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WTO Reviews SPS on 50 Years of Codex



The calls came in a two-day meeting of the WTO's Sanitary and Phytosanitary Measures (SPS) Committee, which consists of all 159 WTO members and deals with food safety and animal and plant health - measures hav-

ing an increasing impact on trade.

They echoed a paper circulated by Brazil (document G/SPS/GEN/1253), which described food safety as an important contributor to food security, and said international standards and guidelines should be based on science, that confidence in Codex and other international standards-setting bodies should be strengthened, and that any measures that apply higher standards should also be justified by science.

The discussion of the six new specific trade concerns and the 10 previously raised and discussed in this meeting reflected that theme.

They covered; processed meat, genetically modified organisms (GMOs), restrictions related to the Japanese nuclear plant accident, orchid tissue culture plantlets in flasks, citrus fruits (a complaint by South Africa against the EU about black spot, which is the first dispute settlement case in the International Plant Protection Convention), offal, salmon, pesticide residues, sheepmeat, phthalates (materials added to plastics in food and drink containers) in wines and spirits, shrimp, mad cow disease (BSE), GMO pollen in honey, Indonesia's port closures, and pine trees and other products (some details below).

Also on the agenda were: six items of information from members, mainly about administrative changes in Australia, the EU and Rep. Korea, but also the horsemeat scandal in the EU and a new Food Safety Act in the Philippines; and Costa Rica's notification of minimum residue levels for veterinary medicines in live animals (with questions from Panama).

One issue was reported resolved - Slovenia's concern about Croatia's measures on pork imports, dating back to 2003 and not reported solved until almost a decade later.

The committee also continued to discuss two long-standing issues in informal consultations immediately before this meeting.

And the committee was introduced to a new publication on invasive alien species and trade rules (see below)

Some details

The SPS Committee's main task is to monitor how countries are implementing food safety and animal and plant health measures under the WTO Agreement, and to discuss issues arising from that, including the work of recognized international standards-setting bodies. Its deliberations range from comments on specific measures to broader principles.

CODEX anniversary and good scientific practice

Although this was not mentioned specifically in this meeting, the call to shield Codex standards against what some coun-

tries consider to be non-scientific considerations, has in the past been raised in the WTO and in Codex itself. This is particularly about ractopamine, a feed additive to encourage growth and leanness in meat. Some countries called on Codex to agree a minimum residue level, which would allow trade. Some others ban ractopamine and for several years blocked a standard in Codex, until it was adopted by a very close vote in 2012.

Developing countries, meanwhile, described Codex's value in harmonizing standards and in providing technical assistance to help them meet their trading partners' standards. They called for support for Codex's trust funds, which enables delegates from poorer countries to participate in the commission's standards-setting work.

The Dominican Republic, China and Cuba also called for Codex to harmonize private standards, which are stricter than governments' standards and, they said, are not always based on science.

Lebanon urged Codex to set maximum residue levels for antibiotics and pesticides honey. Lebanese consumers consider honey to be a medicine and cannot accept any residues in honey, the delegate said.

Codex Alimentarius is one of "three sisters" recognized in the WTO's SPS Agreement as international standards-setting bodies: the other two are the World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPC) for plant health.

The SPS Agreement says SPS measures should either be based on recognized international standards or on scientific assessment of risks if countries prefer to set their own standards. The measures should also avoid unnecessarily obstructing trade.

Specific trade concerns

Among the specific concerns were:

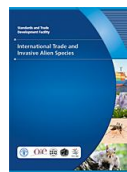
Import restrictions in response to Japan's nuclear power plant accident. Japan updated members on the latest situation and said radiation levels are generally within normal safety levels, and that any contaminated products could not be traded. Many trading partners have lifted their import restrictions, Japan said. However, restrictions remain in Hong Kong China and Chinese Taipei although Japan is starting to work with them on analysing the situation. China remains a major trading partner that still has import bans and Japan has not been able to discuss this bilaterally, Japan said. China said that only products from seriously polluted areas are affected.

Indonesia's port closure (see news story on March 2012 meeting and specific trade concern 330 in spsims.wto.org) for fruit and vegetables, raised again by China, which also complained about various import licensing conditions. Support came this time from the EU, South Africa, Rep. Korea, Chile and Chinese Taipei.

Indonesia, which has said Jakarta Port was closed to horticultural imports because it lacked inspection and quarantine

facilities, repeated that three other ports are available and that they are also close to population centres.

Invasive alien species



A new study on international trade and invasive alien species has been produced by the Standards and Trade Development Facility (STDF), a partnership involving the WTO and other agencies that supports developing countries in building their capacity to implement international sanitary and phytosanitary (SPS) measures.

It includes a recommendation for the SPS Committee to consider developing guidance for countries on the relationship between invasive alien species and the SPS Agreement, so that the legal situation is clear and ensure that dealing with these species can be dealt with in governments' regulations.

These are some of the trade issues or concerns discussed or information supplied by members. The full agenda is here.

Information from members

- Australia - Release of draft Biosecurity Regulations and Inspector-General of Biosecurity Regulations for comment
- Australia - update on retiring the Australian Quarantine and Inspection Service (AQIS) brand
- European Union - update on the fraud case related to the labelling of horse meat in meat products
- European Union - "Smarter Rules For Safer Food" proposals on animal health, plant health, plant propagating materials and official controls (G/SPS/GEN/1252)
- Republic of Korea - update on reorganization of government agencies
- Philippines - new Food Safety Act passed on 5 June 2013

Specific trade concerns

(Document G/SPS/GEN/204/REV.13)

New issues

- EU temperature treatment requirements for imports of processed meat products - concerns of Russia
- US proposed rule on good manufacturing

China Retaliates in EU Solar Panel Case, Claims EU Dumping Wine

China formally began an investigation on Monday into whether Europe is selling wine in China below cost, a response to escalating trade tensions with the European Union.

The Chinese government said it would seek to determine if EU producers benefited from unfair subsidies following a complaint from its own wine producers.

EU officials have said China is only targeting the EU wine industry in retaliation for a dispute with the European Union over



cheap Chinese solar panels.

A European Commission spokesman said he was disappointed to learn of China's latest action and that the Commission, the EU executive, would examine whether it was consistent with World Trade Organization (WTO) rules.

WTO rules prevent members from leveling tit-for-tat sanctions, instead requiring proof assembled via thorough investigation that a country's industry has suffered damage before any duties can be imposed.

practice and hazard analysis and risk-based preventive controls for human food (G/SPS/N/USA/2502) - concerns of China

- EU renewal of GMO approvals (EC regulation 1829/2003) - concerns of Argentina
- Import restrictions in response to the nuclear power plant accident - concerns of Japan
- EU import requirements on orchid tissue culture plantlets in flasks - concerns of Chinese Taipei
- European Union - phytosanitary measures on citrus black spot - concerns of South Africa

Issues previously raised

(Numbers are "specific trade concerns" numbers in the database <http://spsims.wto.org/>)

- Viet Nam's ban on offals - concerns of the European Union and the United States (no. 314)
- China's quarantine and testing procedures for salmon - concerns of Norway (no. 319)
- EU maximum residue levels of pesticides - concerns of India (no. 306)
- Turkey's requirements for importation of sheepmeat - concerns of Australia (no. 340)
- China's import conditions related to phthalates - concerns of the European Union (no. 345)
- Japan's restrictions on shrimp due to anti-oxidant residues - concerns of India (no. 342)
- Import restrictions due to BSE - concerns of the European Union (no. 193)
- EU court of justice ruling regarding pollen derived from GMOs - concerns of Argentina (no. 327)
- Indonesia's port closure (G/SPS/N/IDN/53, G/SPS/N/IDN/54 and G/SPS/N/IDN/54/CORR.1) - concerns of China (no. 330)
- EU quarantine measures on certain pine trees and other products - concerns of Russia (no. 348)

Consideration of specific notifications received

- Costa Rica's MRLs for veterinary medicines in live animals (G/SPS/N/CRI/136) - concerns of Panama

Information on resolution of issues

- Croatia's restrictions on imports of pork - concerns of Slovenia (no. 158)

Senate Confirms Mike Froman as New USTR



The Senate has approved Mike Froman, a senior economic adviser to the White House, to succeed Ron Kirk as the newest US Trade Representative. Lawmakers backed Froman by a 93 to 4 margin last week, in what marked a relatively speedy confirmation process.

The new US trade chief is expected to quickly take on a heavy policy agenda, given the US' efforts to conclude talks for a Trans-Pacific Partnership (TPP) Agreement with eleven other countries by year's end. The US has also launched negotiations for a bilateral trade deal with the EU, with the first round of talks scheduled for July in Washington.

On the multilateral front, WTO members are currently working to clinch a package of deliverables from the Doha Round negotiations in time for this December's ministerial conference in Bali, Indonesia. Washington is also in discussions with a subset of WTO members for a possible plurilateral deal on services trade.

Notably, Froman has pledged to pursue the renewal of Trade Promotion Authority (TPA), or "fast track" - seen as key for successfully concluding the EU and Trans-Pacific trade deals. The provision expired in 2007, and allows the executive branch to negotiate trade deals and then submit them to Congress for up-or-down votes, without amendments.

In its announcement on Monday, China's Commerce Ministry said its inquiry, expected to last at least a year, would meet the relevant WTO rules.

The European Union accuses Chinese manufacturers of dumping billions of euros' worth of solar panels in Europe at below-production cost.

It levied punitive tariffs on Chinese solar panels in June and has warned the duties will rise further unless a negotiated solution is reached by early August.

EU Trade Commissioner Karel De Gucht, in China last month for talks, said he hoped any agreement on solar panels would help to resolve the wine dispute. EU officials deny the dumping of wine in China or subsidizing exports.

The European Union is China's most important trading partner, while for the European Union, China is second only to the United States.

Chinese exports of goods to the bloc totaled 290 billion euros (\$377 billion) last year, with 144 billion euros going the other way.

Wine sales are only a small fraction of overall EU exports, but China's rapidly expanding middle classes have a growing thirst for European wines, especially those from France.

China has become the biggest importer of Bordeaux wines, whose consumption rose by 110 percent in 2011 alone.

WEEKLY INDEX OF CHANGES

Filters Classified in Heading 8421 but Filtering Elements are Classified according to their Constituent Material

Subject: Classification of Elements of Filters of Heading 8421.

24-CBEC The Board has noted that
27.06.2013 while majority of import data in
(DoR) National Import Data Base

shows that "elements of

Filters" are being classified under Tariff Item 84219900 as parts of Filters. These articles are also being classified under other Tariff Items viz. 39269099, 48120000, 48239090, 59119090, 68159990, 69091910, 73269099, etc. Therefore, Board has examined the matter with a view to provide clarity in classification of said articles under the Customs Tariff Act, 1975.

2. Heading 8421 of the Customs Tariff applies to, "Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases". The scope of parts of articles covered by the said Heading 8421 is explained in the World Customs Organization's Harmonized Commodity Description and Coding System Explanatory Notes. These Explanatory Notes present an internationally accepted view of the scope of each Heading of the Customs Tariff. In this context, the Explanatory Note to Heading 84.21 provides that:

"Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading covers parts for the above-mentioned types of

filters and purifiers. Such parts include, *inter alia*:

Leaves for intermittent vacuum filters; chasis, frames and plates for filter presses; rotary drums for liquid or gas filters; baffles and perforated plates, for gas filters.

It should be noted, however, that filter blocks of paper pulp fall in heading 48.12 and that many other filtering elements (ceramics, textiles, felts, etc.) are classified according to their constituent material." (emphasis provided)

3. Thus, it emerges that elements of Filters are to be classified as per their constituent material. For instance, elements (of Filters) that are made up of paper would be classified in Headings 4812 or 4823; if made up of textile material for technical use then in Heading 59.11; if made up of glass then in Heading 70.19; etc. Filters by themselves would be classified under Heading 84.21.

4. Board desires that suitable instructions regarding the correct classification of elements of Filters may be issued to the field formations. Difficulty faced, if any, may be brought to notice of the Board.

F.No. 528/93/2012-STO (TU)

Anti-dumping Duty on Pentaerythritol from Taiwan Extended for One More Year after Review

Ntnf 13-ADD Whereas, the designated
25.06.2013 authority vide notification No.
(DoR) 15/19/2012-DGAD, dated the
25th April, 2013, published in

Part I, Section 1 of the Gazette of India, Extraordinary, dated the 25th April, 2013, 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 'Pentaerythritol', falling under heading 2905 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, Chinese Taipei imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 74/2011-Customs, dated the 12th August, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number

G.S.R. 623 (E), dated the 12th August, 2011, and has 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. 74/2011-Customs, dated the 12th August, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 623 (E), dated the 12th August, 2011, namely: -

In the said notification, in paragraph 2, for the words and figures "27th April, 2013", the words and figures "27th day of April, 2014, unless revoked earlier" shall be substituted.

F.No.354/29/2002-TRU (Pt-II)

Anti-dumping Duty on Acetone from Korea Extended upto 9 June 2014 after Review

Ntnf 12-ADD Whereas, the designated
25.06.2013 authority vide notification No.
(DoR) 15/30/2013-DGAD, dated the
6th June, 2013, published in

Part I, Section 1 of the Gazette of India, Extraordinary, dated the 6th June, 2013, 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 (hereinaf-

Re-import of Pets in Baggage, Health Certificate from the Country of Export and Quarantine Officer Examination Must

Subject: Import of Pets under Baggage.

25-CBEC Attention is invited to Board's
01.07.2013 Circular No. 15/2013-
(DoR) Customs dated 08.04.2013
on the above cited subject.

2. Board has received several representations regarding problems being faced in re-import of pets at airports. In this regard the undersigned is directed to inform that re-import of pets is not covered by Circular No. 15/2013 - Customs dated 08.04.2013. Therefore, it is clarified that re-import of pets as baggage is allowed subject to establishment of identity of pets by Customs authorities, **production of the required health certificate from the country of export and examination of said pets by the concerned Quarantine Officer at this end.**

3. These instructions may be brought to the notice of the trade / airlines / carriers by issuing suitable Trade / Public Notices. Suitable Standing orders/instructions may be issued for the guidance of the field officers.

4. Difficulties faced, if any, may be brought to the notice of the Board immediately.

F. No. 495/16/2012-Cus.VI

ter referred to as the said rules), in the matter of continuation of anti-dumping duty on 'Acetone', falling under heading 2914 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, Korea RP imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 75/2008-Customs, dated the 10th June, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 447 (E), dated the 10th June, 2008, and has 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. 75/2008-Customs, dated the 10th June, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.447 (E), dated the 10th June, 2008, namely: -

In the said notification, after paragraph 2, the following paragraph shall be inserted, namely: -

"3. Notwithstanding anything contained in this notification, the anti-dumping duty imposed herein shall remain in force up to and inclusive of the 9th day of June, 2014, unless revoked earlier."

F.No.354/10/2008-TRU (Pt-I)

Tariff Value of Gold Down by US\$20/10 gms; Others to Fall: Silver US\$2/kg; Brass Scrap US\$13/MT and Crude Soyabean Oil US\$23/MT w.e.f. 28 June

69-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, TABLE-2, and TABLE-3 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	854
2	1511 90 10	RBD Palm Oil	859
3	1511 90 90	Others – Palm Oil	857
4	1511 10 00	Crude Palmolein	875
5	1511 90 20	RBD Palmolein	878
6	1511 90 90	Others – Palmolein	877
7	1507 10 00	Crude Soyabean Oil	1020
8	7404 00 22	Brass Scrap (all grades)	3917
9	1207 91 00	Poppy seeds	4395

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	401 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	604 per kilogram

Table-3

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tons)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	1613"

[F. No. 467/01/2013-Cus. V]

Customs Brokers Licensing Regulations 2013 Notified

The current regulation supersedes the previous Customs House Agents Licensing Regulations 2004.

- Short title and commencement
- Definitions
- Customs Brokers to be licensed
- Invitation of application
- Conditions to be fulfilled by the applicants
- Examination of the applicant
- Grant of licence
- Execution of bond and furnishing of security
- Period of validity of a licence
- Licence not transferable
- Obligations of Customs Broker.
- Change in directors of company, etc.
- Change in constitution of any firm or a company
- Change in the constitution of a concern
- Engagement of persons qualified in the examination referred to in regulation 6, etc.
- Inspection of accounts
- Employment of persons
- Revocation of licence or imposition of penalty
- Suspension of licence
- Procedure for revoking licence or imposing penalty
- Appeal by Customs Broker
- Penalty
- Prohibition
- Membership of associations

Form-A: Application Form for Grant of Customs Broker's Licence under section 146 of the Customs Act, 1962

Tariff Value of US\$1613/MT Imposed on Areca Nuts

67-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 Government, being satisfied that it is necessary and expedient so to do, hereby fixes the tariff value specified in column (4) of the Table below, in respect of the imported goods of the description specified in the corresponding entry in column (3) of the said table and falling under Chapter or heading or sub-heading No. of the first schedule to the Customs Tariff Act, 1975 (51 of 1975), as is specified in the corresponding entry in column (2) of the said Table, having regard to the trend of the value of such or like goods and makes the following further 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 vide number S.O. 748 (E) dated the 3rd August, 2001 Namely :-

In the said notification, after "TABLE-2", the following Table shall be inserted, namely:

“Table-3

SNo.	Chapter/Heading/ Sub-heading Tariff item	Description of goods	Tariff Value (US \$ Per Metric Tons)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	1613"

[F.No. 467/1/2013-Cus V]

Form-B: Licence for Customs Broker

Form-C: Intimation by Customs Broker to work at another Customs Station

Form-D: Bond No.....of 20....

Form-E: Surety Bond No.....of 20....

Form-F: Customs Broker Licence No.....

Form-G: Identity Card

Form-H: Identity-Cum-Authority Card

65-Cus(NT) In exercise of the powers conferred by sub-section (2) of section 146 of the Customs Act, 1962 (52 of 1962), and in supersession of the Customs House Agents Licensing Regulations 2004, except as respect things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby makes the following regulations, namely:-

1. Short title and commencement

(1) These regulations may be called the Customs Brokers Licensing Regulations, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

In these regulations, unless the context otherwise requires, -

(a) "Act" means the Customs Act, 1962 (52 of 1962);

(b) "company" means a company as defined in

the Companies Act, 1956 (1 of 1956);

(c) "Customs Broker" means a person licensed under these regulations to act as agent for the transaction of any business relating to the entry or departure of conveyances or the import or export of goods at any Customs Station;

(d) "firm", "firm name", "partner" and "partnership" shall have the same meanings respectively assigned to them in the Indian Partnership Act, 1932 (9 of 1932), but the expression "partner" shall also include any person who, being a minor, has been admitted to the benefits of partnership;

(e) "Form" means form appended to these regulations;

(f) "Schedule" means the schedule annexed to these regulations;

(g) "section" means a section of the Act; and

(h) the words and expressions used herein and not defined in these regulations but defined in the Act shall have the same meanings respectively assigned to them in the said Act.

3. Customs Brokers to be licensed

No person shall carry on business as a Customs Broker relating to the entry or departure of a conveyance or the import or export of goods at any Customs Station unless such person holds a licence granted under these regulations:

Provided that no licence under these regulations shall be required by -

(a) an importer or exporter transacting any business at a Customs Station solely on his own account;

(b) any employee of any person or a firm transacting business generally on behalf of such person or firm, and holding an identity card or a temporary pass issued by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be; and

(c) an agent employed for one or more vessels or aircrafts in order solely to enter or clear such vessels or aircrafts for work incidental to his employment as such agent.

4. Invitation of application

(1) The Directorate General of Inspection of Customs and Central Excise (DGICCE) shall in the month of April of every year invite applications for conducting examination and subsequent grant of licence to act as Customs Broker in Form A by publication in two leading national daily newspapers in English and Hindi.

(2) The application for a licence to act as a Customs Broker in a Customs Station in Form A shall be made to the Commissioner of Customs having jurisdiction over the area where the applicant intends to carry on his business.

5. Conditions to be fulfilled by the applicants

The applicant for a licence to act as a Customs Broker in a Customs Station, shall prove to the satisfaction of the Commissioner of Customs, that :-

(a) he is a citizen of India;

(b) he is a person of sound mind;

(c) he is not adjudicated as insolvent;

(d) he has neither been convicted by a competent court for an offence nor any criminal proceeding is pending against him in any court of law; and

(e) he has not been penalised for any offence under the Act, the Central Excise Act, 1944 and the Finance Act, 1994.

(f) an individual applicant or in case the applicant is a firm or company its partner or director or an authorised employee who may handle the Customs work shall:

(i) be a graduate from a recognised University, and

(ii) possess a professional degree such as Masters or equivalent degree in Accounting, Finance or Management, CA/MBA/LLB or Diploma in Customs Clearance work from any Institutes or University recognised by the Government or is having at least two years experience in transacting Customs Broker work as G-Card holder;

(g) he is a retired Group A officer from the Indian Customs and Central Excise Services having a minimum of five years experience in Group 'A' service;

(h) the applicant has financial viability as evidenced by a certificate issued by a Scheduled Bank or such other proof acceptable to the Commissioner of Customs in terms of possession of assets of value of not less than five lakhs rupees:

Provided that for the purpose of his satisfaction, the Commissioner of Customs may make enquiries as may be deemed fit.

6. Examination of the applicant

(1) An applicant, who satisfies the requirements of regulation 5, shall be required to appear for a written as well as oral examination conducted by the DGICCE:

Provided that an applicant who has already passed the examination referred to in regulation 9 of the Custom House Agents Licensing Regulation, 1984 and regulation 8 of the Custom House Agents Licensing Regulation, 2004 shall not be required to appear for any further examination.

(2) The written examination shall be conducted on specified dates in month of January of each year for which intimation shall be sent individually to applicants in advance before the date of examination and the result of the said examination shall be declared by end May each year.

(3) The applicant who is declared successful in the written examination shall be called for an oral examination on specified dates in month of June of each year, the result of which shall be declared in the month of July of each year.

(4) The applicant shall be required to clear written examination as well as oral examination.

(5) An applicant who fails to clear the oral examination within two years from date of declaration of result of the related written examination, shall be treated as having failed in the examination.

(6) An applicant shall be allowed a maximum period of seven years from the date of original

application within which he shall pass both written and oral examinations and no further extension shall be granted.

(7) The examination may include questions on the following :

(a) preparation of various kinds of bills of entry, bills of export, shipping bills, and other clearance documents;

(b) arrival entry and clearance of vessels;

(c) tariff classification and rates of duty;

(d) determination of value of imported and export goods;

(e) conversion of currency;

(f) nature and description of documents to be filed with various kinds of bills of entry, shipping bills and other clearance documents;

(g) procedure for assessment and payment of duty including refund of duty paid;

(h) examination of goods at Customs stations;

(i) prohibitions on import and export;

(j) bonding procedure and clearance from bond;

(k) re-importation and conditions for free re-entry;

(l) drawback and export promotion schemes including Special Economic Zone scheme;

(m) offences under the Act;

(n) provisions of the allied Acts including the Indian Explosives Act, 1884 (4 of 1884), Destructive Insects and Pests Act 1914 (2 of 1914), Dangerous Drugs Act, 1930 (2 of 1930), Drugs and Cosmetics Act, 1940 (23 of 1940), Central Excise Act, 1944 (1 of 1944), Copy Right Act, 1957 (14 of 1957), Trade and Merchandise Marks Act 1958 (43 of 1958), Arms Act 1959 (54 of 1959), Patents Act, 1970 (39 of 1970), Narcotics Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Foreign Trade (Development and Regulations) Act, 1992 (22 of 1992), Foreign Exchange Management Act, 1999 (42 of 1999), Design Act, 2000 (16 of 2000) and Food Safety and Standard Act, 2006 (No. 34 of 2006) in so far as they are relevant to clearance of goods through customs;

(o) provisions of Prevention of Corruption Act , 1988 (49 of 1998);

(p) procedure for appeal and revision applications under the Act; and

(q) on line filing of electronic bills of entry and shipping bills vide the Indian Customs and Central Excise Electronic Commerce or Electronic data interchange gateway (ICEGATE) and Indian Customs Electronic data Interchange System (ICES).

(7) The Commissioner of Customs shall satisfy himself that the individual applicant or in cases where applicant is a firm or company its partner or Director or authorised employees who may be engaged for handling the customs work shall possess satisfactory knowledge of English and the local language of the Customs Station:

Provided that in case of a person deputed to work extensively in the docks, knowledge of English shall not be compulsory. Knowledge of Hindi shall be considered as desirable qualification.

7 Grant of licence

(1) The Commissioner of Customs shall, on payment of fee of five thousand rupees grant licence in Form B to an applicant who has passed the oral examination within two months of the date of declaration of the said results.

(2) The applicant who has been granted licence under sub-regulation (1) shall be eligible to work as Customs Broker in all Customs Stations subject to intimation in Form C to the Commissioner of Customs of the Customs Station where he intends to transact business. A copy of this intimation shall also be sent to the Commissioner of Customs who has issued the licence in Form B.

8. Execution of bond and furnishing of security

(1) Before granting the licence under regulation 7, the Commissioner of Customs shall require the successful applicant to enter into the bond in Form D and where specified a surety bond in Form E for due observance of these regulations and furnish a bank guarantee, a postal security or National Saving Certificate in the name of Commissioner of Customs for an amount of five lakhs rupees for carrying out the business as Customs Broker.

(2) In cases where a postal security or National Saving Certificate is furnished, the benefit of interest accruing thereon shall accrue to the Customs Broker concerned.

9. Period of validity of a licence

(1) A licence granted under regulation 7 shall be valid for a period of ten years from the date of issue and shall be renewed from time to time in accordance with the procedure specified in sub-regulation (2):

Provided that a licence granted to a Customs Broker, authorised under the Authorised Economic Operator Programme referred to in Board's Circular No. 28/2012-Customs dated 16.11.2012, shall not require renewal till such time the said authorisation is valid.

(2) The Commissioner of Customs may, on an application made by the licensee before the expiry of the validity of the licence under sub-regulation (1), renew the licence for a further period of ten years from the date of expiration, if the performance of the licensee is found to be satisfactory with reference, inter alia, to the obligations specified in this regulation including the absence of instances of any complaints of misconduct.

(3) The fee for renewal of a licence shall be five thousand rupees.

10. Licence not transferable

Every licence granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and no licence shall be sold or otherwise transferred.

11. Obligations of Customs Broker.

A Customs Broker shall -

(a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs

Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(b) transact business in the Customs Station either personally or through an employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(c) not represent a client in any matter to which the Customs Broker, as a former employee of the Central Board of Excise and Customs gave personal consideration, or as to the facts of which he gained knowledge, while in Government service;

(d) advise his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Commissioner of Customs, from a client who is entitled to such information;

(g) promptly pay over to the Government, when due, sums received for payment of any duty, tax or other debt or obligations owing to the Government and promptly account to his client for funds received for him from the Government or received from him in excess of Governmental or other charges payable in respect of the clearance of cargo or baggage on behalf of the client;

(h) not procure or attempt to procure directly or indirectly, information from the Government records or other Government sources of any kind to which access is not granted by the proper officer;

(i) not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;

(j) not refuse access to, conceal, remove or destroy the whole or any part of any book, paper or other record, relating to his transactions as a Customs Broker which is sought or may be sought by the Commissioner of Customs;

(k) maintain upto date records such as bill of entry, shipping bill, transshipment application, etc. and all correspondence and other papers relating to his business as Customs Broker and also accounts including financial transactions in an orderly and itemised manner as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be; and keep them current;

(l) immediately report the loss of licence granted to him to the Commissioner of Customs;

(m) discharge his duties as a Customs Broker

with utmost speed and efficiency and without any delay;

(n) verify antecedent, correctness of Importer Exporter Code (IEC) number, identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information; and

(o) inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be within one month of such change.

12. Change in directors of company, etc.

In case a company holding a licence under regulation 7 undergoes any change in the directors, or managing director, such change shall forthwith be communicated by such licensee to the Commissioner of Customs within one month of such change.

13. Change in constitution of any firm or a company

(1) In the case of any firm or a company, holding a licence under these regulations, any change in the constitution thereof shall be reported by such firm or company, as the case may be, to the Commissioner of Customs as early as possible, and any such firm or a company indicating such change shall make a fresh application to the said Commissioner of Customs within a period of sixty days from the date of such change for the grant of licence under regulation 7, and the Commissioner of Customs may, if there is nothing adverse against such firm or company, as the case may be, grant a fresh licence :

Provided that if the existing firm or company moves an application for such changes, then such firm or company may be allowed to carry on the business of Customs Broker with the approval of the Commissioner of Customs till such time as a decision is taken on the fresh application of such firm or company.

(2) Notwithstanding anything contained in sub-regulation (1), in case of any firm or a company where a licence has ceased to be in force because of the death or retirement of any partner or director or an authorised employee has passed the examination referred to in regulation 6, the firm or the company may apply for replacement of the name of the demised person by the name of another partner, director or authorised employee who has passed the examination referred to in regulation 6:

Provided that if there is no such person in the firm or company, then such firm or company, as the case may be, may authorise any other partner, director or authorised employee who is a 'G' card holder, referred to in sub-regulation (7) of regulation 17, to pass the examination referred to in regulation 6 within a period of two years from the date of the demise or retirement of such person, and the firm or company may be permitted to carry on the business of a Customs Broker with the approval of the Commissioner of Customs till such time such partner, director or authorised employee passes the said examina-

tion.

14. Change in the constitution of a concern

(1) Where a licence granted or renewed under these regulations in favour of a person, not being a firm or a company, changes the constitution of his concern to a firm or a company, such new firm or new company may, pending the grant of a licence in accordance with these regulations, be permitted to act as Customs Broker through an employee duly qualified as per regulation 6, with the approval of the Commissioner of Customs.

(2) Notwithstanding anything contained in sub-regulation (1), where a licence granted or renewed under these regulations in favour of a person who has ceased to be in force because of the death of that person, his legal heir, who is a major and a „H card holder, referred to in sub-regulation (7) of regulation 17, may be permitted to work as a Customs Broker with the approval of the Commissioner of Customs, and such legal heir shall be required to pass the examination referred to in regulation 6 within a period of two years from the date of demise of the original licensee.

15. Engagement of persons qualified in the examination referred to in regulation 6, etc.

(1) A person who has qualified in the examination referred to in regulation 6 may engage himself in the work relating to the clearance of goods through customs on behalf of a firm or a company licenced under regulation 7, provided that at any given time he shall not engage himself on behalf of more than one such firm or company.

(2) Any change in the persons qualified in the examination referred to in regulation 6 and actually engaged in the work in the Customs Station on behalf of a licensee firm or company shall be communicated forthwith by the firm or the company, as the case may be, to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, and no new person other than 'F', 'G' or 'H' card holders, referred to in sub-regulation (7) of regulation 17, shall be allowed to work in the Customs Station as a duly authorised employee on behalf of that firm or company.

16. Inspection of accounts

All records and accounts that are required to be maintained under these regulations shall be preserved for at least five years and shall be made available at any time for inspection of officers authorised for this purpose.

17. Employment of persons

(1) A Customs Broker may, having regard to the volume of business transacted by him, employ any number of persons to assist him after verifying their antecedent and identity at the declared address by using reliable, independent, authentic documents, data or information :

Provided that the minimum educational qualification of such persons so employed shall be 10+2, or equivalent.

(2) Appointment of a person referred to in sub-

regulation (1) shall be made only after obtaining the approval of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, who shall in granting approval, take into consideration the antecedents and any other information pertaining to the character of such person.

(3) The person referred to in sub-regulation (1) shall, within four attempts from the date of his appointment, pass an examination conducted by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, and the examination shall be such as to ascertain the adequacy of knowledge of such person regarding the provisions of the Act subject to which goods and baggage are cleared through Customs.

(4) Notwithstanding anything contained in sub-regulation (3), a person who is employed under a Customs Broker and who has passed the examination referred to sub-regulation (3) may, on his appointment under any other Customs Broker, with the approval of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, be exempted from passing of such examination.

(5) Where the Customs Broker has authorised any person employed by him to sign documents relating to his business on his behalf, he shall file with the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, a written authority in this behalf and give prompt notice in writing if such authorisation is modified or withdrawn.

(6) A Customs Broker shall authorise only such employee who has passed the examination referred to in regulation 6 of these regulations to sign declaration on the bills of entry, shipping bills and annexure thereof.

(7) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall issue a photo-identity card to every person employed by a Customs Broker, -

(i) in Form F in case he has passed the examination referred to in regulation 6;

(ii) in Form G, in case he has passed the examination referred to in sub-regulation (3);

(iii) in Form H, in case he has not passed the examination referred to in sub-regulation (3);

and every such person shall, at all times when he transacts the work at the Customs Station, carry photo identity card with him and produce it for inspection on demand by any officer of the Customs Station.

(8) The photo identity card in Form H shall not be withdrawn from an employee of a Customs Broker even if he fails to pass the examination referred to in sub-regulation (3).

(9) The Customs Broker shall exercise such supervision as may be necessary to ensure the proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment.

18. Revocation of licence or imposition of penalty

The Commissioner of Customs may, subject to

the provisions of regulation 20, revoke the licence of a Customs Broker and order for forfeiture of part or whole of security, or impose penalty not exceeding fifty thousand rupees on a Customs Broker on any of the following grounds, namely :-

(a) failure of to comply with any of the conditions of the bond executed by him under regulation 8;

(b) failure to comply with any of the provisions of these regulations, within his jurisdiction or anywhere else;

(c) committing any misconduct, whether within his jurisdiction or anywhere else which in the opinion of the Commissioner renders him unfit to transact any business in the Customs Station;

(d) adjudicated as an insolvent;

(e) of unsound mind; and

(f) has been convicted by a competent court for an offence involving moral turpitude :

Provided that the imposition of penalty or any action taken under these regulations shall be without prejudice to the action that may be taken against the Customs Broker or his employee under the provisions of the Customs Act, 1962 (52 of 1962) or any other law for the time being in force.

19. Suspension of licence

(1) Notwithstanding anything contained in regulation 18, the Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the licence of a Customs Broker where an enquiry against such agent is pending or contemplated.

(2) Where a licence is suspended under sub-regulation (1), the Commissioner of Customs shall, within fifteen days from the date of such suspension, give an opportunity of hearing to the Customs Broker whose licence is suspended and may pass such order as he deems fit either revoking the suspension or continuing it, as the case may be, within fifteen days from the date of hearing granted to the Customs Broker:

Provided that in case the Commissioner of Customs passes an order for continuing the suspension, the further procedure thereafter shall be as provided in regulation 20.

20. Procedure for revoking licence or imposing penalty

(1) The Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the licence or impose penalty requiring the said Customs Broker to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs Broker desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(2) The Commissioner of Customs may, on

receipt of the written statement from the Customs Broker, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), direct the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to inquire into the grounds which are not admitted by the Customs Broker.

(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Customs Broker, for the purpose of ascertaining the correct position.

(4) The Customs Broker shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) At the conclusion of the inquiry, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall prepare a report of the inquiry and after recording his findings thereon submit the report within a period of ninety days from the date of issue of a notice under sub-regulation (1).

(6) The Commissioner of Customs shall furnish to the Customs Broker a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, and shall require the Customs Broker to submit, within the specified period not being less than thirty days, any representation that he may wish to make against the said report.

(7) The Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Customs Broker, pass such orders as he deems fit either revoking the suspension of the license or revoking the licence of the Customs Broker or imposing penalty not exceeding the amount mentioned in regulation 22 within ninety days from the date of submission of the report by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, under sub-regulation (5) :

Provided that no order for revoking the license shall be passed unless an opportunity is given to the Customs Broker to be heard in person by the Commissioner of Customs.

21. Appeal by Customs Broker

A Customs Broker, who is aggrieved by any order passed by the Commissioner of Customs under these regulations, may prefer an appeal under section 129A of the Act to the Customs, Central Excise and Service Tax Appellate Tribunal established under sub-section (1) of section 129 of the Act.

22. Penalty

A Customs Broker, who contravenes any provisions of these regulations or who fails to comply with any provision of these regulations shall be liable to a penalty which may extend to fifty thousand rupees.

23. Prohibition

Notwithstanding anything contained in these regulations, the Commissioner of Customs may prohibit any Customs Broker from working in one or more sections of the Customs Station, if he is satisfied that such Customs Broker has not fulfilled his obligations as laid down under regulation 11 in relation to work in that section or sections.

24. Membership of associations

Each Customs Broker shall enroll himself as a member of the Customs Brokers Association, if there is one registered in the Customs Station and recognised by the Commissioner of Customs.

[Forms are available at our website www.worldtradescanner.com]

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Customs Valuation Exchange Rates			
21 June 2013			
	Imports	Exports	
Schedule I [Rate of exchange of one unit of foreign currency equipment to Indian Rupees]			
1 Australian Dollar	56.35	54.85	
2 Bahraini Dinar	160.20	151.30	
3 Canadian Dollar	58.15	56.60	
4 Danish Kroner	10.70	10.35	
5 EURO	79.45	77.65	
6 Hong Kong Dollar	7.65	7.50	
7 Kenyan Shilling	70.50	66.55	
8 Kuwaiti Dinar	213.40	201.05	
9 New Zealand Dollar	47.50	46.25	
10 Norwegian Kroner	10.40	10.05	
11 Pound Sterling	92.75	90.75	
12 Singapore Dollar	47.15	46.00	
13 South African Rand	6.05	5.70	
14 South Arabian Riyal	16.10	15.20	
15 Swedish Kroner	9.25	8.95	
16 Swiss Franc	64.70	63.50	
17 UAE Dirham	16.45	15.55	
18 U.S. Dollar	59.20	58.20	
Schedule II [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees]			
1 Japanese Yen	62.40	60.80	

(Source: Customs Notification 63(NT)/20.06.2013)