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## China-US New Trade War

### US Slaps Tariffs on Tyres from China

President Barack Obama downplayed the possibility that his imposition of tariffs on imported tires from China would spark a cycle of retaliation.

Obama's argument that existing trade rules must be enforced to build support among lawmakers and the American public echoes the position taken by each of his four predecessors before they made free trade a focus. He may seek to convince China's President Hu Jintao, whom he meets at a Group of 20 summit next week, of the need to limit the trade spat after China announced a probe into the pricing of U.S. chicken and auto products.

Obama's decision on tires may encourage U.S. producers of apparel, steel or other goods to file similar safeguard complaints against imports from China, and spur China to retaliate, Kapp said.

Obama said Sept. 11 that he will impose duties of 35 percent on \$1.8 billion of automobile tires from China, acting on a petition by the United Steelworkers union.

China called the tariffs an "abuse" on 14 September and filed a complaint with the World Trade Organization.

The tire tariffs will hurt labor-intensive Chinese industries that contribute to social stability, Yao also said. "It's not fair if the U.S. only cares about its own employment and not China's growth," he said. "As the U.S. is the origin of the global financial crisis, it should shoulder moral responsibility, act cautiously and refrain from the use of trade remedies."

#### Union Support

The case brought by the steelworkers union was the largest so-called safeguard petition filed to protect U.S. producers from increasing imports from China. Union leaders and Democratic lawmakers said the decision demonstrates Obama's commitment to protecting U.S. workers and jobs.

Governments round the world have planned 130 protectionist measures that have yet to be implemented, according to a tally by Global Trade Alert, a team of trade analysts, the Wall Street Journal reported.

#### Retailers Oppose

U.S. retailers that rely on imports are "disappointed in the president's decision to bow to political pressure," Stephanie Lester, vice president of the Retail Industry Leaders Association, which represents companies such as Wal-Mart Stores Inc. and Target Corp., said in a statement.

The retailers hope administration officials "will be more judicious in their responses to any future safeguard petitions," she said.

The "risk is that it just spirals" into a trade war, David Spooner, a former Commerce Department official and a lawyer at Squire, Sanders & Dempsey LLP in Washington, said in an interview on 14 September. Spooner represented China's rubber industry in the case.

As long as China continues to subsidize its manufacturers and channel government funds into export-oriented businesses, trade friction with the U.S. will remain, said Jeremie Waterman, senior director for China at the U.S. Chamber of Commerce.

The safeguard complaints "are symptoms of broader problems in the U.S.-China relationship," he said in an interview on 14 September. Obama's decision "is not likely to save a single job, but it's a legal and legitimate action."

#### Size of Trade

The U.S. and China will try to make sure the tensions that erupted over tires don't disrupt a commercial relationship that totaled \$409 billion last year, Kapp said. China, the second-largest U.S. trading partner after Canada, is also the largest holder of U.S. debt with \$776 billion.

Feldman predicted China won't prevail in its complaint over the tire tariffs because Chinese officials accepted such "safeguard cases" when it joined the WTO.

In safeguard cases, companies need to show only that imports are surging and not that the products benefit from subsidies or are being dumped at a discount.

#### Goodyear, Cooper say 'No'

Some of the largest U.S. tire companies didn't join in the union's petition for relief from Chinese tire imports. Goodyear Tire & Rubber Co., the largest U.S. tiremaker, stayed neutral. Cooper Tire & Rubber Co., the second-largest U.S. tiremaker, opposed the relief. The company has a plant in China.

The USA Poultry & Egg Export Council said China's move to investigate whether the U.S. sold poultry there for below-market prices was prompted partly by bad U.S. trade policies, including the tariffs on tires.

The independent U.S. International Trade Commission recommended that Obama impose duties for three years, starting at 55 percent, to counter a tripling of tire imports from China from 2004 to 2008. The union, which represents 15,000 employees at 13 tire plants in the U.S., said cheap imports were forcing factories to close, eliminating jobs.

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## FDI Up by 56% in July 2009 – US \$ 3.516 bn

During the month of July, 2009, FDI equity inflows of US \$ 3.516 billion (Rs. 170.45 billion) were received. This was as against US \$ 2.247 billion (Rs. 96.27 billion), received during the corresponding month of last year (i.e. July, 2008) and US \$ 705 billion (Rs. 28.49 billion) received in July, 2007. While speaking to the media persons at a press conference, on 10 September, Anand Sharma, Union Minister of Commerce and Industry, has said that this FDI equity inflows indicates an increase of 56% in US \$ terms (and 77% in Rupee terms) over July, 2008 (corresponding month of previous year).

Inflows of US \$ 3.516 billion received during the month of July, 2009 are as against US \$ 2.582 billion received during the month of June, 2009 and as against US \$ 2.096 billion received during the month of May, 2009. It represents an increase of 36% over June, 2009, which, in turn, had represented an increase of 23% over the equity inflows received in May, 2009.

During the interaction, the Minister added that despite the current economic situation, FDI equity inflows amounting to US \$ 10.532 billion (Rs. 512.56 billion) have been received during April-July, 2009, which is as against US \$ 12.320 (Rs. 514.40 billion) received in April-July, 2008 (corresponding period for last financial year). "The corresponding amount in April, 2007 to July, 2007 was US \$ 5.706 billion, compared to which FDI equity inflows during the current financial year have increased by nearly 85%", he added.

The major sectors receiving FDI equity inflows are: Services sector (US\$ 1.86 billion); Housing & Real estate (US\$ 1.18 billion); Construction activities (US\$ 0.68 billion); Telecom-

munication (US\$ 0.67 billion); and Automobile Industry (US\$ 0.27 billion). Mauritius, USA, Cyprus, Japan and Singapore are the major investing countries during the period 2009-10 (April-June 2009). Inflows from Mauritius, USA and Cyprus have been US \$ 3.37 billion, 0.81 billion and 0.48 billion respectively, while investments from Japan and Singapore are around US\$ 0.47 billion and 0.37 billion respectively.

### FDI Inflows During Previous Financial Years

- FDI equity inflows have shown a consistently increasing trend since 2004-05.
- FDI equity inflows for 2008-09 surpassed even the previous year's inflows and reached an unprecedented level of US\$ 27.31 billion, which is excluding reinvested earnings. With reinvested earnings and other capital, the FDI inflows for 2008-09 amounted to US\$ 35.17 billion.
- FDI equity inflows during 2007-08 at US\$ 24.58 billion represented a growth of 56% over the previous year. With reinvested earnings and other capital, the FDI inflows for 2007-08 amounted to US\$ 34.36 billion
- The FDI equity inflows during 2006-07 at US\$ 15.7 billion were an increase of 184 % over the inflows in the earlier year i.e. 2005-06.
- The FDI equity inflows during 2005-06 at US\$ 5.5 billion represented a growth of 72% over inflows for 2004-05.
- The FDI inflows for 2004-05 at US\$ 3.2 billion had shown an increase of 45% over that for 2003-04.

## China Launches Anti-Dumping Probe into US Auto, Chicken Products

China launched anti-dumping and anti-subsidies investigations into some automobile and chicken products originally produced in the United States, the Ministry of Commerce (MOC) announced on 13 September.

The probe follows complaints from Chinese manufacturers. They alleged the above products entered the country's markets with an "unfair competition manner", which harmed domestic industries.

The ministry said the investigation was in accordance with the World Trade Organization rules and China's laws.

The MOC announced, China always firmly opposes protectionism. The country hoped all countries worked together to promote a quick recovery of the world economy.

versy in some signing countries. In Mauritius, a socio-political movement called "Rezistans ek Alternativ" spoke out against the pact, claiming that it could trigger a drop in valuable customs revenue and threaten the security of thousands of jobs. The agreement would generate more benefits for European companies and a few select local interests, the group said.

But the EU Trade Commission maintains that the agreement includes "a number of important exceptions reflecting [the ESA countries'] development needs." Commissioner Ashton met and discussed with ministers from ESA states, covering key issues such as protection for infant industries and export duties, the EU said.

The EU is engaging in the EPA negotiations with the ESA countries - as well as with other regional groupings within the African, Caribbean, and Pacific (ACP) Group of states - in an effort to create a series of reciprocal, WTO-compatible trade arrangements. The resulting EPA deals are intended to replace an old system of unilateral trading preferences that were not in line with international rules.

Like Zambia and Comoros, not all ACP countries have signed interim EPAs. Many of these nations are considered Least Developed Countries (LDCs), which are already granted access to European markets on a duty free access arrangement under the EU's Everything But Arms trade arrangement. Thus, they already benefit from duty-free, quota-free imports to the EU.

## EU Inks Interim EPA with 4 African Nations

The European Union signed an interim Economic Partnership Agreement (EPA) with Mauritius, Seychelles, Zimbabwe, and Madagascar, all of which are members of the Eastern and Southern African (ESA) regional grouping, in Grand Baie, Mauritius on 29 August. Zambia and Comoros, other members of the bloc, have postponed signing to a later date, according to an EU statement.

The agreement provides immediate and full access to EU markets - with transition periods for rice and sugar - and improved rules of origin to signing ESA countries. In exchange, ESA countries will open their markets to European

imports gradually over the next 15 years.

European officials cheered the deal. "Trade plays a significant role in promoting growth and development, not least in a region with such potential as Eastern and Southern Africa," said Swedish deputy trade minister Gunnar Wieslander, representing the Swedish Presidency of the EU. EU Trade Commissioner Catherine Ashton added that the EU now has "the foundation to build a more comprehensive trade partnership that will support the ESA region's work to build diverse and sustainable economies."

But the agreement has stirred up contro-

### 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
15-Sep-09	48.7000	48.7325	48.5775	48.6525	48.6525	265937	1045154	508443.1	48.5700
14-Sep-09	48.6800	48.8400	48.6200	48.7925	48.7925	257081	945366	460907.3	48.7000
11-Sep-09	48.3300	48.6525	48.3300	48.5250	48.5250	267553	1005900	488268.8	48.5100
10-Sep-09	48.4625	48.7000	48.3275	48.6800	48.6800	268523	924643	448434.7	48.3700
9-Sep-09	48.5650	48.6350	48.5025	48.5550	48.5550	258897	981752	476836.4	48.4700

[Source: NSE and RBI Website]

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<input type="checkbox"/> 3 Years	Rs. 1800	US\$180

## WTO Rules against Chinese Restrictions on Foreign Books, Movies, Music

Newspapers are billing it as Hollywood versus China. A WTO dispute panel in August sided with a complaint by the US, ruling against Beijing's restrictions on the importation and distribution of foreign books, music, and movies.

China requires copyrighted publications and audiovisual products - books, journals, video games, music, DVDs and the like - to be imported and distributed via a handful of state-approved or state-run middlemen. US producers of such products have complained that these restrictions - along with rampant piracy - severely hamper their ability to make money in the world's fastest-growing major market.

The panel ruling, which was made available public on 12 August, concluded that the restrictions violated commitments China had made when it joined the WTO in 2001. The restrictions also violated 'national treatment' requirements in WTO rules under which countries cannot privilege domestic goods and services over imported ones, it found.

Ron Kirk, the US trade representative, called the decision "a significant victory" for America's creative industries. "This decision promises to level the playing field for American companies working to distribute high-quality entertainment products in China, so that legitimate American products can get to market and beat out the pirates," he said. "To me, that is a clear win."

China's commerce ministry expressed regret about the decision, according to the China Daily newspaper. The state-owned paper suggested that Beijing might appeal, although it quoted a trade lawyer as saying that such a move would have little chance of success.

Notably, the panel ruling met with a favourable response in some quarters in China. The president of Huayi Brothers, the country's biggest privately owned media company, welcomed the ruling, calling it "good news for private companies."

Unsurprisingly, Hollywood, too, was happy with the ruling. Dan Glickman, president of the Motion Picture Association of America, called it "a major victory in [the MPAA's] years-long battle to open the Chinese movie market."

The MPAA noted that the ruling did not affect a quota that allows no more than 20 foreign films to be released in Chinese cinemas every year, one of a handful of issues on which the panel either declined to rule or disagreed with a US claim.

### 'Trading rights' at centre of case

So-called 'trading rights' were at the heart of the dispute. Although not part of the original WTO agreements, China and other countries that joined the WTO after its founding in 1995 had to accept disciplines on the right to import and export as part of the price of accession - existing Members didn't want the market access concessions they had won to be watered down by restrictions on who could import.

The panel found that China's accession commitments required it to ensure that "all enterprises in China," including partially or wholly foreign-owned companies, would have the right to import and export "all goods" throughout China

(subject to reservations outlined in its accession protocol).

China had countered the US allegations by pointing out that its accession commitments subjugated trading rights obligations to its "right to regulate trade in a manner consistent with the WTO agreement." Invoking a provision in WTO rules that allows countries to deviate from normal trade obligations if doing so is "necessary to protect public morals" (GATT Article XX(a)), Beijing argued that it regulated trade in "imported cultural goods, because they are vectors of different cultural values, [and] may collide with standards of right and wrong which are specific to China."

### Panel sidesteps censorship issue

Under China's existing practices, 'content review' — in other words, censorship - is tied to the importation and distribution of publications and audiovisual products. The state-approved companies can review the material they import, and decide what to reject.

But the panel did not delve into whether China's policy was justifiable on the grounds of protecting public morals, focusing solely on whether the measures met the necessity test that is part of the GATT Article XX exception, noted Simon Lester, founder of WorldTradeLaw.net, a website devoted to WTO law. "Do the measures fall within the policy purpose of protecting public morals? The panel sidesteps this," he explained. The panel assumed for the sake of argument that they fell within the purpose of protecting public morals, and then evaluated the measures on the basis of their trade-restrictiveness and their contribution to their purported goals. Less restrictive measures could have achieved the same goal, such as simply applying the domestic censorship regime to imported cultural products - a point the US made in its arguments before the panel.

According to an analysis by Brendan McGivern, a partner at White & Case LLP in Geneva, the panel also found in favour of US claims that several Chinese policies violated 'national treatment' obligations under WTO rules for goods (GATT) and services (GATS), thus "adversely modifying the conditions of competition." These included a Chinese law "that had the 'effect of prohibiting foreign service suppliers from wholesaling imported reading materials, while like Chinese suppliers are permitted to do so.'" Also at fault were policies requiring imported reading material to be distributed through a subscription regime, while domestically produced reading material faces no similar strictures.

Although China's censorship laws were only a subtext in the current case, the panel's findings about national treatment could have ramifications for Beijing's internet censorship policies, said Gilbert Kaplan, a partner at King & Spalding in Washington. Kaplan represents the California First Amendment Coalition, a freedom of expression advocacy group that has petitioned the US trade representative's office to initiate WTO dispute proceedings with China over Beijing's attempts to restrict Chinese residents' access to information on the internet. The

## US Appoints New Ambassador to WTO

Michael Punke, a Clinton-era trade official, will be the US' new Ambassador and Permanent Representative to the WTO, US President Barack Obama announced last week. Pending his approval by the Senate, Punke's new position will make him Washington's highest-ranking trade representative at WTO headquarters in Geneva.

Punke has worked in international trade law and policy for 20 years, having served as Senior Policy Advisor to the USTR and Director of International Economic Affairs at the White House during the Clinton administration. He was also International Trade Counsel to Democratic Senator Max Baucus, who at the time chaired the Senate Finance Committee's International Trade Subcommittee. More recently, he has consulted on international trade in both the public and private sectors, while working as an adjunct professor of the University of Montana and writing novels.

Punke's nomination follows the departure of Ambassador Peter Allgeier after four years as WTO Ambassador and almost three decades of service in the USTR's office. Allgeier joined C&M International, Ltd, an international trade and investment firm, as their president on 8 September. "Peter brings unrivalled experience and skill on every trade topic and in every geographic region. In the current global economic climate, his vast experience will help clients navigate the international trade arena with insight and authority," said Chairman and CEO of C&M International, Doral Cooper.

In replacing Allgeier, Punke will be taking on a key role in the WTO's Doha Round of trade talks, which have encountered a number of setbacks in the eight years since their launch in the Qatari capital. The US was a key player in the most recent major setback - the collapse of high-level talks in Geneva in July 2008 - and many countries insist that a renewed commitment from Washington is vital to the future of the talks. A number of world leaders and trade ministers have called for a conclusion of the round in 2010, but some observers doubt whether such a goal is feasible.

so-called 'great firewall', Kaplan said, makes it "almost impossible" for foreign internet companies like the online auction site eBay to do business in China, to the benefit of their Chinese competitors. "The censorship rules are a market access barrier," Kaplan said.

The panel called for China to bring its policies into conformity with its WTO obligations. If Beijing fails to do so, the US could ultimately be allowed to impose trade sanctions on Chinese goods and services to offset its resulting commercial losses.

This case marks the second of two challenges to China's treatment of copyrighted books, music, and films that the US launched in 2007. White & Case's McGivern said that the verdict in the first, which challenged the adequacy of China's intellectual property laws, "fell far short of US expectations"

## Brazil Contests US Surcharges on Orange Juice

**B**razil has launched a complaint against the US' method of determining the extent of trade violations, the country's Ministry of Foreign Affairs announced last month.

Brasilia's complaint centres on how Washington calculates the level of anti-dumping tariffs that it imposes on imports of Brazilian orange juice. The South American country insists that the retaliatory tariffs are unfairly high.

At a meeting of the Dispute Settlement Body on 31 August, Brazil requested the establishment of panel to hear its complaint. The country requested consultations with the US on the matter in November of last year, but subsequent bilateral talks failed to produce a resolution.

Central to the case is Washington's use of 'zeroing', a controversial method of determining whether and by how much trading partners are 'dumping' (exporting at artificially low prices) their goods in the US market. Under this calculation, US trade authorities ignore, or 'zero out', instances in which goods command higher prices in US markets than abroad.

The WTO allows countries that receive dumped goods to strike back with anti-dumping tariffs against the exporting country. But critics argue that zeroing inflates the apparent margin by which goods are dumped and results in

inappropriately high levels of retaliatory duties on competing imports.

"The 'zeroing' practice, in addition to being inconsistent with multilateral trade rules, causes great uncertainty and serious damage to the affected exporting companies," Brasilia said in a statement.

The WTO's Dispute Settlement Body has consistently ruled that zeroing violates the global trade forum's Anti-Dumping Agreement, which requires the "fair comparison" of export prices and domestic prices in dumping calculations. Canada, Ecuador, the EU, Japan and Thailand have all challenged Washington's continued use of zeroing. Under pressure following a dispute with the EU, the US shifted its methods in 2007, eliminating zeroing in all new anti-dumping investigations from then on. However, it continued to use zeroing in investigations that were ongoing at the time.

A recent ruling in an anti-dumping case brought by Japan seems to strengthen Brazil's claim. In a decision released on 18 August, the trade body's highest court rejected an appeal from Washington that defended the use of zeroing, effectively giving Tokyo a green light to impose trade sanctions on the US. The Appellate Body found against the US on every count.

## WTO Panel Allows Brazil to Cross-Retaliates on IP, Services in US Cotton Row

**A** WTO panel has cleared the way for Brazil to impose trade sanctions worth US\$294.7 million - and possibly including cross-retaliation in services and intellectual property - to retaliate against the US' failure to comply with previous WTO rulings on Washington's cotton subsidies. The award was significantly lower than the US\$4 billion in sanctions that Brasilia had sought, but still marked the second-largest level of retaliation that has ever been authorised by the WTO, according to one measure.

Observers say that the panel reports, which set clear conditions for cross-retaliation and specifically outlines how the level of sanctions should be calculated, may set a precedent for how cross-retaliation is to be exercised in practice.

The WTO had already ruled in the seven-year-old case that trade-distorting US cotton subsidies worth US\$3 billion annually violated the WTO's Agreement on Subsidies and Countervailing Measures (SCM). The US has since continued its controversial subsidies, arguing that subsequent reforms had brought the programmes into compliance with the ruling.

Using 2006 figures as a reference, the arbitrators found that Brazil was entitled to impose annual sanctions worth US\$147.4 million in the case of prohibited subsidies and US\$147.3 million for actionable subsidies unless the US puts an end to the subsidies faulted in the ruling.

Though the sanctions constitute only 10 percent of the US\$2.2 billion in sanctions that Brazil had sought, the retaliation is still much higher than the US' claim that no more than US\$22.8 million per year in sanctions would be appropriate.

Interestingly, the panel found the retaliation amount for illegal export subsidies to be a variable figure that should change from year to year depending on the level of the payments actually distributed. Roberto Azevedo, Brazilian Ambassador to the WTO, says that the current payments are much higher than they were in 2006, the year that the dispute panel used to make its calculations. Using the methodology developed by the arbitrators, he said, Brazil would be entitled to US\$800 million in sanctions for 2009.

Pedro Carneiro de Mendonca of Brazil's Foreign Affairs Ministry alleged that the panel had used outdated numbers to calculate the fine and that spending on illegal subsidies has increased significantly since 2006. Azevedo later specified that credit guarantees under the US' DSM-102 programme - which the WTO found to violate the SCM - ballooned from US\$1.36 billion in 2006 to a preliminary estimate of US\$4.62 billion for the first 10 months of the 2009 fiscal year.

US cotton and other farm groups balked at these statements. The US Congress changed the GSM-102 program significantly in the 2008 US farm bill, they argued, ensuring that the programme would comply with Washington's obligation to guarantee that premiums received under the programme cover its operating costs and losses.

Despite the continued - albeit altered - subsidies, US cotton production has shrunk by 46 percent and cotton exports have fallen by 25 percent since 2005, Hardwick noted.

Seven US farming groups called upon the US government to "request a new compliance panel to update this ruling to reflect the changes

in the program made by congress and the USDA since 2005."

## Cross-retaliation in TRIPS: a powerful tool

A second major issue in the recent Article 22.6 proceedings was Brazil's request that the WTO authorise the country to 'cross-retaliate' against the US under the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). That request was based on the assumption that retaliation in goods alone would harm the Brazilian economy and thus would not be an effective countermeasure.

The panel granted that request, with one condition: Brazil may retaliate in IP and services but only after a threshold of US\$410 million worth of sanctions has already been reached.

By lifting patent and trademark protection on pharmaceutical products and software - rather than simply raising tariffs on imported goods - Brazil could spur US domestic interests to pressure Washington to comply with the original ruling.

Cross-retaliation under TRIPS can be a very powerful tool, especially for developing countries, as it does not trigger some of the adverse effects such as increased consumer prices caused by higher tariffs or greater costs for domestic producers who may be obliged to switch to other suppliers. Such retaliatory measures allow smaller WTO member states to create pressure against economically powerful trading partners that would most likely be unharmed by the suspension of concessions in goods alone. Brazil constitutes a relatively small market for the US, accounting for less than three percent of total US exports.

Based on the recent reports, Brazil might set a precedent for the suspension of IPRs. Cross-retaliation under TRIPS has been authorised in only two previous cases: Ecuador was granted permission to do so in a dispute with the EU over banana tariffs, and Antigua was allowed to do the same in a dispute with the US over its internet gambling laws. However the developing country complainants in both instances have not imposed such retaliation measures, despite strong urging from some of their domestic interests. Thus, the current case could be a crucial test of how cross-retaliation in IP could work in practice.

According to a Brazilian newspaper the government has already prepared a "provisional measure" - a presidential decree that takes immediate effect, although it must later be ratified by Congress - to allow Brazilian pharmaceuticals companies to produce medicines protected by US patents.

However the ruling allows cross-retaliation in TRIPS only if Brazil's amount of total annual sanctions exceeds US\$ 409.7 million. Because of the complexities of calculating that total subsidy figure, it is difficult to know at this point whether that threshold has been reached.

But the Brazilian government has already launched an in-depth examination to determine the concrete amounts based on the panel's methodology, and claims that it is entitled to around US\$ 340 million in cross-retaliation under GATS and TRIPS annually.

*Cont'd..305*

## Nil Duty EPCG Scheme in FTP 2009-2014 in Eight Export Sectors with Negative List of Exports – Concession Allowed Till 31.12.2011

Ntfn 102 In exercise of the powers  
11.09.2009 conferred by sub-section (1) of  
(DoR) 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 exempts  
goods specified in the Table annexed hereto,  
from,-

(i) the **whole of the duty of customs** leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), and

(ii) the **whole of the additional duty** leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.

2. The exemption under this notification shall be subject to the following **conditions**, namely :-

(1) that the goods are imported for export of **engineering and electronic products, basic chemicals and pharmaceuticals, apparels and textiles, plastics, handicrafts, chemicals and allied products and leather and leather products** and are other than those required for export of products covered under following chapters or headings of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), namely:-

### Negative List

Chapters 1 to 4,5(other than handicrafts), 6 to 24,25 to 27, 31,40,43,44(other than handicrafts),45,47 to 49,68(other than handicrafts),69, 70,71,81 (metals in primary and intermediate forms only),89,93,97(other than handicrafts),98; headings 7201 to 7212, 7218 to 7220,7224 to 7226,7401 to 7406, 7501 to 7504, 7601 to 7603, 7801 to 7802, 7901 to 7903, 8001 to 8002 and 8401.

(2) that the goods imported are covered by a valid **authorization** issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at zero customs duty and the said authorization is produced for debit by the proper officer of customs at the time of clearance:

**Provided that** for import of spare parts specified at Sr.No.4 of the said Table, the validity period of the authorization shall be deemed to be the period permitted for fulfilment of the export obligation in full :

(3) that the importer is not currently availing any benefits under **Technology Upgradation Fund Scheme (TUFS)** administered by Ministry of Textiles, Government of India.

(4) that the importer **does not avail**, in the year of import of the goods, the **benefit of Status Holder Incentive Scheme under Para 3.16** of the Foreign Trade Policy.

(5) that the goods imported shall **not be disposed of or transferred** by sale or lease or any other manner till export obligation is complete.

(6) that the importer **executes a bond** in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this notification as well as to fulfill export obligation on Free On Board (FOB) basis equivalent to six times the duty saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed or endorsed by the Licensing Authority or Regional Authority in terms of Para 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy, within a period of six years from the date of issue of Authorization, in the following proportions, namely :-

S.No.	Period from the date of issue of Authorization	Proportion of total export obligation
(1)	(2)	(3)
1.	Block of 1 <sup>st</sup> to 4 <sup>th</sup> year	50%
2.	Block of 5 <sup>th</sup> to 6 <sup>th</sup> year	50%

**Provided further** that where a sick unit is notified by the Board for Industrial and Financial Reconstruction (BIFR) or where a rehabilitation scheme is announced by the concerned State Government in respect of sick unit for its revival, the export obligation may be fulfilled within time period allowed by the Licensing Authority or Regional Authority as per the rehabilitation package prepared by the operating agency and approved by BIFR or rehabilitation department of State Government . In cases where the time period is not specified in the rehabilitation package, the export obligation may be fulfilled within the time period allowed by the Licensing Authority or Regional Authority which shall not exceed twelve years.

**Provided also** that spares (including refurbished/reconditioned spares), moulds, dies, jigs, fixtures, tools, refractory for initial lining and catalyst for initial charge, for the existing plant and machinery (imported earlier, under EPCG or otherwise), shall be allowed to be imported under the EPCG scheme subject to an export obligation equivalent to 50% of the normal export obligation prescribed above, to be fulfilled in 6 years reckoned from the date of issue of the Authorization, subject to the condition that the CIF value of import of the above spares etc. will be limited to 10% of the CIF value of the plant and machinery imported under the EPCG authorization or 10% of the book value of the plant and machinery imported earlier otherwise than under EPCG Scheme, as the case may be.

**Provided also** that export obligation of a particular block may be set off against the excess exports made in the said preceding block(s);

(7) that if the **importer does not claim exemption from the additional duty leviable under section 3 of the Customs Tariff Act, 1975**, the additional duty so paid by him shall not

be taken for computation of the net duty saved for the purpose of fixation of export obligation provided the Cenvat credit of additional duty paid has not been taken;

(8) that the importer produces within 30 days from the expiry of each block from the date of issue of authorization or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow, evidence to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs showing the extent of **export obligation** fulfilled, and where the export obligation of any particular block is not fulfilled in terms of the preceding condition, the importer shall within three months from the expiry of the said block pay duties of customs equal to an amount which bears the same proportion to the duties leviable on the goods, but for the exemption contained herein, which the unfulfilled portion of the export obligation bears to the total export obligation, together with interest at the rate of 15% per annum from the date of clearance of the goods;

(9) where the importer fulfills 75% or more of the **export obligation** as specified in condition (6) (over and above 100% of the average export obligation) within half of the period specified for export obligation as mentioned in condition (6), his balance export obligation shall be condoned and he shall be treated to have fulfilled the entire export obligation;

(10) that the capital goods **imported, assembled or manufactured are installed in the importer's factory or premises** and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, is produced confirming installation and use of capital goods in the importer's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow :

**Provided that** in case of **import of spares**, the installation certificate shall be produced within three years from the date of import :

**Provided further** that if the importer is **not registered with central excise**, he may produce the said certificate of installation and usage issued by an independent Chartered Engineer :

**Provided further** that in the case of **manufacturer exporter and merchant exporter** having supporting manufacturer(s) or vendor(s), the capital goods may be installed at the factory or premises of such other person whose name and address are endorsed on the authorization referred to in condition (2) and also on the shipping bills and where the bond for full difference of duty, if necessary, in terms of condition (6) with or without a bank guarantee, as the case may

be, is executed by the importer and such other person binding themselves jointly and severally to fulfill the export obligation and all other conditions of this notification and to pay duty with interest at the rate of 15% per annum in case of default :

(11) that the imports and exports are undertaken through **sea ports** at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar, Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kolkata, Krishnapatnam, Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through any of the **airports** at Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum and Varanasi or through any of the **Inland Container Depots** at Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, Waluj (Aurangabad) or through the **Land Customs Station** at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other sea-port, airport, inland container depot or through a land customs station within his jurisdiction.

(12) notwithstanding anything contained in condition (8) above, where the Licensing Authority or Regional Authority grants extension of block-wise period for any block(s) or overall period of fulfilment of export obligation upto a period of two years or regularization of shortfall in export obligation, not exceeding five percent of such export obligation, the said block-wise period or overall period of export obligation shall be extended or condoned by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be :

Provided that in respect of sick units referred to in the first proviso to condition (6), extension of overall period of export obligation shall not be allowed :

3. Where the goods specified in the said Table are found **defective or unfit for use**, the said goods may be re-exported back to the foreign

supplier within three years from the date of payment of duty on the importation thereof:

Provided that at the time of re-export, the goods are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to be the same as the goods which were imported.

4. This notification, for import of goods specified at Serial Nos.1 and 2 of the said table shall have effect upto 31<sup>st</sup> December, 2011.

**Explanation** – For the purpose of this notification, -

1. “**Capital goods**” has the same meaning as assigned to it in Paragraph 9.12 of the Foreign Trade Policy;

2. “**Export obligation**”, -

(1) means obligation on the importer to export to a place outside India, goods manufactured or capable of being manufactured or services rendered by the use of capital goods imported in terms of this notification. The export obligation shall be over and above the average level of exports achieved by the importer in the preceding three licensing years for the same and similar products within the overall export obligation period including the extended period, if any. Such average shall be the arithmetic mean of export performance in the last 3 years for the same and similar products.

Provided that upto 50% of the export obligation may also be fulfilled by export of other good(s) manufactured or service(s) provided by the importer or his group company or managed hotel, which has the EPCG authorization subject to the condition that in such cases, additional export obligation imposed shall be over and above the average exports achieved by the importer or his group company or managed hotel in preceding three years for both the original and the substitute product(s) / service(s) :

Provided further that in case of export of goods relating to handicraft, handlooms, cottage, tiny sector, agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture, the importer shall not be required to maintain the average level of exports:

Provided further that in case of export of goods relating to aquaculture (including fisheries), the importer shall not be required to maintain the average level of exports subject to the condition that EPCG authorization has been obtained for goods other than fishing trawlers, boats, ships and other similar items.

Provided also that the goods, excepting tools, imported under this notification by the aforesaid sectors, shall not be allowed to be transferred for a period of five years from the date of imports even in cases where export obligation has been fulfilled. Transfer of capital goods would, however, be permitted within the group companies, after fulfillment of export obligation but before five years from the date of imports, under intimation to Regional Authority and jurisdictional Central Excise Authority :

Provided also that exports made to former USSR, or to such countries as notified by Direc-

tor General of Foreign Trade as on 31.3.08, shall not be counted for fixing the average level of exports:

Provided also that exports against only such shipping bills which mention the EPCG authorization No. and date shall be counted for the discharge of the export obligation;

(2) shall be fulfilled through physical exports and the export proceeds shall be realized in freely convertible currency. However the following categories of supplies, shall also be counted towards fulfillment of export obligation:

(a) deemed exports, namely:

(i) supply of goods against Advance Authorization/Advance Authorization for Annual Requirement/ Duty Free Import Authorization (DFIA);

(ii) supply of goods to Export Oriented Units (EOUs) or Software Technology Parks (STPs) or Electronics Hardware Technology Parks (EHTPs) or Bio-Technology Parks (BTPs);

(iii) supply of goods to projects financed by multilateral or bilateral agencies or Funds as notified by Department of Economic Affairs (DEA), Ministry of Finance (MOF) under International Competitive Bidding (ICB) in accordance with procedures of those agencies or Funds, where legal agreements provide for tender evaluation without including customs duty; supply and installation of goods and equipments (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies or Funds as notified by DEA, MOF under ICB, in accordance with procedures of those agencies/ Funds, where bids may have been invited and evaluated on the basis of Delivery Duty Paid (DDP) prices for goods manufactured abroad;

(iv) supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits import of such goods at zero customs duty and the supply is made under ICB procedure;

(v) supply of goods to power projects and refineries not covered in (iv) above under ICB procedure;

(vi) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB;

(b) Supply of ITA-1 items to Domestic Tariff Area, provided realization is in free foreign exchange;

(c) Royalty payments received in freely convertible currency and foreign exchange received for Research & Development (R&D) services; and

(d) Payments received in rupee terms for port handling services in terms of chapter 9 of the Foreign Trade Policy.

3. “**Foreign Trade Policy**” means the Foreign Trade Policy 2009-2014 published in the gazette of India, Part II, Section 3, Sub-section (ii) vide notification of the Government of India in the Ministry of Commerce and Industry, No.1/2009-2014 dated the 27<sup>th</sup> August, 2009 as amended from time to time;

4. “**Licensing Authority or Regional Authority**” means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade

(Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant an authorization under the said Act;

5. "Manufacture" has the same meaning as defined in clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944).

**Table**

S.No.	Description of goods
(1)	(2)
1.	Capital goods for pre-production, production and post production including second hand capital goods.
2.	Capital goods in Semi Knocked Down (SKD) / Completely Knocked Down (CKD) conditions to be assembled into capital goods by the importer.
3.	Spare parts of CIF value upto 10% of the CIF value of goods specified at Serial Nos.1 and 2 as actually imported and required for maintenance of capital goods so imported, assembled, or manufactured.
4.	Spare parts of CIF value upto 10% of the book value of the existing plant and machinery of the authorization holder.

[F. No.605/58/2009-DBK]

## EPCG Scheme at 3% in FTP 2009-2014

Ntfn 103 In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods specified in the Table annexed hereto, from,-

(i) so much of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as is in excess of the amount calculated at the rate of **three percent ad-valorem**, and

(ii) the **whole of the additional duty** leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.

2. The exemption under this notification shall be subject to the following **conditions**, namely :-

(1) that the goods imported are covered by a valid authorization issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at the rate of three percent duty and the said authorization is produced for debit by the proper officer of customs at the time of clearance :

Provided that for import of spare parts specified at Sr.No.4 of the said Table, the validity period of the authorization shall be deemed to be the period permitted for fulfillment of the export obligation in full:

Provided further that the import of motor cars, sports utility vehicles or all purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators and companies owning or operating golf resorts, subject to the condition that,-

(i) the total foreign exchange earning from hotel, travel and tourism and golf tourism sectors in current and preceding three licensing years is rupees one crore fifty lakhs or more;

(ii) the duty saved amount on all EPCG authorizations issued in a licensing year for import of motor cars, sports utility vehicles or all purpose vehicles shall not exceed 50% of average foreign exchange earnings from hotel, travel

and tourism and golf tourism sectors in preceding three licensing years; and

(iii) the vehicles imported shall be so registered that the vehicle is used for tourist purpose only and a copy of the registration certificate shall be submitted to the concerned Customs authorities as a confirmation of import of vehicle within six months from the date of import:

Provided also that the benefit of import of capital goods at concessional duty under this notification for creation of modern infrastructure shall be extended only to such retailers who have a minimum area of 1000 square metres.

(2) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is completed.

(3) that the importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this notification as well as to fulfill export obligation on FOB basis equivalent to eight times the duty saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed or endorsed by the Licensing Authority or Regional Authority in terms of Para 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy, within a period of eight years from the date of issue of Authorization, in the following proportions, namely :-

S.No.	Period from the date of issue of Authorization	Proportion of total export obligation
(1)	(2)	(3)
1.	Block of 1 <sup>st</sup> to 6 <sup>th</sup> year	50%
2.	Block of 7 <sup>th</sup> to 8 <sup>th</sup> year	50%

Provided that where the duty saved is not less than rupees one hundred crores, or where the authorization is issued to units in the agri export zone as may be notified by the licensing authority or Regional Authority, the export obligation shall be fulfilled within a period of twelve years from the date of issue of authorization in the following proportions, namely :-

S.No.	Period from the date of issue of Authorization	Proportion of total export obligation
(1)	(2)	(3)
1.	Block of 1 <sup>st</sup> to 10 <sup>th</sup> year	50%
2.	Block of 11 <sup>th</sup> to 12 <sup>th</sup> year	50%

Provided further that where a sick unit is notified by the Board for Industrial and Financial Reconstruction (BIFR) or where a rehabilitation scheme is announced by the concerned State Government in respect of sick unit for its revival, the export obligation may be fulfilled within time period allowed by the Licensing Authority or Regional Authority as per the rehabilitation package prepared by the operating agency and approved by BIFR or rehabilitation department of State Government. In cases where the time period is not specified in the rehabilitation package, the export obligation may be fulfilled within the time period allowed by the Licensing Authority or Regional Authority which shall not exceed twelve years.

Provided also that where the capital goods are imported by agro units and units in tiny and cottage sector, the export obligation shall be fixed equivalent to six times the duty saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed by the licensing authority, within a period of twelve years from the date of issue of the authorization :

Provided also that where the capital goods are imported for technological upgradation as per conditions specified in Para 5.8 of the Foreign Trade Policy or by small scale industry units as defined in paragraph 5.2 of the Foreign Trade Policy, as the case may be, the export obligation shall be fixed equivalent to six times the duty saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed by the Licensing Authority or Regional Authority, within a period of eight years from the date of issue of authorization subject to the further condition that in the case of Small Scale Industry (SSI) units the landed Cost Insurance Freight (CIF) value of such imported capital goods under the scheme shall not exceed rupees fifty lakhs and total investment in plant and machinery after such imports shall not exceed the SSI limit :

Provided also that spares (including refurbished or reconditioned spares), moulds, dies, jigs, fixtures, tools, refractory for initial lining and catalyst for initial charge, for the existing plant and machinery (imported earlier, under EPCG or otherwise), shall be allowed to be imported under the EPCG scheme subject to an export obligation equivalent to 50% of the normal export obligation specified above, to be fulfilled in 8 years reckoned from the date of issue of the Authorization, subject to the condition that the CIF value of import of the said spares etc. shall be limited to 10% of the CIF value of the plant and machinery imported under the EPCG authorization or 10% of the book value of the plant and machinery imported earlier otherwise than under EPCG Scheme, as the case may be.

Provided also that export obligation of a particular block may be set off against the ex-

cess exports made in the said preceding block(s);

(4) that if the importer does not claim exemption from the additional duty leviable under section 3 of the Customs Tariff Act, 1975, the additional duty so paid by him shall not be taken for computation of the net duty saved for the purpose of fixation of export obligation provided the Cenvat credit of additional duty paid has not been taken;

(5) that the importer produces within 30 days from the expiry of each block from the date of issue of authorization or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow, evidence to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs showing the extent of export obligation fulfilled, and where the export obligation of any particular block is not fulfilled in terms of the preceding condition, the importer shall within three months from the expiry of the said block pay duties of customs equal to an amount which bears the same proportion to the duties leviable on the goods, but for the exemption contained herein, which the unfulfilled portion of the export obligation bears to the total export obligation, together with interest at the rate of 15% per annum from the date of clearance of the goods;

(6) where the importer fulfills 75% or more of the export obligation as specified in condition (3) (over and above 100% of the average export obligation) within half of the period specified for export obligation as mentioned in condition (3), his balance export obligation shall be condoned and he shall be treated to have fulfilled the entire export obligation;

(7) that the capital goods imported, assembled or manufactured are installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, is produced confirming installation and use of capital goods in the importer's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow :

Provided that in case of import of spares, the installation certificate shall be produced within three years from the date of import :

Provided further that if the importer is not registered with central excise or if he is a service provider, as the case may be, he may produce the said certificate of installation and usage issued by an independent Chartered Engineer :

Provided further that in the case of,-

(i) manufacturer exporter and merchant exporter having supporting manufacturer(s) or vendor(s);

(ii) import of irrigation equipment for use in contract farming for export of agricultural products; and

(iii) importer rendering services;

the capital goods may be installed at the factory or premises of such other person whose

name and address are endorsed on the authorization referred to in condition (1) and also on the shipping bills and where the bond for full difference of duty, if necessary, in terms of condition (3) with or without a bank guarantee, as the case may be, is executed by the importer and such other person binding themselves jointly and severally to fulfill the export obligation and all other conditions of this notification and to pay duty with interest at the rate of 15% per annum in case of default :

Provided also that agro units located in Agri Export Zones or service providers in Agri export Zones may move the capital goods within the Agri Export Zones under intimation to the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, subject to the condition that the importer shall maintain accurate record of such movement;

(8) that the imports and exports are undertaken through **sea ports** at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar, Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kolkata, Krishnapatnam, Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through any of the **airports** at Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum and Varanasi or through any of the **Inland Container Depots** at Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhiwara, Bhiwadi, Bhusawal, Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, Waluj (Aurangabad) or through the **Land Customs Station** at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005);

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other sea-port, airport, inland container depot or through a land customs station within his jurisdiction.

(9) notwithstanding anything contained in condition (5) above, where the Licensing Au-

thority or Regional Authority grants extension of block-wise period for any block(s) or overall period of fulfilment of export obligation upto a period of two years or regularization of shortfall in export obligation, not exceeding five percent of such export obligation, the said block-wise period or overall period of export obligation shall be extended or condoned by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be :

Provided that in respect of sick units referred to in the second proviso to condition (3), extension of overall period of export obligation shall not be allowed :

Provided further that the Regional Authority may grant further extension in the overall period of export obligation upto a period of further two years if the authorization holder pays fifty percent differential duty on the unfulfilled portion of export obligation and agrees to fulfill other conditions as may be specified by the Regional Authority for this purpose;

3. Where the goods specified in the said Table are found defective or unfit for use, the said goods may be re-exported back to the foreign supplier within three years from the date of payment of duty on the importation thereof:

Provided that at the time of re-export, the goods are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to be the same as the goods which were imported.

**Explanation** – For the purpose of this notification,-

1. “**Capital goods**” has the same meaning as assigned to it in Paragraph 9.12 of the Foreign Trade Policy;

2. “**Export obligation**”, -

(1) means obligation on the importer to export to a place outside India, goods manufactured or capable of being manufactured or services rendered by the use of capital goods imported in terms of this notification. The export obligation shall be over and above the average level of exports achieved by the importer in the preceding three licensing years for the same and similar products within the overall export obligation period including the extended period, if any. Such average shall be the arithmetic mean of export performance in the last 3 years for the same and similar products.

Provided that upto 50% of the export obligation may also be fulfilled by export of other good(s) manufactured or service(s) provided by the importer or his group company or managed hotel, which has the EPCG authorization subject to the condition that in such cases, additional export obligation imposed shall be over and above the average exports achieved by the importer or his group company or managed hotel in preceding three years for both the original and the substitute product(s) / service(s) :

Provided further that in case of export of goods relating to handicraft, handlooms, cottage, tiny sector, agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture, the importer shall not be

required to maintain the average level of exports:

Provided further that in case of export of goods relating to aquaculture (including fisheries), the importer shall not be required to maintain the average level of exports subject to the condition that EPCG authorization has been obtained for goods other than fishing trawlers, boats, ships and other similar items.

Provided also that the goods, excepting tools, imported under this notification by the aforesaid sectors, shall not be allowed to be transferred for a period of five years from the date of imports even in cases where export obligation has been fulfilled. Transfer of capital goods would, however, be permitted within the group companies, after fulfillment of export obligation but before five years from the date of imports, under intimation to Regional Authority and jurisdictional Central Excise Authority :

Provided also that exports made to former USSR, or to such countries as notified by Director General of Foreign Trade as on 31.3.08, shall not be counted for fixing the average level of exports :

Provided also that exports against only such shipping bills which mention the EPCG authorization No. and date shall be counted for the discharge of the export obligation;

(2) shall be fulfilled through physical exports and the export proceeds shall be realized in freely convertible currency. However the following categories of supplies, shall also be counted towards fulfillment of export obligation:

(a) deemed exports, namely:

(i) supply of goods against Advance Authorization/Advance Authorization for Annual Requirement/ Duty Free Import Authorization (DFIA);

(ii) supply of goods to Export Oriented Units (EOUs) or Software Technology Parks (STPs) or Electronics Hardware Technology Parks (EHTPs) or Bio-Technology Parks (BTPs);

(iii) supply of goods to projects financed by multilateral or bilateral agencies or Funds as notified by Department of Economic Affairs (DEA), Ministry of Finance (MOF) under International Competitive Bidding (ICB) in accordance with procedures of those agencies or Funds, where legal agreements provide for tender evaluation without including customs duty; supply and installation of goods and equipments (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies or Funds as notified by DEA, MOF under ICB, in accordance with procedures of those agencies/ Funds, where bids may have been invited and evaluated on the basis of Delivery Duty Paid (DDP) prices for goods manufactured abroad;

(iv) supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits import of such goods at zero customs duty and the supply is made under ICB procedure;

(v) supply of goods to power projects and refineries not covered in (iv) above under ICB procedure;

(vi) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB;

(b) Supply of ITA-1 items to Domestic Tariff Area, provided realization is in free foreign exchange;

(c) Royalty payments received in freely convertible currency and foreign exchange received for Research & Development (R&D) services; and

(d) Payments received in rupee terms for port handling services in terms of chapter 9 of the Foreign Trade Policy.

3. "Foreign Trade Policy" means the Foreign Trade Policy 2009-2014 published in the gazette of India, Part II, Section 3, Sub-section (ii) vide notification of the Government of India in the Ministry of Commerce and Industry, No.1/2009-2014 dated the 27<sup>th</sup> August, 2009 as amended from time to time;

4. "Licensing Authority or Regional Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant an authorization under the said Act;

5. "Manufacture" has the same meaning as defined in clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944).

**Table**

S.No.	Description of goods
(1)	(2)
1.	Capital goods for pre-production, production and post production including second hand capital goods.
2.	Capital goods in Semi Knocked Down (SKD) / Completely Knocked Down (CKD) conditions to be assembled into capital goods by the importer.
3.	Spare parts of CIF value upto 10% of the CIF value of goods specified at Serial Nos.1 and 2 as actually imported and required for maintenance of capital goods so imported, assembled, or manufactured.
4.	Spare parts of CIF value upto 10% of the book value of the existing plant and machinery of the authorization holder.
5.	Motor cars, sports utility vehicles/all purpose vehicles.

[F. No.605/58/2009-DBK]

### EPCG Scheme to Common Service Providers at 3% in FTP 2009-2014

Ntnfn 100 In exercise of the powers  
11.09.2009 conferred by sub-section (1) of  
(DoR) 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 exempts goods specified in the Table annexed hereto, from,-

(i) so much of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as is in excess of the amount calculated at the rate of **three percent ad-valorem**, and

(ii) the **whole of the additional duty** leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.

2. The exemption under this notification shall be subject to the following **conditions**, namely :-

(1) that the goods imported are covered by a valid authorization issued under the Export Promotion Capital Goods (EPCG) Scheme to Common Service Providers (hereinafter referred to as CSP) designated by the Director General Of Foreign Trade (hereinafter referred to as DGFT), Department of Commerce (hereinafter referred to as DOC) or State Industrial Infrastructural Corporation in Towns Of Export Excellence (hereinafter referred to as TEE) in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at the rate of three percent duty and the said authorization is produced for debit by the proper officer of customs at the time of clearance :

Provided that for import of spare parts specified at Sr.No.4 of the said Table, the validity period of the authorization shall be deemed to be the period permitted for fulfillment of the export obligation in full ;

(2) that the authorization issued under the

scheme shall have the details of the users of the said capital goods and the quantum of the Export Obligation (hereinafter referred to as EO) which each user would fulfil.

(3) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is completed.

(4) that the Common Service provider and each of the specific users shall execute a bond in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs and a bank guarantee equivalent to their portion of duty foregone in terms of export obligation apportioned in the authorization binding themselves to fulfil export obligation on Free On Board (FOB) basis equivalent to eight times the duty saved on the goods imported as may be specified on the licence or authorization, or for such higher sum as may be fixed or endorsed by the Licensing Authority or Regional Authority in terms of Para 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy, within a period of eight years from the date of issue of licence or authorization, in the following proportions, namely :-

S.No.	Period from the date of issue of Authorization	Proportion of total export obligation
(1)	(2)	(3)
1.	Block of 1 <sup>st</sup> to 6 <sup>th</sup> year	50%
2.	Block of 7 <sup>th</sup> to 8 <sup>th</sup> year	50%

Provided that where the duty saved is not less than Rupees one hundred crores, or where the authorization is issued to units in the agri export zone as may be notified by the licensing authority or Regional Authority, the export obligation shall be fulfilled within a period of twelve years from the date of issue of authorization in

the following proportions, namely :-

S.No.	Period from the date of issue of Authorization	Proportion of total export obligation
(1)	(2)	(3)
1.	Block of 1 <sup>st</sup> to 10 <sup>th</sup> year	50%
2.	Block of 11 <sup>th</sup> to 12 <sup>th</sup> year	50%

Provided further that where a sick unit is notified by the Board for Industrial and Financial Reconstruction (BIFR) or where a rehabilitation scheme is announced by the concerned State Government in respect of sick unit for its revival, the export obligation may be fulfilled within time period allowed by the Licensing Authority or Regional Authority as per the rehabilitation package prepared by the operating agency and approved by BIFR or rehabilitation department of State Government. In cases where the time period is not specified in the rehabilitation package, the export obligation may be fulfilled within the time period allowed by the Licensing Authority or Regional Authority which shall not exceed twelve years.

Provided also that where the capital goods are imported by agro units and units in tiny and cottage sector, the export obligation shall be fixed equivalent to six times the duty saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed by the licensing authority, within a period of twelve years from the date of issue of the authorization :

Provided also that where the capital goods are imported for technological upgradation as per conditions specified in Para 5.8 of the Foreign Trade Policy or by small scale industry units as defined in paragraph 5.2 of the Foreign Trade Policy, as the case may be, the export obligation shall be fixed equivalent to six times the duty saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed by the Licensing Authority or Regional Authority, within a period of eight years from the date of issue of authorization subject to the further condition that in the case of Small Scale Industry (SSI) units the landed Cost Insurance Freight (CIF) value of such imported capital goods under the scheme shall not exceed Rupees fifty lakhs and total investment in plant and machinery after such imports shall not exceed the SSI limit :

Provided also that spares (including refurbished or reconditioned spares), moulds, dies, jigs, fixtures, tools, refractory for initial lining and catalyst for initial charge, for the existing plant and machinery (imported earlier, under EPCG or otherwise), shall be allowed to be imported under the EPCG scheme subject to an export obligation equivalent to 50% of the normal export obligation prescribed above, to be fulfilled in 8 years reckoned from the date of issue of the Authorization, subject to the condition that the CIF value of import of the said spares etc. will be limited to 10% of the CIF value of the plant and machinery imported under the EPCG authorization or 10% of the book value of the plant and machinery imported earlier otherwise than under EPCG Scheme, as the case may be.

Provided also that export obligation of a particular block may be set off against the excess exports made in the said preceding block(s);

(5) that if the authorisation holder does not claim exemption from the additional duty leviable under section 3 of the Customs Tariff Act, 1975, the additional duty so paid by him shall not be taken for computation of the net duty saved for the purpose of fixation of export obligation provided the Cenvat credit of additional duty paid has not been taken;

(6) that the Authorization Holder and the other specific users produce within 30 days from the expiry of each block from the date of issue of authorization or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow, evidence to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs showing the extent of export obligation fulfilled, and where the export obligation of any particular block is not fulfilled in terms of the preceding condition, the importer shall within three months from the expiry of the said block pay duties of customs equal to an amount which bears the same proportion to the duties leviable on the goods, but for the exemption contained herein, which the unfulfilled portion of the export obligation bears to the total export obligation, together with interest at the rate of 15% per annum from the date of clearance of the goods;

(7) where the Authorization Holder fulfills 75% or more of the export obligation as specified in condition (4) (over and above 100% of the average export obligation) within half of the period specified for export obligation as mentioned in condition (4), his balance export obligation shall be condoned and he shall be treated to have fulfilled the entire export obligation;

(8) that the capital goods imported, assembled or manufactured are installed in the Common Service Provider's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, is produced confirming installation and use of capital goods in the Common Service Provider's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow :

Provided that in case of import of spares, the installation certificate shall be produced within three years from the date of import :

Provided further that if the Authorization Holder is not registered with central excise or if he is a service provider, as the case may be, he may produce the said certificate of installation and usage issued by an independent Chartered Engineer :

Provided also that agro units located in Agri Export Zones or service providers in Agri export Zones may move the capital goods within the Agri Export Zones under intimation to the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, subject to the condition that the importer shall maintain accurate record

of such movement;

(9) that the imports and exports are undertaken through **sea ports** at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar, Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kolkata, Krishnapatnam, Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through any of the **airports** at Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum and Varanasi or through any of the **Inland Container Depots** at Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, Waluj (Aurangabad) or through the **Land Customs Station** at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other sea-port, airport, inland container depot or through a land customs station within his jurisdiction.

(10) notwithstanding anything contained in condition (6) above, where the Licensing Authority or Regional Authority grants extension of block-wise period for any block(s) or overall period of fulfilment of export obligation upto a period of two years or regularization of shortfall in export obligation, not exceeding five percent of such export obligation, the said block-wise period or overall period of export obligation shall be extended or condoned by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be :

Provided that in respect of sick units referred to in the second proviso to condition (4) extension of overall period of export obligation shall not be allowed :

Provided further that the Regional Authority may grant further extension in the overall period of export obligation upto a period of further two years if the authorization holder pays fifty percent of duty payable in proportion to the unful-

filled portion of export obligation and agrees to fulfill other conditions as may be specified by the Regional Authority for this purpose;

Provided further that the Export Obligation period shall not be extended beyond 12 years including the original Export Obligation period of 8 years or 12 years as the case may be.

3. Where the goods specified in the said Table are found defective or unfit for use, the said goods may be re-exported back to the foreign supplier within three years from the date of payment of duty on the importation thereof:

Provided that at the time of re-export, the goods are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to be the same as the goods which were imported.

**Explanation** – For the purpose of this notification,-

1. “**Capital goods**” has the same meaning as assigned to it in Paragraph 9.12 of the Foreign Trade Policy;

2. “**Common Service Provider (CSP)**” means a service provider who is designated or certified as a Common Service Provider by the DGFT, Department of Commerce or State Industrial Infrastructural Corporation in a Town of Export Excellence.

3. “**Export obligation**”, -

(1) means obligation on the Common Service provider and each of the specific users to export to a place outside India, goods manufactured or capable of being manufactured or services rendered by the use of capital goods imported in terms of this notification. The export obligation shall be over and above the average level of exports achieved by the Common Service provider or the specific user in the preceding three licensing years for the same and similar products within the overall export obligation period including the extended period, if any. Such average shall be the arithmetic mean of export performance in the last 3 years for the same and similar products.

Provided that upto 50% of the export obligation may also be fulfilled by export of other good(s) manufactured or service(s) provided by the Common Service provider / the specific user or his group company or managed hotel, which has the EPCG authorization subject to the condition that in such cases, additional export obligation imposed shall be over and above the average exports achieved by the Common Service provider / the specific user or his group company or managed hotel in preceding three years for both the original and the substitute product(s) or service(s) :

Provided further that in case of export of goods relating to handicraft, handlooms, cottage, tiny sector, agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture, the Common Service provider or the specific user shall not be required to maintain the average level of exports :

Provided further that in case of export of goods relating to aquaculture(including fisheries), the Common Service provider or the specific user shall not be required to maintain the average level of exports subject to the condition that EPCG authorization has been obtained for

goods other than fishing trawlers, boats, ships and other similar items.

Provided also that the goods, excepting tools, imported under this notification by the aforesaid sectors, shall not be allowed to be transferred for a period of five years from the date of imports even in cases where export obligation has been fulfilled. Transfer of capital goods would, however, be permitted within the group companies, after fulfillment of export obligation but before five years from the date of imports, under intimation to Regional Authority and jurisdictional Central Excise Authority :

Provided also that exports made to former USSR, or to such countries as notified by Director General of Foreign Trade as on 31.3.08, shall not be counted for fixing the average level of exports :

Provided also that exports against only such shipping bills which mention the EPCG authorization No. and date shall be counted for the discharge of the export obligation;

Provided also that exports counted against the authorization issued under this notification shall not be counted towards fulfilment of other specific Export Obligations against other EPCG authorizations;

(2) shall be fulfilled through physical exports and the export proceeds shall be realized in freely convertible currency. However the following categories of supplies, shall also be counted towards fulfillment of export obligation:

(a) deemed exports, namely:

(i) supply of goods against Advance Authorization/Advance Authorization for Annual Requirement/ Duty Free Import Authorization (DFIA);

(ii) supply of goods to Export Oriented Units (EOUs) or Software Technology Parks (STPs) or Electronics Hardware Technology Parks (EHTPs) or Bio-Technology Parks (BTPs);

(iii) supply of goods to projects financed by multilateral or bilateral agencies or Funds as notified by Department of Economic Affairs (DEA), Ministry of Finance (MOF) under International Competitive Bidding (ICB) in accordance with procedures of those agencies or Funds, where legal agreements provide for tender evaluation without including customs duty; supply and installation of goods and equipments (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies or Funds as notified by DEA, MOF under ICB, in accordance with procedures of those agencies/ Funds, where bids may have been invited and evaluated on the basis of Delivery Duty Paid (DDP) prices for goods manufactured abroad;

(iv) supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits import of such goods at zero customs duty and the supply is made under ICB procedure;

(v) supply of goods to power projects and refineries not covered in (iv) above under ICB procedure;

(vi) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB;

(b) Supply of ITA-1 items to Domestic Tariff Area, provided realization is in free foreign exchange;

(c) Royalty payments received in freely con-

## Waste Paper Relaxation to Apply only from 21 July '09

*Sub: Import of waste paper*

06-Pol.Cir Attention is invited to Policy  
09.09.2009 Circular No. 78(RE-08/  
(DGFT) 2004-09) dated 1.4.2009 to  
be read with Policy Circular  
No. 97(RE-08/2004-09) dated 8.7.2009 and  
Ministry of Environment and Forests Notifi-  
cation No. S.O.(E).1799 dated 21.7.2009 on  
the subject mentioned above.

2. It is clarified that the import of waste paper where the consignments have been shipped prior to 21.7.2009 would be as per the conditions laid down under Ministry of Environment and Forests Notification No. S.O.(E).1799 dated 21.7.2009.

3. This issues with the approval of Competent Authority.

vertible currency and foreign exchange received for Research and Development (R and D) services; and

(d) Payments received in rupee terms for port handling services in terms of chapter 9 of the Foreign Trade Policy.

4. “**Foreign Trade Policy**” means the Foreign Trade Policy 2009-2014 published in the gazette of India, Part II, Section 3, Sub-section (ii) vide notification of the Government of India in the Ministry of Commerce and Industry, No.1/2009-2014 dated the 27<sup>th</sup> August, 2009 as amended from time to time;

5. “**Licensing Authority or Regional Authority**” means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant an authorization under the said Act;

6. “**Manufacture**” has the same meaning as defined in clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944).

7. “**Towns of Export Excellence(TEE)**” means a selected town producing goods of Rs.750 Crores or more based on potential for growth in exports. However for TEE in Handloom, Handicraft, Agriculture and fisheries sector the threshold limit would be Rs.150 Crores.

**Table**

S.No.	Description of goods
(1)	(2)
1.	Capital goods for pre-production, production and post production including second hand capital goods.
2.	Capital goods in Semi Knocked Down (SKD) / Completely Knocked Down (CKD) conditions to be assembled into capital goods by the importer.
3.	Spare parts of CIF value upto 10% of the CIF value of goods specified at Serial Nos.1 and 2 as actually imported and required for maintenance of capital goods so imported, assembled, or manufactured.
4.	Spare parts of CIF value upto 10% of the book value of the existing plant and machinery of the authorization holder.

[F. No.605/58/2009-DBK ]

## EPCG to Common Service Providers at Nil Duty in FTP 2009-2014

Nftn 101 In exercise of the powers  
11.09.2009 conferred by sub-section (1) of  
(DoR) 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 exempts  
goods specified in the Table annexed hereto,  
from,-

(i) the **whole of the duty of customs** leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), and

(ii) the **whole of the additional duty** leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.

2. The exemption under this notification shall be subject to the following **conditions**, namely:-

(1) that the goods are imported for export of engineering and electronic products, basic chemicals and pharmaceuticals, apparels and textiles, plastics, handicrafts, chemicals and allied products and leather & leather products and are other than those required for export of products covered under following chapters/headings of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), namely:-

Chapters 1 to 4,5(other than handicrafts), 6 to 24,25 to 27, 31,40,43,44(other than handicrafts),45,47 to 49,68(other than handicrafts),69, 70,71,81 (metals in primary and intermediate forms only),89,93,97(other than handicrafts),98; headings 7201 to 7212, 7218 to 7220,7224 to 7226,7401 to 7406, 7501 to 7504, 7601 to 7603, 7801 to 7802, 7901 to 7903, 8001 to 8002 and 8401.

(2) that the goods imported are covered by a valid authorization issued under the Export Promotion Capital Goods (EPCG) Scheme to Common Service Providers(hereinafter referred to as CSP) designated by the Director General Of Foreign Trade (hereinafter referred to as DGFT), Department of Commerce(hereinafter referred to as DOC) or State Industrial Infrastructural Corporation in Towns Of Export Excellence (hereinafter referred to as TEE) in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at zero customs duty and the said authorization is produced for debit by the proper officer of customs at the time of clearance:

Provided that for import of spare parts specified at Sr.No.4 of the said Table, the validity period of the authorization shall be deemed to be the period permitted for fulfilment of the export obligation in full :

(3) that the authorization issued under the scheme shall have the details of the users of the said capital goods and the quantum of the Export Obligation(hereinafter referred to as EO) which each user would fulfil.

(4) that the Common Service provider or any of the specific users is not currently availing any benefits under Technology Upgradation Fund Scheme (TUFS) administered by Ministry of Textiles, Government of India.

(5) that the Common Service provider or any of the specific users does not avail, in the year of

import of the goods, the benefit of Status Holder Incentive Scheme under Para 3.16 of the Foreign Trade Policy.

(6) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete.

(7) that the Common Service provider and each of the specific users shall execute a bond in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs and a bank guarantee equivalent to their portion of duty foregone in terms of export obligation apportioned in the authorization binding themselves to fulfil export obligation on FOB basis equivalent to six times the duty saved on the goods imported as may be specified on the licence or authorization, or for such higher sum as may be fixed or endorsed by the Licensing Authority or Regional Authority in terms of Para 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy within a period of six years from the date of issue of licence or authorization, in the following proportions, namely :-

S.No.	Period from the date of issue of Authorization	Proportion of total export obligation
(1)	(2)	(3)
1.	Block of 1 <sup>st</sup> to 4 <sup>th</sup> year	50%
2.	Block of 5 <sup>th</sup> to 6 <sup>th</sup> year	50%

Provided further that where a sick unit is notified by the Board for Industrial and Financial Reconstruction (BIFR) or where a rehabilitation scheme is announced by the concerned State Government in respect of sick unit for its revival, the export obligation may be fulfilled within time period allowed by the Licensing Authority or Regional Authority as per the rehabilitation package prepared by the operating agency and approved by BIFR or rehabilitation department of State Government. In cases where the time period is not specified in the rehabilitation package, the export obligation may be fulfilled within the time period allowed by the Licensing Authority or Regional Authority which shall not exceed twelve years.

Provided also that spares (including refurbished/reconditioned spares), moulds, dies, jigs, fixtures, tools, refractory for initial lining and catalyst for initial charge, for the existing plant and machinery (imported earlier, under EPCG or otherwise), shall be allowed to be imported under the EPCG scheme subject to an export obligation equivalent to 50% of the normal export obligation prescribed above, to be fulfilled in 6 years reckoned from the date of issue of the Authorization, subject to the condition that the CIF value of import of the above spares etc. will be limited to 10% of the CIF value of the plant and machinery imported under the EPCG authorization or 10% of the book value of the plant and machinery imported earlier otherwise than under EPCG Scheme, as the case may be.

Provided also that export obligation of a

particular block may be set off against the excess exports made in the said preceding block(s);

(8) that if the Authorization Holder does not claim exemption from the additional duty leviable under section 3 of the Customs Tariff Act, 1975, the additional duty so paid by him shall not be taken for computation of the net duty saved for the purpose of fixation of export obligation provided the Cenvat credit of additional duty paid has not been taken;

(9) that the Authorization Holder and the other specific users produce within 30 days from the expiry of each block from the date of issue of authorization or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow, evidence to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs showing the extent of export obligation fulfilled, and where the export obligation of any particular block is not fulfilled in terms of the preceding condition, the importer shall within three months from the expiry of the said block pay duties of customs equal to an amount which bears the same proportion to the duties leviable on the goods, but for the exemption contained herein, which the unfulfilled portion of the export obligation bears to the total export obligation, together with interest at the rate of 15% per annum from the date of clearance of the goods;

(10) where the Authorization Holder fulfills 75% or more of the export obligation as specified in condition (7) (over and above 100% of the average export obligation) within half of the period specified for export obligation as mentioned in condition (7), his balance export obligation shall be condoned and he shall be treated to have fulfilled the entire export obligation;

(11) that the capital goods imported, assembled or manufactured are installed in the Common Service Provider's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, is produced confirming installation and use of capital goods in the Common Service Provider's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow :

Provided that in case of import of spares, the installation certificate shall be produced within three years from the date of import :

Provided further that if the importer is not registered with central excise, he may produce the said certificate of installation and usage issued by an independent Chartered Engineer :

(12) that the imports and exports are undertaken through **sea ports** at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar,Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kolkata, Krishnapatnam, Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through any of

the **airports** at Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum and Varanasi or through any of the **Inland Container Depots** at Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, Waluj (Aurangabad) or through the **Land Customs Station** at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other sea-port, airport, inland container depot or through a land customs station within his jurisdiction.

(13) notwithstanding anything contained in condition (9) above, where the Licensing Authority or Regional Authority grants extension of block-wise period for any block(s) or overall period of fulfilment of export obligation upto a period of two years or regularization of shortfall in export obligation, not exceeding five percent of such export obligation, the said block-wise period or overall period of export obligation shall be extended or condoned by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be :

Provided that in respect of sick units referred to in the first proviso to condition (7) extension of overall period of export obligation shall not be allowed :

Provided further that the Export Obligation period shall not be extended beyond 12 years including the original Export Obligation period of 6 years.

**3.** Where the goods specified in the said Table are found defective or unfit for use, the said goods may be re-exported back to the foreign supplier within three years from the date of payment of duty on the importation thereof:

Provided that at the time of re-export, the goods are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to be the same as the goods which were imported.

**4.** This notification, for import of goods specified at Serial Nos.1 and 2 of the said table, shall have effect upto 31<sup>st</sup> December, 2011.

**Explanation** – For the purpose of this notification,-

**1. “Capital goods”** has the same meaning as assigned to it in Paragraph of 9.12 of the Foreign Trade Policy;

**2. “Common Service Provider (CSP)”** means a service provider who is designated or certified as a Common Service Provider by the DGFT, Department of Commerce or State Industrial Infrastructural Corporation in a Town of Export Excellence.

**3. “Export obligation”**, -

(1) means obligation on the Common Service provider and each of the specific users to export to a place outside India, goods manufactured or capable of being manufactured or services rendered by the use of capital goods imported in terms of this notification. The export obligation shall be over and above the average level of exports achieved by the Common Service provider or the specific user in the preceding three licensing years for the same and similar products within the overall export obligation period including the extended period, if any. Such average shall be the arithmetic mean of export performance in the last 3 years for the same and similar products.

Provided that upto 50% of the export obligation may also be fulfilled by export of other good(s) manufactured or service(s) provided by the Common Service provider or the specific user or his group company or managed hotel, which has the EPCG authorization subject to the condition that in such cases, additional export obligation imposed shall be over and above the average exports achieved by the Common Service provider or the specific user or his group company or managed hotel in preceding three years for both the original and the substitute product(s) or service(s) :

Provided further that in case of export of goods relating to handicraft, handlooms, cottage, tiny sector, agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture, the Common Service provider or the specific user shall not be required to maintain the average level of exports :

Provided further that in case of export of goods relating to aquaculture(including fisheries), the Common Service provider or the specific user shall not be required to maintain the average level of exports subject to the condition that EPCG authorization has been obtained for goods other than fishing trawlers, boats, ships and other similar items.

Provided also that the goods, excepting tools, imported under this notification by the aforesaid sectors, shall not be allowed to be transferred for a period of five years from the date of imports even in cases where export obligation has been fulfilled. Transfer of capital goods would, however, be permitted within the group companies, after fulfillment of export obligation but before five years from the date of imports, under intimation to Regional Authority and jurisdictional Cen-

tral Excise Authority :

Provided also that exports made to former USSR, or to such countries as notified by Director General of Foreign Trade as on 31.3.08, shall not be counted for fixing the average level of exports :

Provided also that exports against only such shipping bills which mention the EPCG authorization No. and date shall be counted for the discharge of the export obligation;

Provided also that exports counted against the authorization issued under this notification shall not be counted towards fulfillment of other specific Export Obligations against other EPCG authorizations;

(2) shall be fulfilled through physical exports and the export proceeds shall be realized in freely convertible currency. However, the following categories of supplies, shall also be counted towards fulfillment of export obligation:

(a) deemed exports, namely:

(i) supply of goods against Advance Authorization/Advance Authorization for Annual Requirement/ Duty Free Import Authorization (DFIA);

(ii) supply of goods to Export Oriented Units (EOUs) or Software Technology Parks (STPs) or Electronics Hardware Technology Parks (EHTPs) or Bio-Technology Parks (BTPs);

(iii) supply of goods to projects financed by multilateral or bilateral agencies or Funds as notified by Department of Economic Affairs (DEA), Ministry of Finance (MOF) under International Competitive Bidding (ICB) in accordance with procedures of those agencies or Funds, where legal agreements provide for tender evaluation without including customs duty; supply and installation of goods and equipments (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies or Funds as notified by DEA, MOF under ICB, in accordance with procedures of those agencies/ Funds, where bids may have been invited and evaluated on the basis of Delivery Duty Paid (DDP) prices for goods manufactured abroad;

(iv) supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits import of such goods at zero customs duty and the supply is made under ICB procedure;

(v) supply of goods to power projects and refineries not covered in (iv) above under ICB procedure;

(vi) Supply of goods to nuclear power projects through competitive bidding as opposed to ICB;

(b) Supply of ITA-1 items to Domestic Tariff Area, provided realization is in free foreign exchange;

(c) Royalty payments received in freely convertible currency and foreign exchange received for Research and Development (R&D) services; and

(d) Payments received in rupee terms for port handling services in terms of chapter 9 of the Foreign Trade Policy.

**4. “Foreign Trade Policy”** means the Foreign Trade Policy 2009-2014 published in the gazette of India, Part II, Section 3, Sub-section (ii)

vide notification of the Government of India in the Ministry of Commerce and Industry, No.1/2009-2014 dated the 27<sup>th</sup> August, 2009 as amended from time to time;

5. “**Licensing Authority or Regional Authority**” means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant an authorization under the said Act;

6. “**Manufacture**” has the same meaning as defined in clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944).

7. “**Towns of Export Excellence(TEE)**” means a selected town producing goods of Rs.750 Crores or more based on potential for growth in exports. However for TEE in Handloom, Handicraft, Agriculture and fisheries sector the threshold limit would be Rs.150 Crores.

Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005);

Provided that the Commissioner of Customs may with in the jurisdiction , by special order, or by a Public Notice, and subject to such conditions as may be specified by him, permits import and export from any other seaport/airport/inland container depot or through any land customs station;

v. that the importer shall be entitled to avail of the drawback or CENVAT credit of additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) against the amount debited in the said scrip.

2. The following categories of exports specified in paragraph 3.17.2 of the Foreign Trade Policy shall not be counted for calculation of export performance or for computation of entitlement under the scheme:

i. EOUs / EHTPs / BTPs who are availing direct tax benefits / exemption;

ii. Export of imported goods covered under Para 2.35 of FTP;

iii. Exports through transshipment, meaning thereby that exports originating in third country but transhipped through India;

iv. Deemed Exports;

v. Exports made by SEZ units or SEZ products exported through DTA units; and

vi. Items, which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC (HS).

**Explanation .-** For the purposes of this notification ,-

(i) “**Capital goods**” has the same meaning as assigned to it in paragraph 9.12 of the Foreign Trade Policy;

(ii) “**Foreign Trade Policy**” means the Foreign Trade Policy 2009-2014, published by the Government of India in the Ministry of Commerce and Industry vide notification No.1 /2009-2014, dated the 27th August, 2009 as amended from time to time;

(iii) “**Licensing Authority or Regional Authority**” means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation ) Act,1992 (22 of 1992) or an officer authorised by him to grant a licence under the said Act.

[F.No.605/58/2009-DBK]

**Table**

S.No.	Description of goods
(1)	(2)
1.	Capital goods for pre-production, production and post production including second hand capital goods.
2.	Capital goods in Semi Knocked Down (SKD) / Completely Knocked Down (CKD) conditions to be assembled into capital goods by the importer.
3.	Spare parts of CIF value upto 10% of the CIF value of goods specified at Serial Nos.1 and 2 as actually imported and required for maintenance of capital goods so imported, assembled, or manufactured.
4.	Spare parts of CIF value upto 10% of the book value of the existing plant and machinery of the authorization holder.

[F. No.605/58/2009-DBK]

## VKGUY Scheme under FTP 2009-2014

Nftn 95  
11.09.2009  
(DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts inputs or goods including capital goods, when imported into India against a duty credit scrip (*hereinafter referred to as the said scrip*) issued under **Vishesh Krishi and Gram Udyog Yojana (Special Agriculture and Village Industry Scheme)** in accordance with paragraph 3.13.2 of the Foreign Trade Policy: -

(a) from the **whole of the duty of customs** leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);and

(b) from the **whole of the additional duty** leviable thereon under section 3 of the said Customs Tariff Act, 1975,

subject to the following **conditions**, namely :-

i. that the said scrip has been issued to an exporter of products specified in paragraph 3.13.2 of the Foreign Trade Policy by the Licensing Authority or Regional Authority and it is produced before the proper officer of customs at the time of clearance for debit of the duties leviable on the goods;

ii. that the items allowed for import shall be in accordance with paragraph 3.17.5 of the Foreign Trade Policy;

iii. that the said scrip and goods imported against it shall be freely transferable ;

iv. that the imports and exports are undertaken through **seaports** at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar, Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kolkata, Krishnapatnam, Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through

any of the **airports** at Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum and Varanasi or through any of the **Inland Container Depots** at Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur(Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, , Waluj (Aurangabad) or through the **Land Customs Station** at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jobbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat,

**The following notifications will be covered in the next issue of the Weekly Index of Changes with World Trade Scanner, that is, Vol. 25 dated 23-29 September 2009. You can, however, access them on our website [www.worldtradescanner.com](http://www.worldtradescanner.com)**

99/1109.2009	Advance Authorization Scheme for Annual Requirement under FTP 2009-14
98/1109.2009	Duty Free Import Authorization Scheme(DFIA) under FTP 2009-14
97/1109.2009	DEPB Scrip under FTP 2009-2014 under FTP 2009-14
96/21109.2009	Advance Authorization Scheme under FTP 2009-14
93/1109.2009	Focus Market Scheme(FMS) under FTP 2009-14
92/1109.2009	Focus Product Scheme(FPS) under FTP 2009-14
91/1109.2009	Served From India Scheme(SFIS) under FTP 2009-14

## Agri Infrastructure Incentive Scheme for Status Holders under VKGUY under FTP 2009-14

Ntnf 94 In exercise of the powers conferred by sub-section (1) of 11.09.2009 section 25 of the Customs Act, 1962 (52 of 1962), the (DoR) Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts capital goods specified in paragraph 3.13.4 of the Foreign Trade Policy, when imported into India against an **Agri.Infrastructure Incentive scrip** (hereinafter referred to as the said scrip) issued under **Vishesh Krishi and Gram Udyog Yojana (Special Agriculture and Village Industry Scheme)** in accordance with the aforesaid paragraph, -

(a) from the **whole of the duty of customs** leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); and

(b) from the **whole of the additional duty leviable** thereon under section 3 of the said Customs Tariff Act, 1975(51 of 1975), subject to the following **conditions**, namely,-

i. that the said scrip has been issued to an exporter of products specified in paragraph 3.13.4 of the Foreign Trade Policy by the Licensing Authority or Regional Authority and it is produced before the proper officer of customs at the time of clearance for debit of the duties leviable on the goods;

ii. that the scrip shall be non-transferable and the capital goods allowed for import shall be in accordance with the provisions of paragraph 3.13.4 of the Foreign Trade Policy;

Provided that for import of Cold Chain equipments, the scrip shall be freely transferable amongst status holders;

iii. that the capital goods imported under para 3.13.4 of the Foreign Trade Policy shall be subject to actual user condition and the importer at the time of clearance of the said capital goods, shall furnish an undertaking to this effect to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, that in case of non compliance of the said condition, he shall pay on demand an amount equal to the duty leviable, but for the exemption contained herein together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials:

iv. that the imports and exports are undertaken through **seaports** at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar, Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kolkata, Krishnapatnam, Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through any of the **airports** at Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum and Varanasi or through any of the **Inland Container Depots** at Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadoli, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chheharata (Amritsar),

## Commodity Spot Prices in India – 12-15 September 2009

*These commodity prices are taken from Multi Commodity Exchange of India (Mumbai) at 6 pm every day. The weekly prices of commodities from different cities of India will be given in the order of Harmonized System classification.*

*Commodity Spot Prices covers price movements of 55 commodities (agricultural products and metals) provided on Multi Commodity Exchange of India on a daily basis. This Commodity Spot Prices Table focuses on price movements from 12-15 September.*

(Rs.)					
Commodity	Unit	Market	12-Sep	14-Sep	15-Sep
CER (Carbon Trading)	1 MT	Mumbai	914	914	867
Chana	100 KGS	Delhi	2245	2303	2302
Masur	100 KGS	Indore	4550	4550	4564
Potato	100 KGS	Agra	1239.7	1253.9	1288.2
Potato TKR	100 KGS	Tarkeshwar	1322	1321.6	1324.2
Arecanut	100 KGS	Mangalore	8167	8181	8191
Cashewkern	1 KGS	Quilon	301	303	304
Cardamom	1 KGS	Vandanmedu	815.25	813.5	809.25
Coffee ROB	100 KGS	Kushalnagar	72.2	72.2	73.3
Jeera	100 KGS	Unjha	11344	11160	11355
Pepper	100 KGS	Kochi	14129	14225	14393
Red Chili	100 KGS	Guntur	5995	5992	5979
Turmeric	100 KGS	Nzmbad	7981	8038	8100
Guar Gum	100 KGS	Jodhpur	4650	4675	4675
Maize	100 KGS	Nzmbad	909	904	901.5
Mentha Oil	1 KGS	Chandausi	554.1	550.3	550.5
Cotton Seed	100 KGS	Akola	1351	1328	1324
Castorsd RJK	100 KGS	Rajkot	2729.5	2720.5	2698
Guar Seed	100 KGS	Jodhpur	2086	2110	2090
Soya Bean	100 KGS	Indore	1998	1956	1957
Mustrdsd JPR	20 KGS	Jaipur	521.45	521.4	523.5
Sesame Seed	100 KGS	Rajkot	5888	5838	5813
Coconut Oil Cake	100 KGS	Kochi	1014	1040	1040
RCBR Oil Cake	1 MT	Raipur	6925	6680	6650
Kapaskhali	50 KGS	Akola	600	593.6	586.6
Coconut Oil	100 KGS	Kochi	4784	4732	4706
Refsoy Oil	10 KGS	Indore	416.9	NA	NA
CPO	10 KGS	Kandla	326.6	325.4	327.2
Mustard Oil	10 KGS	Jaipur	501.7	497.4	497.5
Gnutoilexp	10 KGS	Rajkot	645	627.1	630
Castor Oil	10 KGS	Kandla	570.3	575	577
Crude Oil	1 BBL	Mumbai	3361	3361	3353
Furnace Oil	1000 KGS	Mumbai	28205	27170	27168
Sourcrd Oil	1 BBL	Mumbai	3372.5	3319.5	3270.5
Brent Crude	1 BBL	Mumbai	3270	3270	3277
Gur	40 KGS	Muzngr	1167.1	1158.3	1152.1
Sugars	100 KGS	Kolhapur	2925	NA	NA
Sugarm	100 KGS	Delhi	3096	3075	3065
Natural Gas	1 mmBtu	Hazirabad	143.6	143.6	160.6
Rubber	100 KGS	Kochi	10446	10075	10203
Cotton Long	1 Candy	Kadi	22980	22930	22930
Cotton Med	1 Maund	Abohar	2399	2395	2242
Jute	100 KGS	Kolkata	2037	2018	2020
Gold	10 GRMS	Ahmd	15838	15790	15750
Gold Guinea	8 GRMS	Ahmd	12670	12632	12600
Silver	1 KGS	Ahmd	25855	25855	25805
Sponge Iron	1 MT	Raipur	15515	15295	15325
Steel Flat	1000 KGS	Mumbai	32140	31870	31870
Steel Long	1 MT	Bhavnagar	24245	24320	24130
Copper	1 KGS	Mumbai	304.4	304.4	301.1
Nickel	1 KGS	Mumbai	836.9	823	819.5
Aluminium	1 KGS	Mumbai	88.15	88.1	88.4
Lead	1 KGS	Mumbai	102.3	99.85	103.55
Zinc	1 KGS	Mumbai	92.9	88.65	89.4
Tin	1 KGS	Mumbai	718.75	720.5	724.25

(Source: MCX Spot Prices)

## Customs Valuation Exchange Rates

September 2009	Imports	Exports	
<b>Schedule I</b>			
1 Australian Dollar	41.50	40.25	
2 Canadian Dollar	45.50	44.35	
3 Danish Kroner	9.55	9.20	
4 EURO	70.70	68.90	
5 Hong Kong Dollar	6.35	6.25	
6 Norwegian Kroner	8.20	7.95	
7 Pound Sterling	80.70	78.85	
8 Swedish Kroner	7.05	6.80	
9 Swiss Franc	46.60	45.30	
10 Singapore Dollar	34.25	33.40	
11 U.S. Dollar	49.25	48.35	
<b>Schedule II</b>			
1 Japanese Yen	52.55	51.15	

Rate of exchange of one unit of foreign currency equipment to Indian Rupees

Rate of exchange of 100 units of foreign currency equivalent to Indian rupees

(Source: Customs Notification 125(NT)/27.08.2009)

Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Jamshepur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur(Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, , Waluj (Aurangabad) or through the **Land Customs Station** at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may with in the jurisdiction , by special order, or by a Public Notice, and subject to such conditions as may be specified by him, permits import and export from any other seaport/airport/inland container depot or through any land customs station;

v. that the importer shall be entitled to avail of the drawback or CENVAT credit of additional duty leviable under Section 3 of the Customs

Tariff Act, 1975 (51 of 1975) against the amount debited in the said scrip.

2. The following categories of exports specified in paragraph 3.17.2 of the Foreign Trade Policy shall not be counted for calculation of export performance or for computation of entitlement under the scheme:

- i. EOUs / EHTPs / BTPs who are availing direct tax benefits / exemption;
- ii. Export of imported goods covered under Para 2.35 of FTP;
- iii. Exports through transshipment, meaning thereby that exports originating in third country but transshipped through India;
- iv. Deemed Exports;
- v. Exports made by SEZ units or SEZ products exported through DTA units; and
- vi. Items, which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC (HS).

**Explanation.** - For the purposes of this notification,-

(i) "Capital goods" has the same meaning as assigned to it in paragraph 9.12 of the Foreign Trade Policy;

(ii) "Foreign Trade Policy" means the Foreign Trade Policy 2009-2014, published by the Government of India in the Ministry of Commerce and Industry vide notification No.1 /2009-2014,

dated the 27th August, 2009 as amended from time to time;

(iii) "Licensing Authority or Regional Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation ) Act,1992 (22 of 1992) or an officer authorised by him to grant a licence under the said Act.

[F.No.605/58/2009-DBK ]

## Import of Goods from Antarctic Expedition

Ntfn 90 G.S.R. 644 (E).- In exercise of 07.09.2009 the powers conferred by sub-section (1) of section 25 of the (DoR) Customs Act, 1962 (52 of

1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts **all goods imported from Antarctica into India** from the **whole of the duty of customs** leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the **whole of the additional duties** leviable thereon under section 3 of the said Customs Tariff Act , provided that a certificate from an officer not below the rank of a Deputy Secretary in the Department of Ocean Development in the Ministry of Earth Sciences is produced in each case by the importer to the jurisdictional Assistant Commissioner or Deputy Commissioner of Customs at the time of importation, to the effect that such goods have been used for or are related to the **Indian Antarctic Expedition** or the Indian Polar Science Programme.

[F.No.354/146/ 2009-TRU]

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## Brazil busy preparing its sanction list

Brazil's Foreign Minister Celso Amorim said that Brazil would carefully examine how to impose the maximum leverage with its sanctions. "We'll be having meetings all along next week and hopefully in ten, 15 days we can have a list," he told Reuters.

On Tuesday, Brazil said it wanted to enter into negotiations with the US before starting retaliation.

Even if a new deal on cotton in the Doha Round is not connected to the actual case, Roberto Azevedo has said that a Doha deal that leads to a substantial cut in US subsidies would automatically solve the trade dispute and end the need for sanctions.

Brazil will have to request final authorisation for retaliation and cross-retaliation with the WTO's Dispute Settlement Body. However, the request could only be refused if all WTO members in attendance (including Brazil) were to reject the arbitrators' ruling.

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