11	Pound Sterling	88.90	87.05
12	Singapore Dollar	44.55	43.65
13	South African Rand	7.00	6.65
14	South Arabian Riyal	15.35	14.50
15	Swedish Kroner	8.15	7.90
16	Swiss Franc	59.80	58.30
17	UAE Dirham	15.65	14.80
18	U.S. Dollar	56.35	55.55
Rate of exchange of one unit of foreign currency equivalent to Indian Rupees			
Schedule II			
1	Japanese Yen	71.85	70.05
Rate of exchange of 100 units of foreign currency equivalent to Indian rupees			

[Source: NSE and RBI Website]

(Source: Customs Notification 52(NT)/22.06.2012)

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
03-Jul-12	55.6000	55.6450	54.7525	54.8525	54.8525	1485082	2684574	1480207	54.8125
02-Jul-12	55.7800	56.1250	55.6600	55.7075	55.7075	1377427	2105949	1176646	55.8300
29-Jun-12	56.9000	56.9800	56.0325	56.1000	56.1000	1524581	2227723	1257867	56.3090
28-Jun-12	57.2500	57.3875	57.0150	57.1050	57.1050	1493547	1609083	920900	56.9195
27-Jun-12	57.2850	57.5250	57.2500	57.4425	57.4425	1454263	1516574	871057	57.2165