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## US Challenges Argentina Trade Restrictions, Mexico Joins in

United States Trade Representative Ron Kirk announced on 21 August that the U.S. Government is requesting consultations with the Government of Argentina under the dispute settlement provisions of the World Trade Organization (WTO) concerning trade restrictive measures applied to all goods imported into Argentina. These measures include the broad use of non-transparent import licensing requirements that have the effect of unfairly restricting U.S. exports. In addition, Argentina further disadvantages U.S. exports by requiring importers to agree to export as much as they import or undertake other burdensome commitments in exchange for authorization to import goods.

"Argentina's protectionist measures adversely affect a broad segment of U.S. industry, which exports billions of dollars in goods each year to Argentina. These exports support jobs and businesses here at home," said Ambassador Kirk. The Obama Administration insists that all of our trading partners play by the rules and uphold their WTO obligations so that American workers receive the benefits negotiated in our agreements. The Interagency Trade Enforcement Center (ITEC) was established by the President earlier this year to strengthen further the United States' ability to enforce trade agreements. The ITEC provided key support for this enforcement action and will continue to do so," Ambassador Kirk added.

Since 2008, Argentina has greatly expanded the list of products subject to non-automatic import licensing requirements. Import licenses are required for approximately 600 eight-digit tariff lines in Argentina's goods schedule. The affected products include, but are not limited to, laptops, home

appliances, air conditioners, tractors, machinery and tools, autos and auto parts, plastics, chemicals, tires, toys, footwear, textiles and apparel, luggage, bicycles and paper products. In February 2012, Argentina adopted an additional licensing requirement that applies to all imports of goods into the country.

In conjunction with these licensing requirements, Argentina has adopted informal trade balancing requirements and other schemes, whereby companies seeking to obtain authorization to import products must agree to export goods of an equal or greater value, make investments in Argentina, lower prices of imported goods and/or refrain from repatriating profits.

Through these measures, Argentina appears to have acted inconsistently with its WTO obligations. In particular the measures appear to violate Article XI:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), which generally prohibits restrictions on imports of goods, including those made effective through import licenses. The measures also appear to violate various provisions of the Agreement on Import Licensing Procedures, which contains requirements related to the administrative procedures used to implement import licensing regimes.

Consultations are the first step in the WTO dispute settlement process. Under WTO rules, if the matter is not resolved through consultations within 60 days, the United States may request the establishment of a WTO dispute settlement panel. Japan also requested WTO consultations with Argentina on this matter today, and the European Union requested consultations in May of this year.



## Apple Wins 6 out of 7 Patent Suits against Samsung Infringement

### *Injunctions against Phones on the Anvil*

Samsung Electronics Co. (005930) fell the most in almost four years in Seoul trading after a U.S. jury found the mobile-phone maker infringed Apple Inc. (AAPL)'s patents and ordered the South Korean company to pay more than \$1 billion.

Samsung dropped as much as 7.7 percent, headed for the biggest decline since Oct. 24, 2008, to 1,177,000 won before trading at 1,187,000 won on the Korea Exchange, while South Korea's benchmark Kospi index declined 0.4 percent. Yields on Samsung's five-year U.S. dollar-denominated bonds due April 2017 rose 1 basis point to 1.58 percent in Seoul, according to prices from Credit Agricole SA.

The nine-member panel in San Jose, California, found on Aug. 24 that Samsung infringed six of seven patents for mobile devices in the first lawsuit between the dominant global

smartphone competitors to go before a U.S. jury. The verdict may also lead to a ban on U.S. sales of some Samsung mobile products.

"We expect there is a two-thirds chance of an injunction against Samsung products," Peter Misek, an analyst at Jefferies & Co. Inc., wrote in an Aug. 26 report. "While there is going to almost certainly be an appeal by Samsung, we believe the evidence and weight of the case are heavily in Apple's favor."

Samsung, which called the U.S. verdict a loss for the American consumer, said it will file post-verdict motions to overturn the decision and will appeal if the filing is unsuccessful.

The jury rejected Samsung's patent counterclaims against Apple and its request for damages. A Seoul court ruled hours earlier that both companies infringed each other's patents.



Apple sued Samsung in April 2011, and the Korean company countersued as part of a battle being waged on four continents over a smartphone market valued at \$219.1 billion according to Bloomberg Industries. The world's two largest makers of high-end handheld devices that blend the functionality of a phone and a computer have accused each other of copying products, design and technology.

### Samsung Retaliate

In the U.S. trial, Apple sought \$2.5 billion to \$2.75 billion for its claims that Samsung infringed four design patents and three software patents in copying the iPhone and iPad. Samsung's demand for as much as \$421.8 million in royalties was based on claims that Apple infringed five patents.

Hours earlier on Aug. 24, a Seoul court ruled that the companies infringed each other's patents and must stop selling the involved products.

### Commercial Tie

The allegations over intellectual property contrast with the commercial ties that bind the two

companies.

Apple's reliance on Samsung chips for its best-selling phones and tablets will be worth as much as \$7.5 billion to Samsung this year, a 60 percent jump from 2011, according to estimates from industry researcher Gartner Inc. Apple accounts for about 9 percent of Samsung's revenue, making it the company's largest customer.

In the last quarter, Samsung controlled about 35 percent of the global smartphone market, followed by Apple with about 18 percent, according to market researcher Strategy Analytics.

Both sides have had legal victories. Apple won a U.S. court order on June 29 blocking sales of Samsung's Galaxy Nexus smartphone, the first smartphone to use Google Inc. (GOOG)'s Android 4.0 operating system. The product has remained on the market as Samsung appeals the order to the U.S. Court of Appeals for the Federal Circuit in Washington.

In November, Samsung won a battle in an Australian court that allowed customers to buy Samsung's rival to the iPad.

## Russia Joins WTO, Binds Tariffs at 7.8%



From the date of accession, the Russian Federation has committed to fully apply all WTO provisions,

with recourse to very few transitional periods. On average, the Russian Federation will apply a final bound tariff for 7.8% for goods and has made specific commitments on 11 services sectors.

Vanuatu committed that, from the date of accession, it will fully apply all WTO provisions and did not require recourse to any transitional period except on intellectual property and on the publication of trade information. Vanuatu will apply an average final bound rate of 39.7% and has made specific commitments on 10 services sectors. The services sector has been growing and now accounts for three-quarters of Vanuatu's GDP.

## Ban to Attend Tehran NAM Summit – India and Egypt PMs Join in

United Nations Secretary-General Ban Ki-moon's decision to attend a summit of the Non-Aligned Movement in Iran's capital drew chagrin from the U.S. and continued opposition from Israel.

Ban, who will be in Tehran Aug. 29-31, "takes seriously his responsibility and that of the United Nations to pursue diplomatic engagement with all of its member states," the UN said on 21 August in an e-mailed statement announcing his plans. He will convey to Iran "the clear concerns and expectations of the international community" on issues including the country's nuclear program, according to the statement.

Iran's parliamentary speaker, Ali Larijani, was quoted by the official IRNA news service as saying last week that Ban wouldn't attend the meeting. Ban condemned Iranian remarks last week by Supreme Leader Ayatollah Ali Khamenei and President Mahmoud Ahmadinejad threatening Israel's existence, according to a UN statement on Aug. 17. Prime Minister Benjamin Netanyahu of Israel asked Ban not to go to



Tehran.

The U.S. has "concerns that Iran is going to manipulate this opportunity and the attendees to try to deflect attention from its own failings," U.S. State Department spokeswoman Victoria Nuland said on 21 August in Washington.

### 'Strange Place'

Nuland had said on Aug. 16 that, while Ban would "make his own decision," the U.S. has "made our views known that we think that this is a strange place and an inappropriate place for this meeting."

Iran leads the so-called Non-Aligned Movement of 118 develop-

ing nations. Leaders including Egyptian President Mohamed Mursi and Indian Prime Minister Manmohan Singh are scheduled to attend the gathering.

Iran is under UN and international sanctions for its nuclear program. Nations including the U.S. and Israel say Iran is seeking the capability to develop nuclear weapons and the effort must be halted. Iran says the program is for civilian purposes.

## Tehran Summit Takes Aim at US, West India PM Manmohan Attends

Leaders from many of the world's developing states gather in Tehran from Thursday for a two-day summit expected to sharply attack the policies of the United States and other top developed countries.

As he left for Tehran on Tuesday, Indian Prime Minister Manmohan Singh referred to the NAM's desire to see power shifted from the UN Security Council to the broader UN General Assembly.

"The outdated structures of global governance have not been able to keep pace with

contemporary political and economic challenges" and reform was needed, he said.

Singh added that he would also hold bilateral meetings with Iranian leaders. India is the second-biggest buyer after China of Iranian oil, which is hit by Western sanctions.

Host nation Iran, in particular, is hailing the Non-Aligned Movement (NAM) meeting as a blow to Western efforts to isolate it over its disputed nuclear activities.

Supreme leader Ayatollah Ali Khamenei will open the summit with a speech to more than 30

heads of state or government, including Egypt's new president, Mohamed Morsi, and the leaders of India, Pakistan, Lebanon, Sudan and Zimbabwe, according to organisers.

North Korea, Venezuela and Syria - all Iranian allies - will be represented by senior officials but not their top leaders.

Key issues on the agenda include: a condemnation of Western sanctions on Iran and other NAM countries, a new push to quell the conflict in Syria, and a reaffirmation of calls to make UN decision-making more globally democratic.

Morsi's appearance will be the first time a leader from Egypt has set foot in Iran since 1975. The two countries broke diplomatic ties in 1979, the year Cairo took in Iran's toppled shah following the Islamic revolution, and signed a peace accord with Israel.

The NAM, created in 1961 by a group of nations that saw themselves as nonaligned with Cold War rivals the United States and the Soviet Union, today counts 120 nations, including "Palestine".

It represents nearly two-thirds of the UN's 193 member states - which explains why UN chief Ban Ki-moon will be also present in Tehran as an observer, despite criticism from Israel and the United States.

Ban will meet Khamenei, Iranian President Mahmoud Ahmadinejad and other officials and press them to take "urgent" action on their nuclear drive and on human rights.

Other observers to the summit include envoys from Russia and China - and from Australia, which is vying for a temporary UN Security Council seat.

Morsi will be staying just four hours in Tehran, according to his spokesman.

That will be enough time to transfer the three-year NAM presidency from Egypt to Iran, but likely not enough to establish the sort of ties that Iran wants with the Islamist-minded Egyptian president.

## WEEKLY INDEX OF CHANGES

### Zero Duty on Oil Cake/Oil Cake Import Meal upto 1 April 2013

Ntnfn 47 In exercise of the powers  
21.08.2012 conferred by sub-section (1)  
(DoR) of section 25 of the Customs  
Act, 1962 (52 of 1962), the  
Central Government, being satisfied that it is  
necessary in the public interest so to do, hereby  
makes the following further amendments in the  
notification of the Government of India in the  
Ministry of Finance (Department of Revenue),

**No. 12/2012-Customs, dated the 17<sup>th</sup> March, 2012** which was published in the Gazette of India, Extraordinary, vide G.S.R. 185(E) dated the 17<sup>th</sup> March, 2012, namely:-

In the said notification, -  
i. in the table, after the **S. No. 104** and the entries relating thereto, the following shall be **inserted**, namely:-

"104A	De-oiled soya extract	2304	Nil	-	-
	Groundnut oil cake/oil cake meal	2305	Nil	-	-
	Sunflower oil cake/oil cake meal	230630	Nil	-	-
	Canola oil cake /oil cake meal	230690	Nil	-	-
	Mustard oil cake/oil cake meal	230690	Nil	-	-

ii. in the proviso to the table, **after clause (b)** following shall be **inserted**, namely:-

(ba) the goods specified against serial no. 104A of the said Table on or after the first day of April, 2013";

### Corrigendum dated 24 August 2012 to Ntnfn 47 dated 21.08.2012

[Corrigendum dated 24<sup>th</sup> August 2012]

In the notification of the Government of India, in the Ministry of Finance (Department of Revenue), **No. 47/2012-Customs, dated the 21<sup>st</sup> August, 2012**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 644(E), dated the 21<sup>st</sup> August, 2012, in the Table:-

(i) For

"104A	De-oiled soya extract	2304	Nil	-	-
	Groundnut oil cake/oil cake meal	2305	Nil	-	-
	Sunflower oil cake/oil cake meal	230630	Nil	-	-
	Canola oil cake /oil cake meal	230690	Nil	-	-
	Mustard oil cake/oil cake meal	230690	Nil	-	-

Read

"104A	2304	De-oiled soya extract	Nil	-	-
	2305	Groundnut oil cake/oil cake meal	Nil	-	-
	2306 30	Sunflower oil cake/oil cake meal	Nil	-	-
	2306 90	Canola oil cake /oil cake meal	Nil	-	-
	2306 90	Mustard oil cake/oil cake meal	Nil	-	-

[F. No. 354/141/2012-TRU]

### Quota Raised to 6 lakh tonnes in Marble Policy 2012-13

Sub.: Policy for issue of import licenses of Rough Marble and Travertine Blocks for the Financial year 2012-13.

12-Ntnfn(RE) In exercise of powers  
22.08.2012 conferred under section 5 of  
(DGFT) the Foreign Trade  
(Development and Regulation)  
Act, 1992 as amended, read with paragraph 2.1  
of the Foreign Trade Policy, 2009-14, the Central  
Government hereby makes the fol-  
lowing amendments in Schedule-  
I (Imports) to the ITC (HS) Classifi-  
cations of Export and Import Items:  
2. Import Licensing Note No. (2)  
inserted at the end of Chapter 25,  
will be amended to read as : "Im-  
port of rough marble blocks will be  
subject to conditions laid down in  
Notification No.12 dated 22<sup>nd</sup> August, 2012."



3. Conditions for import of marble.

(A) The following Policy provisions will be ap-  
plicable for import of Rough Marble Blocks and

Travertine for the financial year 2012-13. This  
will supersede earlier Policy /Guidelines for  
issue of import licenses of Rough Marble Blocks.

(B) Attention is invited to ITC HS Codes  
25151100 and 25151210 indicated in Schedule-  
1 (Imports) of ITC (HS) Classifications of Export  
and Import Items. As per the pro-  
visions contained therein, import  
of Marble and Travertine- Crude  
or Roughly trimmed and merely  
cut, by sawing or otherwise, into  
blocks of a rectangular (including  
square) shape is restricted and  
subject to import licensing proce-  
dures.

(C) The applications for import license for im-  
port of rough marble blocks and travertine under  
the above mentioned ITC HS Codes will be  
considered in the following manner: -

### Five Percent Weight Fall in Sugar Exports Allowed for Contract Registration

Subject: Conditions and modalities for registration of contracts of sugar with DGFT-relaxation of (-) 5% by weight in export of sugar.

03-Pol.Cir Through Policy Circular No.  
23.08.2012 62 (RE-2010)/2009-14  
(DGFT) dated 14.05.2012,

conditions and modalities for registration of contracts with Regional Au-

thorities of DGFT for export of sugar in the current sugar season (1<sup>st</sup> October, 2011-30<sup>th</sup> September, 2012) were notified. This was amended vide Policy Circular No. 63 (RE-2010)/2009-14 dated 16.05.2012.

2. It has been decided with the approval of Competent Authority that a variation of (-) 5% in weight against Registration Certificates issued for export of sugar shall be allowed. Thus, a variation of (-) 5% in weight in exports of sugar against registered contracts shall not be treated as default for the purpose of imposition of penalty or debarment from future registrations.

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

#### I. Eligibility of the units will be decided based on the following three criteria

(a) Units who have installed marble gangsaw machine (except 100% EOUs and units in SEZ) on or prior to 31.3.2012. The marble gangsaw machine shall be in the name of the applicant only. No gangsaw on "Lease Basis" shall be considered for the purpose of allocation of import entitlement.

(b) The Units should have been in operation for 5 years on or prior to 31.3.2012.

(c) All eligible units as per (a) above should have cumulative turnover of atleast Rupees Five crores ( Rs 5 Crores) during the 5 years period i.e financial years 2006-07 to 2010-11 irrespective of whether it is from domestic or foreign sources in respect of processed marble slabs/tiles only.

#### II. Floor Price

Licenses for import of crude or roughly trimmed marble and travertine blocks or merely cut, by sawing or otherwise into blocks of a rectangular (including square) shape shall be subject to a floor price of US\$ 325 per Metric Tonne (MT), which shall be endorsed on all licenses.

#### III. Entitlement

The total import of Rough Marble and Travertine blocks under ITC HS Codes 25151100 and 25151210 will be subject to a ceiling of 6 lakh MT for the whole of the licensing year, 2012-13. Eligible units will be entitled for an import license on the basis of cumulative turnover ( indigenous or foreign) of atleast Rupees 5 crores of processed marble slabs/tiles only, over the previ-

ous five financial years 2006-07 to 2010-11. The quantity so calculated will however be subject to the overall ceiling of 3000 MT for the first gang saw and 1500 MT for every subsequent gang saw.

#### IV. Actual User Condition

All licenses shall be subject to actual user condition. Modalities for submitting hard copies of the applications is attached as Annexure 1 to this notification.

#### V. Monthly Return

License holders shall file monthly returns regarding imports made by them, to the concerned Regional Authority of DGFT by the 15<sup>th</sup> of each

succeeding month in which license is obtained (for example if a license is obtained on 13<sup>th</sup> September, the license holder will file monthly return for imports made in September by 15<sup>th</sup> of October and for each month thereafter by the 15<sup>th</sup>). This is a mandatory requirement.

#### VI. Validity of Import licences

Licenses for Import of Marble and Travertine will have a validity upto 30<sup>th</sup> September 2013.

#### 4. Effect of this notification

Import policy of Rough Marble and Travertine blocks for the year 2012-13 has been notified with a quota of 6 lakh MT and an MIP of US\$ 325 per MT .

sources) of marble slabs / tiles of atleast Rs. 5 crore in the last 5 years).

(g) The sale against Form H and other relevant Forms, job work income earned by any unit sawing marble blocks of third parties into slabs/tiles and the amount of excise duty, service tax and sales tax/VAT paid on such indigenous sales turnover of marble slabs/tiles may also be included for calculating indigenous sales turnover of the applicant. An applicant would need to submit certified copies of VAT/ Sales Tax returns filed by the applicant for each of the 5 financial years indicating the indigenous sales turnover of marble slabs/tiles alongwith the income tax returns for the same period. No trading turnover shall be considered.

(h) With regard to calculation of indigenous sales turnover, it is clarified that the turnover will include the net sales after deducting the sales returns from the gross sales. It is also clarified that the turnover of the applicant only shall be taken into consideration and the turnover of group concerns/ sister concerns/ subsidiaries etc. shall not be counted for calculating the turnover.

(i) The applicant must not be on DEL (Denied Entities List).

(j) In case any applicant/ firm is found to have furnished wrong/ false information or made any misrepresentation, then it shall be debarred from the allocation for import of marble and also liable for penal action under the provisions of FTD&R Act 1992, as amended.

3. The last date for receipt of hard copy of application with complete documents with RA shall be **31<sup>st</sup> August, 2012**.

Annexure-1 to Notification No: 12 (RE-2012)/2009-14 Dated: 22<sup>nd</sup> August, 2012

#### Modalities for submitting applications for grant of quota for import of rough marble blocks

1. Eligible applicants will submit hard copies of their application, in the relevant Aayaat Niryaat Form, along with the documents prescribed therein, to concerned RA for import of rough marble blocks for the financial year 2012-13. RA will then forward the applications to DGFT HQ for scrutiny and allocation of quota. Calendar of events is attached as Annexure 2 to this Notification.

2. The following conditions would need to be followed and documentary proof submitted to concerned RA alongwith the application for grant of quota:-

(a) The Marble gangsaw in the Unit should be in the name of the Unit and established on or prior to 31.3.2012, as certified by State Industry Department (District Industry Centre). The gang saw should not be 'on Lease' from any other party. The marble gangsaw machine should have linear movement and should have minimum 60 steel blades impregnated with diamond segments and be used only for cutting marble blocks into slabs;

(b) SSI/SIA Registration Certificate should show the Unit being in operation on or prior to 31.3.2007;

(c) The list of equipments / capital goods

(other than Marble gangsaw) set up by the applicant in the Unit for processing marble slabs/ tiles should be prior to 31.3.2007, as per Balance Sheet as on 31.3.2007, duly certified by a Chartered Accountant;

(d) Income Tax Return for the financial year 2006-07 indicating processing of marble by the Unit duly certified by a Chartered Accountant;

(e) CA Certificate indicating domestic/foreign sales turnover of marble slabs / tiles of years 2006-07, 2007-08, 2008-09 , 2009-10 and 2010-11; and

(f) A copy of Chartered Accountant certified statement of accounts, filed along with Balance Sheet to Income Tax authorities for each of the years i.e. 2006-07, 2007-08, 2008-09 ,2009-10 and 2010-11 (in order to prove cumulative turnover from domestic or foreign

Annexure-2 to Notification No: 12 (RE-2012)/2009-14 Dated: 22<sup>nd</sup> August, 2012

#### Calendar of Events

1. Notification to be issued on	22 <sup>nd</sup> August, 2012
2. Receipt of Application in RA	Upto 31 <sup>st</sup> August, 2012
3. Forwarding of Applications to DGFT HQ by RA's	Upto 3 <sup>rd</sup> September, 2012
4. Declaration of Allocation	14 <sup>th</sup> September, 2012
5. Issuance of Licences	17 <sup>th</sup> to 20 <sup>th</sup> September, 2012

### Anti-dumping Duty on Nonyl Phenol Extended upto 21 August 2013 in Review

Ntnfn 39-ADD 24.08.2012 Whereas, the designated authority vide notification No. 15/1007/2012-DGAD, dated the 9<sup>th</sup> August, 2012,

published in the Gazette of India, Extraordinary, Part I, Section 1 dated the 9<sup>th</sup> August, 2012, has initiated review in terms of sub-section (5) of Section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on imports of 'Nonyl Phenol', falling under

heading 2907 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, the Chinese Taipei imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 094/2007-Customs, dated the 22<sup>nd</sup> August, 2007, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.562(E), dated the 22<sup>nd</sup> August, 2007, 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 Sec-

tion 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. 094/2007-Customs, dated the 22<sup>nd</sup> August, 2007, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.562(E), dated the 22<sup>nd</sup> August, 2007, namely: -

In the said notification, after para 2, the following shall be added, namely: -

"3. Notwithstanding anything contained herein above, this notification shall remain in force up to and inclusive of the 21<sup>st</sup> August, 2013, unless revoked earlier".

[F.No.354/117/2007-TRU]



## Board Instructions for Early Investigation for Disposal of Unclaimed Motor Cars and Negative List Goods under Sec. 48 of CA, 1962

[Ref: F.No.442/12/2004-Cus.IV (Pt.) dated 28<sup>th</sup> August 2012]

Subject: Procedure for disposal of unclaimed/ uncleared cargo under section 48 of the Customs Act, 1962, lying with the custodians.

Attention is invited to Board Circular No. 50/2005-Cus. Dated 1<sup>st</sup> December, 2005, issued on the above mentioned subject. References have been received regarding difficulties faced in respect of disposal of motor cars and negative list items.

2. The matter has been examined. It is seen in this regard that instructions contained in para 3(iii) of the Circular No. 50/2005-Cus. Dated 1<sup>st</sup> December, 2005 in respect of disposal of car and items of negative list has not been implemented in right perspective which has resulted in accumulation of unclaimed, uncleared and confiscated cargo and blockage of substantial Government revenue.

3. Accordingly, it has been decided by the Board that the concerned Commissioner of

Customs should ensure that early investigation, issue of Show Cause Notice and adjudication, if required, in respect of such goods (motor cars and goods of negative list) are taken up on priority so that the goods are not allowed to remain uncleared for longer period blocking substantial Government revenue. These goods may be disposed of by auction after adjudication subject to condition that they are not prohibited in nature. Board also desires noticeable improvement in disposal of such goods unclaimed / uncleared.

4. These instructions may be brought to the notice of all the concerned officers by issuing suitable Standing orders/instructions/Public Notices.

## Vocational Education Course (VEC) Excluded from Service Tax

[Service Tax Circular No. 164 dated 28<sup>th</sup> August 2012]

Subject: service tax – vocational education/training course.

Clarification has been sought in respect of levy of service tax on certain vocational education/training/ skill development courses (VEC) offered by the Government (Central Government or State Government) or local authority themselves or by an entity independently established by the Government under the law, as a society or any other similar body.

2. The issue has been examined. When a VEC is offered by an institution of the Government or a local authority, question of service tax does not arise. In terms of section 66D (a), only specified services provided by the Government are liable to tax and VEC is excluded from the service tax.

3. When the VEC is offered by an institution, as an independent entity in the form of society or any other similar body, service tax treatment

is determinable by the application of either sub-clause (ii) or (iii) of clause (l) of section 66D of the Finance Act, 1994. Sub-clause (ii) refers to "qualification recognized by any law" and sub-clause (iii) refers to "approved VEC". In the context of VEC, qualification implies a Certificate, Diploma, Degree or any other similar Certificate. The words "recognized by any law" will include such courses as are approved or recognized by any entity established under a central or state law including delegated legislation, for the purpose of granting recognition to any education course including a VEC.

4. This Circular may be communicated to the field formations and service tax assesses, through Public Notice/Trade Notice. Hindi version to follow.

F. No. 356/17 /2012 - TRU

## Delhi Ombudsman Starts Functioning from Chanakyapuri Residence, Complaints Only After Grievance Procedure Fails

The following Public Notice was issued by the Indirect Tax Ombudsman, Ministry of Finance, New Delhi on 21<sup>st</sup> August 2012

Sub: Dispute Resolution and Tax-Payer Services through Indirect Tax Ombudsman, Delhi.

01-PN Attention of the Customs,  
21.08.2012 Central Excise and Service Tax assesses, Importers,

Exporters, Manufacturers, Service Providers and other members of Industry and Trade is invited to "Indirect Tax Ombudsman Guidelines, 2011" hereinafter referred to as 'the Guidelines', which is available in websites of both the Ministry of Finance and Central Board of Excise & Customs, (CBEC). In accordance with the said 'Guidelines', the Government of India has decided to set up the institution of 'Indirect Tax Ombudsman' at seven locations-Delhi, Mumbai, Chennai, Kolkata, Bangalore, Ahmedabad and Lucknow. The undersigned has been appointed as the Indirect Tax Om-

budsman, Delhi with jurisdiction over the states of Delhi, Haryana, Punjab, Himachal Pradesh and Jammu & Kashmir.

2. The post of Indirect Tax Ombudsman has been created with the objective of enabling resolution of complaints relating to grievances against Customs, Central Excise and Service Tax Department and facilitating settlement of such complaints with satisfaction of the complainant. Para 10 (III) of 'the Guidelines' explains as to who can come up with complaint or grievance to the Ombudsman. **Certain basic conditions will have to be followed before lodging the complaint with the Ombudsman.** First, the complainant will have to make a representation either to the Grievance Cell of

## Five More Laboratories Notified for Certification/ Grading of Diamonds of 0.25 Carats and Above

Subject: Amendment in para 4A.2.1 of FTP (RE-2012) / 2009-14 regarding Export of Cut & Polished Diamonds sent abroad for Certification/ Grading & re-import.

11-Ntfn(RE) In exercise of the powers  
22.08.2012 conferred by Section 5 of  
(DGFT) the Foreign Trade  
(Development & Regulation)

Act, 1992, as amended, read with paragraph 1.3 of the Foreign Trade Policy, 2009-2014, the Central Government hereby amends paragraph 4A.2.1 in Chapter 4 of Foreign Trade Policy, 2009-2014 (RE 2012) to include 5 additional laboratories to the list of authorised laboratories.

2. Under para 4A.2.1 of the Foreign Trade Policy dealing with "Export of Cut & Polished Diamonds for Certification/ Grading & Re-import" following five additional authorized laboratories for certification/ grading of diamonds of 0.25 carat and above are added after Serial No. (x):

(xi) GIA Hong Kong Laboratory Ltd., Hong Kong;

(xii) Gemological Research (Thailand) Co. Ltd., Bangkok;

(xiii) GIA Education and Laboratory (Pvt) Ltd., Johannesburg;

(xiv) GIA Education and Laboratory, Gaborone (Botswana);

(xv) Forevermark NV, Antwerp, Belgium

### 3. Effect of the Notification

To the existing authorised laboratories, five additional laboratories are added for purpose of certification/grading of diamonds of 0.25 carats & above.

the Department or to the officer superior to the one complained against in the field formation. The next condition is that either the complainant did not receive reply from the authority complained to, within one month of lodging the complaint or the complaint was rejected or he was not satisfied with the reply to the complaint.

**Para 9 of „the Guidelines specifies the grounds** on which a complaint may be filed. .

One of the main grounds is **delay in the following** – issuance of refunds or rebate beyond the prescribed time limit, adjudication, registration of tax-payers, giving effect to appellate orders, release of seized books of account and assets etc. The other ground is non-adherence to principle of 'First Come First Served' in sending refunds and to rules prescribed for disbursement of drawback etc. Then there are grounds like unwarranted rude behaviour of the official with the tax-payers, non-acknowledgement of letters and documents and violation of administrative instructions and circulars by the officials etc. **Para 10 of the Guidelines explains the procedure**

**for filing complaint.** A representation or complaint has to be filed in writing by the complainant himself or his authorized representative. For complaints filed electronically, while action will be initiated by the Ombudsman, the print-out will have to be signed by the complainant at the earliest. The complaint must contain the details of the basic facts relating to the complaint and the relief sought.

3. **Power and duties of the Ombudsman** have been outlined at **Paras 8 (I, II, III)** of the Guidelines. The Ombudsman shall have power to facilitate settlement of complaints either by **agreement through conciliation and mediation** between the Commissionerate and the complainant or by passing an „award“. The details relating to passing an 'award' have been explained at **Para 13** of the Guidelines. The 'award' would be a speaking order comprising the elements specified at **sub-para (II) of aforesaid Para 13**. The 'award' would be binding on the concerned office as well as the complainant subject to the conditions specified at **sub- para ( IV ) of aforesaid Para 13**. The Ombudsman will protect individual tax- payer's rights and will maintain confidentiality of information and document except to the extent considered by him to be reasonably required for complying with the principles of natural justice and fairplay in the proceedings.

4. Further, **Paras 11 & 12** of the guidelines clarify that for the purpose of promoting settlement of the complaints by agreement, the Ombudsman may follow such procedure as he may consider appropriate and that the **proceedings before the Ombudsman shall be summary in nature**, and that the **Ombudsman shall not be bound by any legal rules of evidence**.

5. This is also to inform that being a newly created post, the office of the Indirect Tax Ombudsman, Delhi is in the process of being set up. Meanwhile, the **Indirect Tax Ombudsman, Delhi has started functioning from his official residence at C II/ 101 A, Satya Marg, Chanakyapuri, New Delhi-21**, and a few representations have already been disposed of. Till the time the regular office address is notified, **representations/complaints relating to the jurisdiction of Indirect Tax Ombudsman, Delhi may be addressed to him at the aforesaid address of the official residence**. He may also be contacted at Mobile phone number 09999099394, whenever felt necessary.

6. Any difficulty noticed in implementing this Public Notice may be brought to the notice of the undersigned in the **address given at foregoing Para 5**.

[F.No. Ombuds(Delhi)/Policy/1/2012]

## FATF Advisory dated 22 June 2012

*Sub: Anti-Money Laundering (AML) / Combating the Financing of Terrorism (CFT) Standards - Cross Border Inward Remittance under Money Transfer Service Scheme (MTSS)*

AP(DIR Srs) Please refer to our A.P. (DIR Cir.18 Series) Circular No. 108 dated 23.08.2012 April 17, 2012 on risks arising from the deficiencies in AML CFT regime of certain

jurisdictions.

2. Financial Action Task Force (FATF) has issued a further Statement on June 22, 2012 on the subject.

3. Authorised Persons (Indian Agents) are accordingly advised to consider the information contained in the enclosed statement.

4. This, however, does not preclude Authorised Persons (Indian Agents) from legitimate transactions with these countries and jurisdictions.

5. These guidelines would also be applicable mutatis mutandis to all Sub-Agents of the Indian Agents under MTSS and it will be the sole responsibility of the APs (Indian Agents) to ensure that their Sub-agents also adhere to these guidelines.

6. Authorised Persons (Indian Agents) may bring the contents of this circular to the notice of their constituents concerned.

7. Please advise your Principal Officer to acknowledge receipt of this circular letter.

8. The directions contained in this Circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and also under the, Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009 and Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 as amended from time to time and are without prejudice to permission/approvals, if any, required under any other law.

## RBI Allows Pak Citizens to Purchase Shares under FDI with Prior Approval from FIPB

*Sub: Foreign Direct Investment by citizen / entity incorporated in Pakistan*

AP(DIR Srs) Attention of Authorised Dealer Cir.16 (AD Category - I) banks is invited to the Foreign Exchange Management

(RBI) (Transfer or Issue of Security by a Person Resident outside India) Regula-

tions, 2000 notified vide Notification No. FEMA 20 / 2000 -RB dated May 3, 2000 (hereinafter referred to as Notification No. FEMA 20), and as amended from time to time.

2. In terms of sub-regulation (1) of Regulation 5 of the Notification *ibid*, a person resident

## Rs. 46 Lakh Gold Coins Excise Evasion by ICICI

*Bank Pays up to Avoid Prosecution*

[Ref: Incident Report No. 03 dated 23<sup>rd</sup> August 2012]

Acting on an information, officers of Hdqr. Anti-evasion unit of this Commissionerate investigated the manufacture and clearance without payment of duty on customised gold coins by M/s ICICI bank Ltd. Having its head office at ICICI Bank Towers, Bandra-Kurla Complex, Mumbai- 400051. During inquiry it revealed that M/s ICICI Bank Ltd. Have manufactured branded gold coins through job-worker for their corporate customers and sold/ redeemed through their branches located throughout India during 01.03.2011 to 16.03.2012 without payment of duty violating notification no. 01/2011-CE dated 01.03.2011 as amended and thereby evaded central excise duty to the tune of rupees 45,79,291=00 (as per their submitted documents). Rule 12AA of the Central Excise Rules, 2002 of the relevant period envisages liability of payment of duty alongwith observance of central excise procedures on the part of either jobworker or the brand owner. M/s ICICI Bank Ltd. being the brand owner have admitted the facts and implication and paid an amount of rupees. 53,08,600=00 towards their duty liability including interest of rupees 7,29,309=00 through e-payment. Further investigation is in progress.

outside India who is a citizen of Pakistan or an entity incorporated outside India in Pakistan, is not allowed to purchase shares or convertible debentures of an Indian company under Foreign Direct Investment Scheme.

3. It has now been decided that notwithstanding anything contained in sub-regulation (1) of Regulation 5 of the Notification No. FEMA. 20, a person who is a citizen of Pakistan or an entity incorporated in Pakistan may, with the prior approval of the Foreign Investment Promotion Board of the Government of India, purchase shares and convertible debentures of an Indian company under Foreign Direct Investment Scheme, subject to the terms and conditions specified in Schedule 1 of the Notification, *ibid*, provided further that notwithstanding anything contained in Schedule 1 of the Notification, *ibid*, the Indian company, receiving such foreign direct investment, is not engaged or shall not engage in sectors / activities pertaining to defence, space and atomic energy and sectors/ activities prohibited for foreign investment.

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

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

## Addl. DGFT Mumbai, Trade Notices

See Full Text at our Website [www.worldtradesScanner.com](http://www.worldtradesScanner.com)

### Checklist for Application of Advance Authorisation

[Ref: Addl. DGFT Mumbai, Trade Notice No. 07 dated 26.07.2012]

### Checklist for Application of DFIA

[Ref: Addl. DGFT Mumbai, Trade Notice No. 08 dated 26.07.2012]

### Check List for Modification of Details in Existing IEC Number (Proprietorship Firm)

[Ref: Addl. DGFT Mumbai, Trade Notice No. 09 dated 26.07.2012]

### Check List for Modification of Details in Existing IEC Number (Companies)

[Ref: Addl. DGFT Mumbai, Trade Notice No. 10 dated 26.07.2012]

### Check List for Modification of Details in Existing IEC Number

[Ref: Addl. DGFT Mumbai, Trade Notice No. 11 dated 26.07.2012]

### Check List for Modification of Details in Existing IEC Number (Partnership Firm)

[Ref: Addl. DGFT Mumbai, Trade Notice No. 12 dated 26.07.2012]

## RBI Renews Money Laundering Instructions

Sub: Anti-Money Laundering (AML) / Combating the Financing of Terrorism (CFT) Standards - Money changing activities

AP(DIR Srs) Cir.17 23.08.2012 (RBI)

Please refer to our A.P. (DIR Series) Circular No. 107 dated April 17, 2012 on risks arising from the deficiencies in AML/ CFT regime of certain

jurisdiction.

2. Financial Action Task Force (FATF) has issued a further Statement on June 22, 2012 on the subject.

3. Authorised Persons are accordingly advised to consider the information contained in the enclosed statement.

4. This, however, does not preclude Authorised Persons from legitimate transactions with these countries and jurisdictions.

5. These guidelines are also applicable mutatis mutandis to all agents/ franchisees of Authorised Persons and it will be the sole responsibility of the franchisers to ensure that their agents / franchisees also adhere to these guidelines.

6. Authorised Persons may bring the contents of this circular to the notice of their constituents concerned.

7. Please advise your Principal Officer to acknowledge receipt of this circular letter.

8. The directions contained in this Circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and also under the, Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009 and Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 as amended from time to time and are without prejudice to permission /approvals, if any, required under any other law.

## RBI Inserts Clause on Annual Performance Report Clause in Overseas Direct Investment Form

Sub: Overseas Direct Investments – Rationalisation of Form ODI

AP(DIR Srs) Cir.15 21.08.2012 (RBI)

Attention of the Authorised Dealer (AD - Category I) banks is invited to the Notification No. FEMA 120/RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Amendment) Regulations, 2004] (the Notification), as amended from time to time.

2. In terms of Regulation 15(iii) of the Notification *ibid*, an Indian Party is required to submit to the Reserve Bank through the Authorised Dealer every year within 60 days from the date of expiry of the statutory period as specified by the respective laws of the host country for finalization of the audited accounts of the Joint Venture (JV) /Wholly Owned Subsidiary (WOS) outside India or such further period as may be allowed by the Reserve Bank, an Annual Performance Report (APR) in Form ODI Part III in respect of

each JV or WOS outside India set up or acquired by the Indian Party. Further, an Indian party is allowed to undertake overseas direct investments under the General Permission (Automatic Route) subject to compliance to the provisions under Regulation 6 (and Regulation 7, if applicable) of the Notification. Regulation 6(2)(iv) of the Notification requires that the Indian Party has submitted the APR in respect of all its overseas investments in the format given in Part III of the Form ODI.

3. In view of the above, it has been decided to add the following items in Section 'E' and 'F' of Form ODI Part I, to be submitted by every Indian party in terms of Regulation 6(2)(vi) of the Notification, while undertaking ODI transactions:

(i) In Section 'E', after item (c), item "(d) Wherever applicable, the Annual Performance

Report, as required in terms of Regulation 15(iii) of the Notification No. FEMA 120 / RB - 2004 dated July 07, 2004, as amended from time to time, in respect of all the existing JV / WOS of the Indian party has been submitted."

(ii) In Section 'F', after item (v), a clause "Further, certified that, wherever applicable, the Annual Performance Report, as required in terms of Regulation 15(iii) of the Notification *ibid*, in respect of all the existing JV / WOS of the Indian party has been submitted."

4. The revised Section 'E' and 'F' of Form ODI Part I are given in the Annex to the Circular.

5. Necessary amendments to the Foreign Exchange Management (Transfer or Issue of Any Foreign Security), Regulations, 2004 are being issued separately.

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

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

[Annexure to RBI Cir. 15 is available in [www.worldtradesScanner.com](http://www.worldtradesScanner.com)]

## Swiss National Bank's Jordan Wonders how to Spend \$380bn Pile

Swiss central bank President Thomas Jordan is wondering how to invest his currency reserves as euros pile up at the bank at a record pace.

"The SNB has the same problem as lots of wealth managers," said Ursula Kubli, an economist at Bank Sarasin in Zurich. "Safe assets have become very expensive. So for the time being, they prefer cash over investing."

With Europe's debt crisis hurting returns on the least risky bonds, the Swiss National Bank is keeping reserves in cash after its policy to cap the franc swelled currency holdings by 50 percent in the four months through June to a record 365 billion francs (\$380 billion). Money held at central banks, the International Monetary Fund and the Bank for International Settlements accounted for 72 percent of the gain.

The SNB has been piling up euro holdings to defend the franc ceiling of 1.20 versus the single currency introduced in September 2011. While the central bank previously mainly invested foreign currencies in government bonds of AAA-rated nations, the surge in cash reserves suggests policy makers are finding it more difficult to find the right investments.

### SNB Reserves

The SNB's foreign-exchange holdings amounted to about 60 percent of Swiss gross domestic product at the end of the second quarter. Euros accounted for 60 percent of currency reserves, up from 51 percent three months earlier, reflecting the ongoing battle to keep a lid on the franc. The currency surged

about 17 percent to a record against the euro in the six months before the ceiling was introduced.

The Zurich-based SNB has also seen its cash holdings at other central banks, or sight deposits, surge to 107.6 billion francs in June, compared with an average of 6.4 billion francs in the year through April. In the 15 months through June 2010, when the SNB bought billions of euros to weaken the franc without a ceiling, the average share was near zero.

The fallout from the sovereign debt crisis has left only four of the euro area's 17 economies

the AAA rating from the three major ratings companies. France, the region's second-biggest economy was stripped of its top credit rating by Standard & Poor's on Jan. 13, as the company downgraded the debt of nine nations in the currency bloc.

**Risky Business**

The yield on the 10-year German bund fell to a record low 1.13 percent on June 1. Two-year notes returned minus 0.007 percent on Aug. 28, indicating that investors are willing to pay for the privilege of holding the region's safest securities.

While the euro-area turmoil has pushed up the price of what is perceived as a safe asset, the SNB's internal guidelines may limit its ability to seek better returns from riskier investments. They require the central bank to have a "substantial part" of its holdings in government bonds to meet "secure investment" standards.

Jordan, 49, said on June 14 that a "large part of our foreign-currency investments are bonds issued by governments of the core euro area with very high quality." At the end of the second quarter, government bonds in their own currencies and deposits with central banks and the BIS accounted for 85 percent of the SNB's foreign assets, with 86 percent of all bond holdings rated AAA.

**Dollar Holdings**

The SNB has been selling euros purchased against other currencies in a bid to diversify its portfolio, according to balance-sheet data. Still, its share of currency reserves in dollars fell to 22 percent in the second quarter from 28 percent in March. Yen and Canadian dollar reserves also declined in that period, indicating the pace of swapping euros for foreign currencies has slowed.

**'Wary' SNB**

At the same time, the share of so-called other currencies including Australian dollars and Danish kroner accounted for 3.5 percent of overall reserves at the end of the second quarter, up from 2.9 percent a year earlier. The SNB also added Korean won in the first quarter and Jordan said on June 14 that "additional investment opportunities in the advanced and emerging economies are continually being evaluated."

<b>WORLD TRADE SCANNER</b>		
US Challenges Argentina Trade Restrictions, Mexico Joins in		177
Apple Wins 6 out of 7 Patent Suits against Samsung Infringement		177
Ban to Attend Tehran NAM Summit – India and Egypt PMs Join in		178
Tehran Summit Takes Aim at US, West		178
Russia Joins WTO, Binds Tariffs at 7.8%		178
Swiss National Bank's Jordan Wonders how to Spend \$380bn Pile		183
<b>BIG's WEEKLY INDEX OF CHANGES</b>		
<b>Foreign Trade Policy</b>		
11-Ntfn(RE)/22.08.12	Five More Laboratories Notified for Certification/Grading of Diamonds of 0.25 Carats and Above	181
12-Ntfn(RE)/22.08.12	Quota Raised to 6 lakh tonnes in Marble Policy 2012-13	179
03-Pol.Cir/23.08.2012	Five Percent Weight Fall in Sugar Exports Allowed for Contract Registration	179
<b>Customs</b>		
Ntfn 47/21.08.2012	Zero Duty on Oil Cake/Oil Cake Import Meal upto 1 April 2013	179
Corrigendum/24.08.12	Corrigendum dated 24 August 2012 to Ntfn 47 dated 21.08.2012	179
39-ADD/24.08.2012	Anti-dumping duty on Nonyl Phenol Extended upto 21 August 2013 in Review	180
01-PN/21.08.2012	Delhi Ombudsman Starts Functioning from Chanakyapuri Residence, Complaints only After Grievance Procedure Fails	181
<b>Central Excise</b>		
Incident Report No. 3/ 23.08.2012	Rs. 46 Lakh Gold Coins Excise Evasion by ICICI	182
<b>CBEC Circulars</b>		
442/12/2004-Cus.IV/ 28.08.2012	Board Instructions for Early Investigation for Disposal of Unclaimed Motor Cars and Negative List Goods under Sec. 48 of CA, 1962	181
<b>Service Tax</b>		
164-ST/28.08.2012	Vocational Education Course (VEC) Excluded from Service Tax	181
<b>RBI Circulars [AP (DIR Series)]</b>		
Cir.15/21.08.2012	RBI Inserts Clause on Annual Performance Report Clause in Overseas Direct Investment Form	183
Cir.16/22.08.2012	RBI Allows Pak Citizens to Purchase Shares under FDI with Prior Approval from FIPB	182
Cir.17/23.08.2012	RBI Renews Money Laundering Instructions	183
Cir.18/23.08.2012	FATF Advisory dated 22 June 2012	182

<b>Customs Valuation Exchange Rates</b>			
<b>17 August 2012</b>		Imports	Exports
<b>Schedule I</b> [Rate of exchange of one unit of foreign currency equipment to Indian Rupees]			
1	Australian Dollar	59.05	57.75
2	Bahraini Dinar	151.45	143.35
3	Canadian Dollar	56.65	55.25
4	Danish Kroner	9.35	9.05
5	EURO	69.40	67.80
6	Hong Kong Dollar	7.20	7.10
7	Kenyan Shilling	68.25	64.30
8	Kuwaiti Dinar	202.45	191.30
9	New Zealand Dollar	45.60	44.40
10	Norwegian Kroner	9.50	9.20
11	Pound Sterling	88.10	86.30
12	Singapore Dollar	45.10	44.10
13	South African Rand	7.00	6.60
14	South Arabian Riyal	15.25	14.40
15	Swedish Kroner	8.40	8.15
16	Swiss Franc	57.70	56.40
17	UAE Dirham	15.55	14.70
18	U.S. Dollar	55.95	55.15
<b>Schedule II</b> – [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees ]			
1	Japanese Yen	71.75	69.95

(Source: Customs Notification 75(NT)/16.08.2012)

**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
27-Aug-12	55.4650	55.7050	55.4500	55.6850	55.6850	1208776	1411664	785185	55.5930
24-Aug-12	55.3200	55.5250	55.3200	55.4825	55.4825	1348714	1672422	926837	55.3820
23-Aug-12	55.3250	55.3250	55.1150	55.2500	55.2500	1414913	1705769	941585	55.1855
22-Aug-12	55.4800	55.6050	55.3700	55.5275	55.5275	1478483	1758499	975896	55.5105

[Source: NSE and RBI Website]