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Food Security and Stability in South Asia

Report on WTO Forum Session organized by Academy of Business Studies and World Trade Centre, Mumbai on 20 September 2011 at WTO Geneva

Session 29: Controlling Food Prices in Turbulent Times: An Agenda for South Asia

The recurring theme in this session was food security and stability in South Asia. The session focused specifically on unregulated speculation on agricultural commodities, surplus production in India and the increasing amount of trade barriers such as tariffs and bans in the world market.

The moderator of the session, Arun Goyal, Director of Academy of Business Studies, New Delhi, opened the session by describing the current situation in South Asia. He said that South Asia used to be a region which had the poorest and the hungriest number of people; however, this has changed and South Asia now has a surplus in wheat and rice.

The first speaker, Petko Draganov (Deputy Secretary-General of UNCTAD) emphasized that food security is central to UN efforts.

He drew the attention of the audience to data by the World Bank stating that 190 million people in the world were pushed into hunger after the 2008 Food Crisis. He also stressed the fact that the Horn of Africa is currently experiencing its worst famine since the 1980s. He, like other panellists, expressed concerns that the extreme volatility in food prices was deterring producers from making the necessary investments in agriculture, which in turn explains the growing food insecurity. He noted that UNCTAD was proposing a series of measures to prevent price volatility, for example creating adequately resourced safety nets, creating rules for markets to prevent manipulations and price abuse, and investing in more resilient modes of agriculture against climate change and to stimulate agricultural innovation.

Lauren R. Landis gave a brief overview of what the World Food Program (WFP) is doing in building food security in South Asia. Echoing the opening remarks of Mr Goyal, she submitted that South Asia has a very big role to play in matters of food security since it is where the hungriest people are and where the food surplus is. She stressed that the most important element to the WFP is stability of the market and that volatile food prices affect the way the WFP operates. To substantiate her claim, she gave the example of Afghanistan, whereby price increases of food (because of high volatility) drastically decreased the number of people the WFP were able to feed from 7 million to 3.8 million, using the same budget. She ended her

presentation by claiming that export restrictions, despite being regulated by the WTO, have in the past decreased the number of lives that can be saved.

From an economist point of view, Sadiq Ahmed of the World Bank gave an overview of what South Asia can do to prevent the increase in food prices. The essence of his submission was based on the notion that South Asian countries have very limited fiscal policy space and as such, their subsidy programmes are becoming unsustainable. He also argued that increasing productivity is the only way of preventing an increase in food prices due to the fact that prices of energy, water and fertilizers are increasing.

He also noted that the average level of trade barriers in agricultural goods is very high.

From a business perspective, Vijay G. Kalantri expressed his discontent with the fact that developing countries do not have the level playing field in world trade since they are asked to remove trade barriers for their imports while their exporters are faced with several trade barriers. To support his argument, he cited the

case of Indian grapes export to Europe, whereby the whole shipment was refused entry even though only one container had some pests, totally at the expense of Indian exporters. He also mentioned that grants advocated during the early days of the WTO for capacity building were never given out. He emphasized that governments should start regulating markets for commodities and speculation in "market-immature" developing countries like India should have a complete ban on speculation on agricultural products. He ended his presentation by urging the world to help India in building the necessary infrastructure for the betterment of the agricultural industry.



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WTO Forum on Food Security

South Asia can Control World Food Prices

World Trade Centre Mumbai and Academy of Business Studies, New Delhi jointly organized a session titled "Controlling Food Prices in Turbulent Times: An Agenda for South Asia" on the theme of Food Security during the WTO Public Forum 2011 which was held in the WTO Headquarters in Geneva from September 19-21, 2011. The general theme of this year's Forum was "Seeking Answers to Global Trade Challenges".

Addressing the session, Mr Vijay Kalantri, Vice Chairman, World Trade Centre Mumbai expressed that developing countries do not have the level playing field in world trade. They are asked to remove trade barriers for their imports while their exporters are faced with several trade barriers. To support his argument, he cited the case of Indian grapes export to Europe, whereby the whole shipment was refused entry even though only one container had some pests, totally at the expense of Indian exporters.

Fellow panelists and members of the audience: It is my great privilege to be here among you in this stimulating environment of WTO Forum. We in World Trade Centre Mumbai are involved on the subject of WTO right from the days in mid 1990s when the WTO was born in a new avatar on the foundations of the old GAD. At that time, subject of WTO raised the temperatures in India with wide scale protests. We in WTC did our bit in informing the debate by publishing the full text of the Uruguay round results. Since then, we are closely involved in the developments by a system of daily monitoring of the news and also major events like ministerials and the forums.

In this session on **Controlling Food Prices in Turbulent Times - An Agenda for South Asia**, we have tried to see what we in South Asia can do control world food prices and play our role in bringing relief to the lbn poor on this planet. We the South Asians are the majority in the segment of comprising the world's poor and hungry. Domestic food security and providing relief in the region which includes the war torn Afghanistan is our priority.

However, I am happy to state that after the development processes initiated after Independence from colonial rule some 65 years ago, we have surpluses to share with the rest of the world in rice and wheat. India is producing 95 mn tonnes of rice and after setting aside 89 mn tonnes for its own population, it has 6mn tonnes of surplus. The good news that I would like to share with you is that India has withdrawn the four year ban on rice exports in the earlier this month, rice is now freely exportable. There is a similar situation in wheat where too the ban is lifted.

World Food Prices are up by 50% over the level 10 years ago - these figures are inflation adjusted. We in India are doing our bit to bring in supplies in the world market to cool the heat

generated by weather shocks and also the turbulence in world financial and commodity market.

Markets Fail during periods of Excessive Price Volatility - Supply side intervention is a must to protect the poor.

The number of emergencies have risen, political instability and failed states are behind rise. Afghanistan is an example in our own backyard. Supplies of wheat from South Asia have helped deal with the emergencies there.

Food Deficit in Sub Saharan Africa has risen to 60 percent. Indian rice is very popular in this region on account of its taste and also the price, figures show that in the 2007 food crisis, it was available for as little as USD 300 per tonne. India sent nearly a billion dollar worth rice to the region that year. And this is when Indian government does not subsidise agri exports in the way the developed countries do.

In this presentation, I would like to present before you a paradigm for the consideration of world trade community and also the governments of the eight countries of South Asia bound together by a common shared history, geography and culture.

First, South Asia can feed the world's poor. Our production of cereals is rising every year with increasing investments in controlling and managing the vast water resources of its rivers and ground water. Both India and Pakistan are surplus in rice and wheat. India has the world largest food security system for procurement of rice and wheat from the farmers at a minimum guaranteed price. These supplies are piped to the poor and hungry in the rural and urban areas for consumption as well payment of wages under employment guarantee schemes. With rising incomes, the demand for per capita basic food is falling, surplus stocks will be available in the foreseeable future.

However, we need policies which are open and friendly to the private sector. Our exporters have delivered to distant destinations and difficult markets, they can do it again through market based instrumentalities. However, we need the guarantee of open policies and the guarantee of long term policies which ensure that that the export window remains open even when there are domestic demand pressures on stocks in the public and private space.

Second, a thorough audit of the non tariff barriers in the 60 food deficit countries and also the top ten exporters must be carried out to layout the ground positions in trade. The WTO and G20 must then ensure that for trade with the food deficit countries, there should be a special window under which the normal restrictions of phyto sanitary measures are relaxed or minimised under special fast track procedures to ensure the free flow of cereals and food to the table of the poor and undernourished.

Third, South Asia needs investment in export infrastructure, the private sector will do its bit but the whole must throw its world by providing interest free and exchange fluctuation free finance for investment. The trade facilitation infrastructure at its ports for food grain is designed for inward movement of grain developed during times of food shortages in the 1960s and 1970s. We have to work in the reverse direction now. Ports, rail transport, road, handling, documentation and facilitation must improve if supplies to the poor must be made at the lowest transaction cost.

Fourth, Commodity, currency and financial spot and future markets in the global food trade for true price discovery and control of speculation must be disciplined. As a businessman, I am always happy when prices rise and bring in surpluses for growth and investment. However, the profit should not snatch the bread from the mouth of the hungry. Increasingly, the world food markets are integrated with the of energy, finance and exchange sectors. The instability and volatility of these are transmitted to the food markets. The 2007 crisis in the food market showed this up. While supplies can and do cool markets, we have to bring about discipline in speculative forces where transactions of trillions of dollars suffocate and stifle the basic economic forces of actual supply and demand of the stock market. The futures markets can, and do, support price discovery. However, the tail should not wag the dog. The spot market must prevail over futures.

We in India have an active commodity futures market but it is controlled by common sense rules for sensitive food commodities like pulses. Future contracts must be retired by way of actual delivery of supplies from exchange warehouses. This has the effect of the dog taking over from the tail. The spot market rules.

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Dollar-Rupee Rate at NSE Futures									
Trade Date	Open Price	High Price	Low Price	Close Price	Daily Settlement Price	Open Interest	No. of Contracts	Value (Rs. lakhs)	RBI Reference rate
27-Sep-11	49.2150	49.3100	49.1400	49.1850	49.1775	1159716	1039256	511465	49.1775
26-Sep-11	49.5600	49.8075	49.3400	49.4900	49.4900	1219194	3000239	1487680	49.6170
23-Sep-11	49.5975	49.9400	49.0475	49.4900	49.4900	1414396	4451692	2204673	49.6730
22-Sep-11	48.8125	49.6775	48.7100	49.5400	49.5400	1465023	4093310	2007591	48.8205
21-Sep-11	48.0275	48.3975	47.8825	48.3475	48.3475	1426224	2730538	1312929	47.8900
20-Sep-11	48.1425	48.4800	47.9600	48.1000	48.1000	1408615	2490540	1199545	48.2225

[Source: NSE and RBI Website]

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WTO Trade Forecast for 2011 Down to 5.8% from 6.5%

WTO economists announced on 23 September that they are revising their 2011 trade forecast to 5.8%, down from their earlier conservative estimate of 6.5%, since trade has grown more slowly than expected in recent months and the outlook for the global economy is increasingly uncertain. Director-General Pascal Lamy said: "The multilateral trading system has been instrumental in maintaining trade openness during the crisis, thereby avoiding even worse outcomes. Members must remain vigilant. This is not the time for go-it-alone measures. This is the time to strengthen and preserve the global trading system so that it keeps performing this vital function in the future."

Since the original forecast for 2011 was issued on April 22, developed economies in particular have been buffeted by strong headwinds, including the lingering effects of the earthquake and tsunami in Japan, the prolonged budget impasse and credit downgrade in the United States, and the ongoing euro area sovereign debt crisis. Disappointing output and employment data have damaged business and consumer confidence and contributed to the recent turmoil in financial markets.

In light of the deteriorating economy, the WTO now expects world merchandise exports to increase by 5.8% in volume terms in 2011, supported by real GDP growth of 2.5%. Developed economies exports are expected to rise by 3.7% and their output to go up by 1.5%. Meanwhile, shipments from developing economies are estimated to increase by 8.5% and GDP by 5.9% (Table 1).

Table 1: World merchandise trade volume and GDP, 2008-2011^a

	Annual % change			
	2008	2009	2010	2011 ^a
Volume of World Exports				
World	2.3	-12.1	14.1	5.8
Developed Economies	0.9	-15.2	12.9	3.7
Developing Economies and CIS	4.6	-7.5	16.1	8.5
Real GDP at market exchange rate				
World	1.3	-2.6	3.7	2.5
Developed Economies	0.2	-4.0	2.7	1.5
Developing Economies and CIS	5.6	2.1	7.1	5.9

^a Figures for 2011 are projections.

Source: WTO Secretariat for exports, consensus estimates for GDP.



During the economic crisis of 2008-09, WTO members were for the most part able to resist protectionist pressures, but their collective will has recently been tested by weaker economic growth, high unemployment and forced austerity. Another downturn in the global economy could strain their resolve to the breaking point and trigger a descent into self-destructive protectionism.

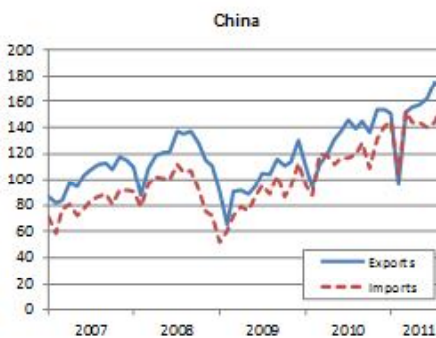
There is an unusually high degree of uncertainty associated with this forecast, which implies a slowdown in world trade rather than an outright decline. Downside risks to GDP have certainly intensified in the last few months, and where output goes trade tends to follow. The situation in Greece is injecting considerable uncertainty into the economic environment.

The original forecast from the April press release was quite cautious about the prospects for trade in 2011. As a result, the size of this revision is relatively small. The trade impact of the Japanese disaster turned out to be less than we expected, but the drag imposed by turbulent financial markets could end up being larger than anticipated, which leaves the original forecast not too far from the mark.



The revised forecast for merchandise exports is consistent with the WTO Secretariat's time-series model for quarterly import demand in a range of major economies (specifically, the members of the Organisation for Economic Cooperation and Development, or OECD, plus China).¹

Chart 1 shows recent monthly merchandise trade developments for selected economies in current US dollar terms, taken from the WTO's short-term trade statistics². Exports have levelled off recently in many developed economies or, in the case of Germany and France, turned ominously downward. Year-on-year growth in German exports fell from 36% in May to 20% in June, and finally to 16% in July. During the same period French export growth dropped from 44% to 14% to 9%. On the other hand, trade flows of developing economies have mostly remained strong, and year-on-year growth rates for China's trade flows have actually accelerated through August, which should partly cancel any slowdown in developed economies trade. For the moment it appears that the trade slowdown is mostly confined to developed economies, especially in Europe. This suggests that solving the sovereign debt crisis may be the best way to avoid a more serious trade slump.



India Faces Attack on Agro Tariff, Anti-dumping at WTO TPR

The last four years have seen strong economic growth in India, largely as a result of trade liberalisation and structural reforms set in motion in the 1990s, according to a new WTO secretariat report on the country's trade policies. While the country has done well to avoid the adoption of protectionist trade measures in response to the global economic crisis, the report found room for improvement in areas such as agricultural import tariffs, transparency in government procurement, and the use of anti-dumping measures.

WTO members met on 14 and 16 September to review the report from the trade body's secretariat; the report, known as the Trade Policy Review (TPR), praised India's promotion of sustainable growth through trade policy and foreign direct investment. The review also lauded India's ability to use trade policy for the achievement of long term goals, such as promoting economic growth.

However, the secretariat warned, India's tendencies toward using trade policy for resolving short term problems such as inflation

could be counterproductive. The report noted that using trade policy instruments for such purposes "may detract somewhat from the stability sought, as this requires constant fine tuning of policies, rendering the trade regime more complex."

Members at the review largely acknowledged India's efforts in reducing average most favoured nation (MFN) tariffs; during the period under review, MFN tariffs fell from 15.1 percent in 2006-7 to 12 percent in 2010-11. Attempts in India to "streamline customs procedures" were also commended by both members and the secretariat report, particularly the adoption of an electronic customs clearance system.

Agriculture, antidumping policies draw notice from members

Agricultural tariffs and anti-dumping measures took centre stage in the review's suggestions for further improvements, and drew particular attention from the US at the review.

Despite an overall drop in tariffs, the review reported an agricultural tariff rate of 33.2 percent, compared to 8.9 percent for manufactured goods. This protective trade policy is propagating "low productivity and modest growth rates," the report cautioned.

US Ambassador Michael Punke, in his statement at the review, acknowledged the challenges posed by inflation in India; however, he also called for increased openness in the country's trade policies, placing particular emphasis on "long-term reductions in agricultural tariffs, and removal of unjustifiable sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT) impediments on agricultural imports."

Chairperson Mario Matus, who is also Chile's ambassador to the global trade body, also highlighted in his concluding remarks the questionable "scientific basis for certain [SPS] measures adopted by India" and urged the country to eliminate those technical standards that were acting as trade barriers.

Similarly, the review cited India as one of the highest users of anti-dumping measures, which target products whose price abroad is less than that in their country of origin.

The secretariat report found that India had initiated 209 anti-dumping investigations against 34 trading partners in the period covered by the review period, imposing 207 anti-dumping measures; this was an increase from the 176 anti-dumping investigations and 177 anti-dumping measures initiated during the previous review period.

The US also spoke out about transparency concerns, citing "India's failure to submit re-

quired notifications to the WTO, particularly in the areas of agriculture [and] subsidies," and not regularly engaging in public notifications of matters impacting trade and investment as a source of difficulty for those firms seeking to conduct business in India.

Doha issues creep into discussion

While the review generally praised India's involvement in the Doha Round negotiations, the US made a point in its remarks to bring up the long-standing differences between the US and India in the struggling trade talks.

Punke noted that, while the US "support[s] India's use of an open trade policy" to fulfil objectives of inclusive growth and economic development, such support "underscores our disappointment in India's reluctance to participate in meaningful market opening through the Doha Round negotiations, despite India's place as one of the world's fastest growing economies."

The US has long disagreed with Brazil, India, and China over industrial sector tariffs, with the US arguing for mandatory participation in 'sectorals,' i.e. the cutting of tariffs across an entire industry. Washington has asked that emerging economies take on greater responsibilities when it comes to non-agricultural market access, in order to reflect their growing role in the global economy.

According to the panel, the "dolphin-safe" label only "partly" fulfilled the objective of dolphin protection, as it did not address the observed mortality caused by other tuna fishing methods outside the eastern Pacific Ocean.

The ruling marks the third time the WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT), have gone against American policy on dolphin protection.

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Fifth, we must develop a global commodity market for food. Investment in this by a creating an enabled platforms and open policies backed by storage infrastructure will be the required first step.

The thin world trade markets in rice and wheat which currently account for a mere six per cent and 25 per cent of the world production must develop to become deeper and wider and liquidity must come from the private sector as well as banks and financial institutions. However, we must remember not to let the futures market take over, it must always remain a slave to the spot market.

With these words, I close my intervention and look forward to a meaningful and positive outcome of this meeting. I assure you of the fullest and best follow up on the recommendations of this session.

Mr Kalantri emphasized that land use in India needs to improve. Land use in many parts of the world is five to six times higher than India. Overall, there is improvement in our irrigation system but there is urgent need for linkages between agriculture and technology.

Referring to the state of infrastructure, Mr Kalantri stated that 40% of our agricultural produce does not reach the market due to lack of proper transportation. Ports, rail transport, road, handling documentation and facilitation must improve if supplies to the poor must be made at the lowest transaction cost. Also we need to build adequate storage capacity. India needs financial assistance to develop infrastructure. He also mentioned that grants advocated during the early days of the WTO capacity building were never given out.

Our country needs to divert to cash crops to ensure optimum land use. Referring to the commodity future markets Mr. Kalantri emphasized that control of speculation must be disciplined. Increasingly, the world food markets are integrated with those of energy, finance and exchange sectors. The instability and volatility of these are transmitted to the food markets. Further, 24 sensitive commodities must be taken out of the exchange commodities, Mr Kalantri opined.

Finally, Mr Kalantri called for an integrated SAARC Treaty for balanced distribution and management of food in the region.

Other speakers at the session were Mr Petko Draganov, Deputy Secretary General of UNCTAD; Mr Sadiq Ahmed, Vice Chairman, Policy Research Institute of Bangladesh; and Ms Lauren R.Landis, Director, World Food Programme.

Mr Arun Goyal, Director, Academy of Business Studies was the moderator of the session.

Panel Rules US 'Dolphin Safe' Label Restrictive



The US' "dolphin safe" labelling practice for tuna products have been deemed WTO illegal, according to a ruling issued on Thursday 8 September. The panel ruled that the label -

which is meant to inform consumers on the use of dolphin-friendly fishing practices - was unnecessarily trade restrictive. However, the three-member panel disagreed with the complainant Mexico that the label also discriminated against Mexican tuna on the basis of nationality.

The global trade body's ruling on the subject had been the subject of much anticipation, given the current backdrop of product labels' growing importance for issues such as biofuels, fair trade commodities or low-carbon intensive appliances. Notably, the panel's take on whether the US label was a mandatory regulation - which it confirmed - rather than a voluntary standard - which it denied - had been considered crucial for the future of labelling standards.

"Dolphin-safe" attacked on multiple levels

At the core of the dispute is the US policy of disallowing "dolphin-safe" labels on tuna caught in the eastern Pacific Ocean with "purse-seine" nets - encircling nets which can frequently ensnare unwanted marine life such as dolphins in addition to those targeted - which are used by Mexican fisheries.

Mexico claimed that the labelling practice has the effect of blocking Mexican tuna from the US market. Washington, in turn, has rejected the

claim, stating that its labelling rules do not discriminate against Mexican products, as the label is available to all tuna products independent of their origin.

The international standard follows a "non-injury" rather than a "finishing-method" approach, meaning that tuna caught with purse-seine nets can qualify for dolphin-safe labels, provided that independent veterinarians certify that no dolphins were injured.

The panel sided with the US in deeming the labelling policy non-discriminatory, concluding that the measure did not favour US tuna products or those of other origins over those from Mexico.

The panel also backed the US claim that the AIDCP international label standard did not constitute an effective and appropriate means of fulfilling legitimate US objectives. This was because, in the opinion of the panel, the standard failed to guarantee the level of dolphin protection pursued by the US. The AIDCP standard only informs consumers whether dolphins were killed or seriously injured by the fishing method, but fails to inform consumers of other adverse impacts caused by the fishing methods, the panel concluded.

Nevertheless, the panel found that the US dolphin-safe labelling provisions were more trade-restrictive than was necessary for informing consumers and protecting animal health, and were thus inconsistent with the WTO's Agreement on Technical Barriers to Trade (TBT).

The TBT Agreement requires that technical regulations "are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade."

WEEKLY INDEX OF CHANGES

Department of Revenue Notifies Revised All Industry Rates of Duty Drawback – Effective from 1 October 2011

DEPB Items Incorporates under Drawback Schedule

Subject: All Industry Rates of Duty Drawback, 2011-12.

42-CBEC 22.09.2011 (DoR) The Ministry has announced the revised All Industry Rates (AIR) of Duty Drawback 2011-12 vide Notification No. 68 / 2011- Cus. (N.T.), dated 22.09.2011. The rates of duty drawback are effective from **01.10.2011**. The Notification may please be downloaded from CBEC website www.cbec.gov.in and perused for details.

2. As in previous years, the drawback rates have been determined on the basis of certain broad parameters including, *inter alia*, the prevailing prices of inputs, Standard Input Output Norms (SION), share of imports in the total consumption of inputs, FOB value of export goods and the applied rates of duty. The incidence of duty on HSD/Furnace Oil has been factored in the drawback calculations. The incidence of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods has also been factored. The Commissioners may ensure that the exporters do not avail of the refund of this tax through any other mechanism while claiming the All Industry Rates of duty drawback.

3. The drawback schedule this year incorporates items which were hitherto under the DEPB scheme. Thus, the total number of items in the drawback schedule now number approximately 4000. While incorporating these DEPB items in the Drawback schedule, care has been taken to classify them at the appropriate four digit level. However, there may be some doubts about the classification of these DEPB items in the drawback schedule notified. Be that so as it may, it may please be noted that the rates of drawback as specified for these items in the drawback schedule is not to be denied in all such cases. For easy reference, a list of all the DEPB items falling under a particular product code and serial number with the corresponding drawback tariff item has also been separately hosted on the CBEC website. All field formations are requested to inform the Board about specific item/s (if any) on which there are doubts regarding the classification.

4. Broadly speaking, most of the items which are already covered under the duty drawback schedule will suffer a minor reduction in the existing drawback rates. The reduction is mainly on account of the reduction in basic customs duty on crude petroleum as well as a reduction in central excise duty on diesel.

5. In respect of items covered under the DEPB Scheme, major exporters operating under the DEPB Scheme are mainly from the Engineering sector including the auto and auto component industry, Chemicals, Pharmaceuticals, Textiles and the marine sector. It has been decided to provide a smooth transition for items in these

sectors while incorporating these in the drawback schedule. As a transitory arrangement, these items will suffer a modest reduction from their DEPB rates, ranging from 1% to 3% for most items.

6. Presently, the DEPB rates are available for two wheelers, three wheelers, commercial vehicles and tractors. Appropriate duty drawback rates have been provided for these items in the proposed schedule without any value cap. Exporters of passenger cars are presently opting for brand rate of duty drawback. Government has received requests from these exporters; appropriate All Industry Rate of duty drawback for export of Passenger Cars has been provided in this year's Drawback Schedule.

7. As a general policy, it has been decided that there will be no value cap on items in the drawback schedule, where the composite duty drawback rate is less than or equal to 3%. Further, there are certain goods especially in engineering and chemicals sectors where because of the wide variation in prices, no value cap has been assigned. You may like to exercise due diligence to prevent any misuse consequently. At the same time, it may also be ensured that the process of scrutiny of such items does not result in hardship to the exporters and the export consignments are not held up.

8. Doubts have been raised as to the eligibility of exporters to claim the composite rate of duty drawback in situations covered under Para 15(ii) of Notification No. 84/2010- Customs(N.T.) in the light of the expression "when no Cenvat facility has been availed for the goods under export" being mentioned in the said para. The doubt has apparently arisen because Para 15(i) *ibid* mentions the words "that no Cenvat facility has been availed for any of the inputs or input services used in the manufacture of the export product". It is hereby clarified that drawback is reimbursement of input duties suffered in the manufacture of export goods and as long as no Cenvat credit has been availed for any of the inputs or input services used in the manufacture of the export product, the composite rate of drawback is permissible on export of such goods. The expression "When Cenvat facility has not been availed", in Para 15 of the above mentioned notification, as far as the drawback provisions are concerned, has always meant Cenvat facility on inputs and input services, and is to be understood as such. The drawback notification has been suitably amended to further clarify the matter.

9. There has been some confusion regarding the eligibility of drawback rates for tufted bath mats made of cotton. A new entry has been created under the 4-digit category 5703 which specifies the applicable rate for tufted floor-coverings etc. made of cotton. It is understood

that in previous years, exporters of this item were given DBK at the residuary rate corresponding to 570399 @ 2.5%. This was not the intention. In fact the heading 570501 in the previous Schedule qualified for the same rate as that of woven cotton floor coverings falling under heading (570204) @8.9%. It is clarified that the benefit of the rate as existing at the relevant point for 570501 is to be allowed to all exports of tufted cotton bathmats. In all such cases wherever the assessments are not provisional, the exporters shall be allowed to file supplementary drawback claims and the claims shall be processed accordingly.

10. In 2010-11, the description "ENA" (Extra Neutral Alcohol) was incorporated in the heading 2207. There has been some confusion that claims made prior to the notification of last year were not covered under the new description and there was a request for clarification. It is clarified that "ENA" is otherwise covered under the heading 2207 as ethyl alcohol and would cover all periods, including those prior to 20th, September 2010.

11. Under the heading 8307, the description has been amended to provide drawback on flexible tubing whether or not coated with PVC. It is clarified that the rate under the heading 8307 is applicable to the flexible tubing whether or not coated with PVC, and the rate would be applicable even for past periods, prior to the amendment.

12. It was clarified vide circular no. 25/2007 dated 16th July 2007, that drawback is to be allowed for articles under tariff items 7323 of the drawback schedule without making any deduction towards the lids, handles etc. provided they retain the character of iron or steel articles classifiable under the said tariff item. It is clarified that the same logic shall also be applicable for the goods falling under tariff items 8211 and 8215 of the drawback schedule.

13. There has been a dispute regarding classification of FIBC (Flexible intermediate bulk containers). It has been represented that the field formations are classifying the FIBCs under Chapter 39 whereas the FIBC finds a specific mention under tariff item 630502 of the drawback schedule and the exporters are being denied drawback mentioned against the heading 630502 in the Drawback Schedule. It is hereby clarified that FIBCs which are made of manmade textile material would be classifiable under drawback tariff item 630502. FIBCs which are big or bulk bags or super sacks made of polymers of ethylene and other plastic material would however, be classifiable under chapter 39 of the drawback schedule.

14. Benefits under the DEPB scheme are available only upto September 30, 2011. Thus, all exports under DEPB scheme upto and including September 30, 2011, where the "Let Export Order"(LEO) has been issued by the Customs officer shall be eligible for the issue of DEPB Scrips. Since, export consignments with 'Let Export Order' after this date would no longer be eligible for benefits under the DEPB scheme, it is likely that there may be a rush of DEPB export consignments before this date causing extra

load on the EDI system. All Custom officers posted at ports under your jurisdiction may be directed to take due care and ensure that DEPB export consignments are accorded priority and processed/cleared expeditiously. Further, officers handling export assessment/examination with specific regard to DEPB Shipping Bills must ensure that the bills in the EDI queue are cleared expeditiously. If for any valid reason, the LEO cannot be given on the EDI on the said date, then the Commissioner of Customs may allow an endorsement of the LEO on the DEPB shipping bills manually. However, this may only be allowed as an exception. Suitable Public Notices/Standing Orders may be issued in this regard.

15. The Notification and the new Drawback Schedule may be perused carefully to note the

changes made therein. Though all care has been taken, the possibility of inadvertent errors/omissions cannot be ruled out. It is requested that any error/omission noticed during the implementation of the rates be brought to the notice of the Board immediately for suitable corrective action.

16. The Public Notice and Standing Order for guidance of the trade and staff may be issued. Difficulties faced, if any in implementation of the changes may be brought to the notice of the Board at once.

F.No. 609/82/2011-DBK

Duty Drawback Schedule 2011-12

List of DEPB Items with Corresponding Tariff Items in the Drawback Schedule 2011-12

[The Schedule and Item List is available at our website www.worldtradescanner.com]

Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 – General Notes

68-Cus(NT) 22.09.2011 (DoR) In exercise of the powers conferred by sub-section (2) of section 75 of the Customs Act, 1962 (52 of 1962), sub section (2) of section 37 of the Central Excise Act, 1944 (1 of 1944), and section 93A and sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994) read with rules 3 and 4 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 (hereinafter referred to as the said rules) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.84/2010-Customs (N.T.), dated the 17th September, 2010 published vide number GSR 765(E), dated the 17th September, 2010 except as respects things done or omitted to be done before such supersession, the Central Government hereby determines the rates of drawback as specified in the Schedule annexed hereto (hereinafter referred to as the said Schedule) subject to the following notes and conditions, namely:-

Notes and conditions

(1) The tariff items and descriptions of goods in the said Schedule are aligned with the tariff items and descriptions of goods in the First Schedule to the Customs Tariff Act, 1975(51 of 1975) at the four-digit level only. The descriptions of goods given at the six digit or eight digit or modified six or eight or ten digits are in several cases not aligned with the descriptions of goods given in the said First Schedule to the Customs Tariff Act, 1975.

(2) The General Rules for the Interpretation of the First Schedule to the said Customs Tariff Act, 1975 shall *mutatis mutandis* apply for classifying the export goods listed in the said Schedule.

(3) Notwithstanding anything contained in the said Schedule, all artware or handicraft items shall be classified under the heading of artware or handicraft (of constituent material) as mentioned in the relevant Chapters.

(4) The figures shown in columns (4) and (6) in the Schedule refer to the rate of drawback expressed as a percentage of the free on board

(f.o.b.) value or the rate per unit quantity of the export goods, as the case may be.

(5) The figures shown in columns (5) and (7) in the said Schedule refer to the maximum amount of drawback that can be availed of per unit specified in column (3).

(6) The figures shown under the drawback rate and drawback cap appearing below the column "Drawback when Cenvat facility has not been availed" refer to the total drawback (customs, central excise and service tax component put together) allowable and those appearing under the column "Drawback when Cenvat facility has been availed" refer to the drawback allowable under the customs component. The difference between the two columns refers to the central excise and service tax component of drawback. If the rate indicated is the same in both the columns, it shall mean that the same pertains to only customs component and is available irrespective of whether the exporter has availed of Cenvat or not.

(7) Drawback at the rates specified in the said Schedule shall be applicable only if the procedural requirements for claiming drawback as specified in rules 11, 12 and 13 of the said rules, unless otherwise relaxed by the competent authority, are satisfied.

(8) The rates of drawback specified in the said Schedule shall not be applicable to export of a commodity or product if such commodity or product is-

(a) manufactured partly or wholly in a warehouse under section 65 of the Customs Act, 1962 (52 of 1962);

(b) manufactured or exported in discharge of export obligation against an Advance Licence or Advance Authorisation or Duty Free Import Authorisation issued under the Duty Exemption Scheme of the relevant Export and Import Policy or the Foreign Trade Policy;

Provided that where exports are made against Advance Licences issued on or after the 1st April, 1997, in discharge of export obligations in terms of notification No. 31/97 - Customs, dated the 1st April, 1997, or against Duty Free Replenishment Certificate Licence issued

in terms of notification No. 48/2000-Customs, dated the 25th April, 2000, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 46/2002-Customs, dated the 22nd April, 2002, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 90/2004-Customs, dated the 10th September, 2004, drawback at the rate equivalent to Central Excise allocation of rate of drawback specified in the said Schedule shall be admissible subject to the conditions specified therein;

(c) manufactured or exported by a unit licensed as hundred percent Export Oriented Unit in terms of the provisions of the relevant Export and Import Policy and the Foreign Trade Policy;

(d) manufactured or exported by any of the units situated in free trade zones or export processing zones or special economic zones;

(e) manufactured or exported availing the benefit of the notification No. 32/1997-Customs, dated 01st April, 1997;

(f) exported under the Duty Entitlement Pass Book Scheme as contained in the Foreign Trade Policy, read with the Hand Book of Procedures issued in pursuance of the provisions of the said policy.

(9) The rates and caps of drawback specified in columns (4) and (5) of the said schedule shall not be applicable to export of a commodity or product if such commodity or product is-

(a) manufactured or exported by availing the rebate of duty paid on materials used in the manufacture or processing of such commodity or product in terms of rule 18 of the Central Excise Rules, 2002;

(b) manufactured or exported in terms of sub-rule (2) of rule 19 of the Central Excise Rules, 2002.

(10) Where the export product is not specifically covered by the description of goods in the said Schedule, the rate of drawback may be fixed, on an application by an individual manufacturer or exporter in accordance with the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995.

(11) The rates of drawback specified against the various tariff items in the said Schedule in specific terms or on *ad valorem* basis, unless otherwise specifically provided, are inclusive of drawback for packing materials used, if any.

(12) The term "dyed", wherever used in the said Schedule in relation to textile materials, shall include yarn or piece dyed or predominantly printed or coloured in the body.

(13) In respect of the tariff items in Chapters 61, 62 and 63 of the said Schedule, the blend containing cotton and man made fibre shall mean that content of man made fibre in it shall be more than 15% but less than 85% by weight and the blend containing wool and man made fibre shall mean that content of man made fibre in it shall be more than 15% but less than 85% by weight. The garment or made-up of cotton or wool or man made fibre or silk or noil silk shall mean that the content in it of the respective fibre is 85% or more by weight.

(14) Wherever specific rates have been provided against tariff item in the Schedule, the drawback shall be payable only if the amount is one per cent or more of free on board value, except where the amount of drawback per shipment exceeds five hundred rupees.

(15) The expressions "when Cenvat facility has not been availed", used in the said Schedule, shall mean that the exporter shall satisfy the following conditions, namely:-

(i) the exporter shall declare, and if necessary, establish to the satisfaction of the Assistant Commissioner of Customs or Assistant Commissioner of Central Excise or Deputy Commissioner of Customs or Deputy Commissioner of Central Excise, as the case may be, that no Cenvat facility has been availed for any of the inputs or input services used in the manufacture of the export product;

(ii) if the goods are exported under bond or claim for rebate of duty of central excise, a certificate from the Superintendent of Customs or Superintendent of Central Excise in-charge of the factory of production, to the effect that no Cenvat facility has been availed for any of the inputs or input services used in the manufacture of the export product, is produced:

Provided that the certificate regarding non-availability of Cenvat facility shall not be required in the case of exports of handloom products or handicrafts (including handicrafts of brass artware) or finished leather and other export products which are unconditionally exempt from the duty of central excise.

(16) Whenever a composite article is exported for which any specific rate has not been provided in the said Schedule, the rates of drawback applicable to various constituent materials can be extended to the composite article according to net content of such materials on the basis of a self-declaration to be furnished by the exporter to this effect and in cases of doubt or where there is any information contrary to the declarations, the proper officer of customs shall cause a verification of such declarations.

(17) The term 'article of leather' in Chapter 42 of the said Schedule shall mean any article wherein 60% or more of the outer visible surface area (excluding shoulder straps or handles or fur skin trimming, if any) is of leather notwithstanding that such article is made of leather and any other material.

(18) The term "dyed" in relation to fabrics and yarn of cotton, shall include "bleached or mercerized or printed or mélange."

(19) The term "dyed" in relation to textile materials in Chapters 54 and 55 shall include "printed or bleached".

(20) In respect of the tariff items appearing in Chapter 64 of the said Schedule, leather shoes, boots or half boots for adult shall comprise the following sizes, namely: -

(a) French point or Paris point or Continental Size above 33;

(b) English or UK adult size 1 and above;

(c) American or USA adult size 1 and above.

(21) In respect of the tariff items appearing in Chapter 64 of the said Schedule, leather shoes,

boots or half boots for children shall comprise the following sizes, namely: -

(a) French point or Paris point or Continental Size upto 33;

(b) English or UK children size upto 13;

(c) American or USA children size upto 13.

(22) The drawback rates specified in the said Schedule against tariff items 711301 and 711302 shall apply only to goods exported by airfreight, post parcel or authorised courier through the Custom Houses as specified in para 4A.12 of the Hand Book of Procedures (Vol. I), 2009-14 published vide Public Notice No.1/2009-14 dated 27th August, 2009 of the Government of India in the Ministry of Commerce and Industry, after examination by the Customs Appraiser or Superintendent to ascertain the quality of gold or silver and the quantity of net content of gold or silver in the gold or silver jewellery. The Free on Board (FOB) value of any consignment through authorised courier shall not exceed rupees twenty lakhs.

(23) The drawback rates specified in the said Schedule against tariff items 711301 and 711302 shall not be applicable to goods manufactured or exported in discharge of export obligation against any scheme of the relevant Export and Import Policy or the Foreign Trade Policy of the Government of India which provides for duty free import/replenishment/procurement from local sources of gold or silver.

2. All claims for duty drawback shall be filed with reference to the tariff items and descrip-

Definition of Resident Public Limited Company

67-Cus(NT) In exercise of the powers
22.09.2011 conferred by sub-clause (iii)
(DoR) of clause (c) of section 28E
of the Customs Act, 1962 (52 of 1962), the Central Government hereby specifies "resident public limited company" as class of persons for the purposes of said clause.

Explanation.- For the purposes of this notification.-

(1) "public limited company" shall have the same meaning as is assigned to "public company" in clause (iv) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956) and shall include a private company that becomes a public company by virtue of section 43A of the said Companies Act, 1956;

(2) "resident" shall have the same meaning as is assigned to it in clause (42) of section 2 of the Income-tax Act, 1961 (43 of 1961) in so far it applies to a company.

[F. No 275/47/2009-CX8A]

tions of goods shown in columns 1 and 2 of the said Schedule respectively.

3. This notification shall come into force on the 1st day of October, 2011.

[F. No. 609/81/2011-DBK]

Amendments in Customs, Central Excise Duties and Service Tax Drawback Rules, 1995

69-Cus(NT) In exercise of the powers
22.09.2011 conferred by section 75 of the
(DoR) Customs Act, 1962 (52 of
1962), section 37 of the

Central Excise Act, 1944 (1 of 1944) and section 93A read with section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, namely:-

1. (1) These rules may be called the Customs, Central Excise Duties and Service Tax Drawback (Amendment) Rules, 2011.

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

2. In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995,-

(i) in **rule 3**, in sub-rule (1), in clause (v) of the second proviso, for the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006, 2523, 3501, 5205, 5206 or

5207", the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006 or 3501" shall be substituted;

(ii) in **rule 6**, in sub-rule (4), for the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006, 2523, 3501, 5205, 5206 or 5207", the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006 or 3501" shall be substituted;

(iii) in **rule 7**, in sub-rule (5), for the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006, 2523, 3501, 5205, 5206 or 5207", the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006 or 3501" shall be substituted;

(iv) in **rule 13**, in sub-rule (4), for the words "two months", the words "one month" shall be substituted.

F. No. 609/81/2011-DBK

Filing of Appeal in the Wrong Forum in Matters Relating to Valuation of Determination of Rate of Duty

[CBEC Instruction - F.No.390/Misc./100/2010-JC dated 22nd September 2011]

Reference is invited to Section 35L(b) of the Central Excise Act, 1944, made applicable to Service Tax vide Section 83 Of the Finance Act, 1994 and Section 130E(b) of the Customs Act, 1962 which stipulates that appeal shall lie to the Supreme Court against a Tribunal order in a case involving determination of any question

having a relation to the rate of duty or value of the goods for the purpose of assessment. Your attention is also invited to Circular No 935/25/2010-CX dated 21.09.2010 regarding Measures to streamline the processing of departmental litigation before the Courts and Tribunals.

2. Annexure I of the said Circular deals with provisions for filing of (a) Civil appeals/SLP against the High Court order before the Supreme Court and (b) Civil Appeal against any Tribunal order. It was mentioned therein that Civil Appeal against the Tribunal order is required to be filed in the Supreme Court in cases relating, among other things, to the determination of any question having a relation to the rate of duty or the value of goods for the purposes of assessment as statutorily prescribed.

3. It has come to the notice of the Board that field formations have filed appeals in the jurisdictional High Courts in matters relating either to determination of rate of duty or value of the goods which ought to have been filed in the Supreme Court. Such appeals get dismissed by the High Courts on the ground of jurisdiction alone, invariably after pending for a long time.

Civil Appeals filed in the Supreme Court in such cases have frequently been dismissed on the ground of limitation. It may also be noted that the time period for filing Civil Appeal is 60 days from the date of receipt of the Tribunal order in the Commissionerate.

4. The Commissioners are, therefore, directed to examine the issue involved in the dispute very carefully for deciding the appellate forum. The jurisdictional Chief Commissioners, while giving concurrence to the proposal for filing appeal, are expected to ensure that appeal is being filed in the correct forum in order to avoid needless litigation being pursued in the wrong forum and consequent loss of revenue.

5. The above may be brought to the notice of the field formations under your charge for scrupulous compliance.

Additional Duty on Biscuits Cleared in Packaged Form with per kg Retail Sale Price Equivalent not Exceeding Rs. 100

39-CE 12.09.2011 (DoR) In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.10/1996-Central Excise, dated the

23rd July, 1996, published in the Gazette of India, Extraordinary vide number G.S.R. 308 (E) dated the 23rd July, 1996, namely:-



In the said notification, -

(i) in the TABLE, after S. No.18 and the entries relating thereto, the following shall be inserted, namely:-

(1)	(2)	(3)
"19.	1905 31 00 or 1905 90 20	Biscuits cleared in packaged form with per kg retail sale price equivalent not exceeding Rs. 100. Explanation.- "retail sale price" shall have the same meaning as defined in column (3) against S. No. 18A of notification no.3/2006-Central Excise dated 1 st March, 2006 published vide G.S.R. 93 (E), dated the 1 st March, 2006

(ii) After the table the following shall be added, namely,-

"2. Nothing contained in this notification shall apply to any inputs or intermediate goods other than sugar syrup or cream used in the manufacture of goods mentioned at S. No. 19."

[F. No. 354/100/2011-TRU]

DGFT Removes Export Ban on Onions subject to MEP of US\$475/MTs

Subject: Removal of ban on export of Onions.

75-Ntfn(RE) 20.09.2011 (DGFT) In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992) read with Para 2.1 of the Foreign Trade Policy, 2009 2014, the Central Government amends Notification No. 73(RE-2010)/2009-14 dated 09.09.2011 with immediate effect as follows.



Chapter 7 - Edible Vegetables and Certain Roots and Tubers

Note 1 Reference to onions in this chapter includes onions fresh or chilled frozen, provisionally preserved or dried.

S.No.	Tariff Item HS Code	Unit	Item Description	Export Policy	Nature of Restriction
44.01	0703 10 10, 0712 20 00	Kg	Onions (all varieties except Bangalore Rose onions and Krishnapuram onions) excluding cut, sliced or broken in powder form.	STE*	Export permitted subject to Minimum Export Price (MEP) of US\$ 475 per Metric Ton or as notified by DGFT from time-to-time.
44.02	0703 10 10, 0712 20 00	Kg	Bangalore Rose onions and Krishnapuram onions excluding cut, sliced or broken in powder form	STE*	Export permitted subject to Minimum Export Price (MEP) of US\$ 475 per Metric Ton or as notified by DGFT from time-to-time.
44.03	0712 20 00	Kg	Onions (of all varieties) in cut, sliced- or broken in powder form.	Free	

5175 MTs Quota Sugar to USA through ISGEC Released

Subject: Export of 5,175 MTs of raw sugar to USA under Tariff Rate Quota.

78-PN(RE) 22.09.2011 (DGFT) In exercise of the powers conferred under Paragraphs 2.1, 2.4 and 2.29 of the Foreign Trade Policy, 2009

14, the Director General of Foreign Trade hereby allocates a total quantity of 5,175



MTs of Raw Sugar (98 degree Pol), out of non-levy (free sale) quota for export under tariff rate quota (TRQ) to USA for the US fiscal year

2011 (October 1, 2010 to September 30, 2011) to be delivered before 31st October, 2011. This export will be through M/s. Indian Sugar Exim Corporation Ltd, New Delhi.

2. The existing procedure in respect of preferential sugar export to USA for issue of GSP certificate as well as other certification requirement, if any, prescribed specifically for export of sugar to USA would continue to be followed.

3. Effect of this Public Notice

5,175 MTs of raw sugar is permitted to be exported to USA under TRQ by M/s. Indian Sugar Exim Corporation Ltd. Export must be completed by 31.10.2011.

Customs to Monitor Onion Export

Subject: Removal of Ban on export of Onion.

43-CBEC 23.09.2011 (DoR) Attention is invited to Board's Circular No.41/2011-customs dated 14-09-2011 which provides for

monitoring of the export of Wheat, Rice and Onion.

2. The Board had informed vide said Circular dated 14.09.2011 that export of ONION is prohibited vide Notification No.73(RE-2010)/2009-2014 dated 09-09-2011. Now DGFT vide Notification No.75(RE-2010)/2009-2014 dated 20/09/2011 amended the said notification and lifted the ban on export of Onion with immediate effect. Export of Onions is now allowed subject to Minimum Export Price of \$475.00 per MTS or as notified by DGFT from time to time. The field formation may take note of this change and strictly monitor the conditions of the said Notification.

3. Board's Circular no. 41/2011-Customs dated 14-09-2011 stands modified to the above extent. The reports prescribed therein shall continue to be sent till further notice.

F. No. 524/53/2011-STO(TU)

* List of STEs would be as per Serial No. 2 of Notification No. 51(RE-2007) /2004-09 dated 14.11.2007.

2. Effect of this notification

The prohibition on export of onions is withdrawn and export of all varieties of onions is now allowed.

DGFT Allows Exporters can File Online Application for DEPB for Cotton and Cotton Yarn Exports made from 4 August 2011

Subject: Filing of applications for DEPB for exports of "Cotton Yarn including Melange Yarn" made from 01.4.2011 to 04.8.2011 and "Cotton from 01.10.2010 to 04.08.2011.

20-TN Attention is invited to Public
16.09.2011 Notice Nos. 67/2009-2014
(DGFT) (RE 2010) and 68/2009-2014
(RE 2010) restoring the DEPB benefit on export of "Cotton yarn including Melange yarn" and "Cotton". During the period from 21.4.2010 to 04.08.2011, DEPB was not available on export of "Cotton yarn including Melange yarn" and on export of "Cotton" from 21.04.2010 to 04.08.2011.

2. The exporters can file on-line application for DEPB for the exports of "Cotton yarn including Melange yarn" and "Cotton" made from

04.08.2011.

3. As regards the filing of applications for DEPB to the RA concerned for exports of "Cotton yarn including Melange yarn" made from 01.04.2011 to 03.08.2011 and "Cotton" from 01.10.2010 to 03.08.2011, procedure is being devised in consultation with the Department of Revenue and will be notified separately.

4. This issues with the approval of DGFT.



Food Aid Exports of Non Basmati by PSUs Allowed

Subject: Export of non-Basmati rice by the Public Sector Undertakings and Government organizations under Food Aid Programme and Under bi-lateral Trade Agreement between Government of India and Government of Maldives.

76-Ntn(RE) In exercise of powers
23.09.2011 conferred by Section 5 of the
(DGFT) Foreign Trade (Development & Regulation) Act, 1992 (No. 22



of 1992) read with Para 2.1 of the Foreign Trade Policy, 2009-2014, the Central Government hereby amends Notification No. 71 (RE-2010)/

2009-14 dated 09.09.2011, with immediate effect, as under.

2. Sub-para 2.1 and 2.2 are added at the end of para 2 in the Notification No. 71 (RE-2010)/2009-14 dated 09.09.2011, as follows:

2.

"2.1 Export of non-Basmati rice by the Public Sector Undertakings or by any other government organizations under Food Aid Programme shall be permitted.

2.2. Export of non-Basmati rice under bi-lateral trade agreement between Government of India and Government of Maldives shall be permitted".

3. Effect of this notification

As it was the situation earlier, now export of non-Basmati rice under Food Aid Programme is permitted freely by PSUs or by government organizations also. Export of non-Basmati rice under agreement between India and Maldives will be permitted.

DRI and DGCEI Officers Not to Adjudicate Show Cause Notices, Power to Issue Notice Allowed

Subject: Adjudication of appraising related Show Cause Notices.

44-CBEC Consequent to the judgement
23.09.2011 of Hon'ble Supreme Court
(DoR) dated 18.02.2011, in Civil Appeals Nos. 4294-4295 of

2002 and Nos. 4603-4604 of 2005 (commonly referred to as Sayed Ali case), Board issued an Instruction F.No.437/143/2009-Cus.IV(pt) dated 15.04.2011 directing the field formations to examine pending Show Cause Notices and wherever these are not hit by time limitation to get these issued afresh by the jurisdictional Commissionerates.

2. Further, as a prospective remedial measure, in terms of Section 2(34) of the Customs Act, 1962, the Board issued Notification No.44/2011-Customs (N.T.), dated 06.07.2011. By virtue of this Notification, officers of Directorate General of Revenue Intelligence (DRI), Commissionerates of Customs (Preventive), Directorate General of Central Excise Intelligence (DGCEI) and Central Excise Commissionerates were assigned the functions of the 'proper officer' for the purposes of Sections 17 and 28 of the said Act.

3. To address the issue of validity of Show Cause Notices issued prior to 06.07.2011, which was likely to be adversely impacted by the said judgment of the Hon'ble Supreme Court, a suitable legislative change was proposed. In this regard, the President has given assent to the Customs (Amendment and Validation) Bill, 2011 on 16.09.2011 and the corresponding Act has been published in the Gazette of India dated 20.09.2011 as Act No.14 of 2011. Thus, the amendment to Section 28 has come into force w.e.f. 16.09.2011. The said Act amends Section 28 of the Customs Act, 1962 by inserting clause (11), which reads as follows:

"(11) Notwithstanding anything to the contrary contained in any judgement, decree or order of any court of law, tribunal or other authority, all persons appointed as officers of Customs under sub-section (1) of section 4 before the sixth day of July, 2011 shall be deemed to have and always had the power of assessment under section 17 and shall be deemed to have been and always had been the proper officers for the purposes of this section."

4. Accordingly, as per the amended Section 28 of the Customs Act, 1962 Show Cause Notices issued prior to 06.07.2011 by officers of Customs, which would include officers of Commissionerates of Customs (Preventive), Directorate General of Revenue Intelligence (DRI), Directorate General of Central Excise Intelligence and similarly placed officers stand validated since these officers are retrospectively recognized as 'proper officers' for the purpose of Sections 17 and 28 of the said Act.

5. In this regard it may also be noted that in terms of Notification No.44/2011-Customs (N.T.), dated 06.07.2011 the officers of DRI and DGCEI are 'proper officers' for the purposes of Section 28. However, it is hereby directed by the Board that these officers shall not exercise authority in terms of clause (8) of Section 28 of the said Act. In other words, there shall be no change in the present practice and officers of DRI and DGCEI shall NOT adjudicate the Show Cause Notices issued under Section 28 of the said Act.

6. Since the matter pertaining to validity of Show Cause Notice stands settled in terms of Notification No.44/2011-Customs (N.T.), dated 06.07.2011 and amended Section 28 of the Customs Act, 1962, the Instruction F.No.437/143/2009-Cus.IV(pt) dated 15.04.2011 is no longer necessary. Hence, the said Instruction dated 15.04.2011 stands withdrawn with immediate effect.

7. Pending Show Cause Notices and cases before adjudicating authorities and before appellate and judicial authorities may be dealt with on the basis of the legal position explained above. Difficulty faced, if any, may be immediately brought to notice of the Board.

F. No.437/143/2009-Cus.IV

Show Test Certificate of Waste Paper to Docks Officer for Fast Clearance

The following Standing Order was issued by the Commissioner of Custom (Import) Jawaharlal Nehru Custom House on 16th September 2011.

Sub: Import of Waste Paper.

67-SO Attention of all the Officers/
16.09.2011 Staff is invited to the Standing Order No. 21/2009 dated

12.05.2009, issued by this office in the matter of import of waste paper.

2. As per para 6 of the said S.O. pre-shipment test analysis of the hazardous waste consignments from a laboratory accredited in the exporting country should be submitted to the Group for counter signature after which the same will be submitted by the importer at the time of examination to the examining officer.

3. Representations have now been received from the Trade regarding difficulty with reference to compliance of para 6 of the said S.O. for submission of PSIC to the Group for endorsement and have made a request for endorsement of the PSIC prior to clearance of consignment.

4. The matter has been examined and para 6 of the said S.O. is amended to the extent that

PSIC of the hazardous waste consignment from an accredited laboratory by the DGFT should be submitted to the Docks or to the Group officer for endorsement according to the convenience of the importer. However, in respect of RMS facilitated bill of entry the PSIC will be endorsed by the examining officer.

5 The Standing Order no. 21/2009 dt. 12.05.09 stands modified only to the above extent.

6. All the officers/staff of this Custom House are directed to take note of the above for necessary compliance.

F.No. S/26-Misc-144/2010 Group II B(now H-K)

Provisional Anti-dumping Duty Imposed on Morpholine from China, EU and USA

Ntfn 91 Whereas, in the matter of 20.09.2011 import of **Morpholine** (DoR) (hereinafter referred to as the subject goods), falling under sub-heading **29333917** of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the said customs Tariff Act), originating in, or exported from, **China PR, European Union and the United States of America** (hereinafter referred to as the subject countries) and imported into India, the designated authority vide its preliminary findings No. 14/41/2010-DGAD dated the 9th August, 2011, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 9th August, 2011, had come to the conclusion that-

(a) the subject goods had been exported to India from the subject countries below its normal value;

(b) the domestic industry had suffered material injury in respect of the subject goods;

(c) the material injury to the domestic industry had been caused by the dumped imports of the subject goods from the subject countries,

and had recommended imposition of provisional anti-dumping duty on the imports of subject goods, originating in or exported from, the subject countries.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 9A of the said Customs Tariff Act, read with rules 13 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, on the basis of the aforesaid findings of the designated authority, hereby imposes on the goods, the description of which is specified in column (3) of the Table below, falling under sub-heading of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), and exported from the countries as specified in the corresponding entry in column (5), and produced by the producers as specified in the corresponding entry in column (6), and exported by the exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and per unit of measurement as specified in the corresponding entry in column (9) of the said Table.

Table

SNo	Heading	Description of goods	Country of origin	Country of exports	Producer	Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	29333917	Morpholine	China PR	China PR	M/s Anhui Haoyuan Chemical Group Co. Ltd	M/s Anhui Haoyuan Chemical Group Co. Ltd	0.29	Kg	US dollar
2	29333917	Morpholine	China PR	China PR	Any other than combination at Sr. No.1		0.63	Kg	US dollar
3	29333917	Morpholine	Any country other than the subject countries	China PR	Any	Any	0.63	Kg	US dollar
4	29333917	Morpholine	China PR	Any country other than the subject countries	Any	Any	0.63	Kg	US dollar
5	29333917	Morpholine	European Union	European Union	M/s BASF SE	M/s BASF SE	0.35	Kg	US dollar
6	29333917	Morpholine	European Union	European Union	Any other than combination at Sr. No.5		0.68	Kg	US dollar
7.	29333917	Morpholine	Any country other than the subject countries	European Union	Any	Any	0.68	Kg	US dollar
8.	29333917	Morpholine	European Union	Any country other than the subject countries	Any	Any	0.68	Kg	US dollar
9.	29333917	Morpholine	USA	USA	M/s Huntsman Petrochemical Corporation	M/s Huntsman Petrochemical Corporation	0.50	Kg	US dollar
10.	29333917	Morpholine	USA	USA	Any other than combination at Sr. No.9		0.81	Kg	US dollar
11.	29333917	Morpholine	USA	Any country other than the subject countries	Any	Any	0.81	Kg	US dollar
12.	29333917	Morpholine	Any country other than the subject countries	USA	Any	Any	0.81	Kg	US dollar

Anti-dumping Duty on Rubber Chemicals – Entries relating to Korea Omitted from Ntfn 133/2008

See Notification 92/20.09.2011 for Korea Case

Ntfn 93 In exercise of the powers 20.09.2011 conferred by sub-section (1) (DoR) and sub-section (5) of section 9A of the Customs

Tariff Act, 1975 (51 of 1975) read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. **133/2008-Customs**, dated the **12th December, 2008**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 853 (E), dated the 12th December, 2008, except as respects things done or omitted to be done before such amendment, namely:-

In the said notification, in the **Table**, -

(i) S. No. 4 and the entries relating thereto shall be omitted;

(ii) S. No. 5 and the entries relating thereto shall be omitted.

(iii) S. No. 6 and the entries relating thereto shall be omitted.

[F.No.354/32/2008-TRU (Pt-I)]

2. The anti-dumping duty imposed under this notification shall be effective for a period not exceeding six months from the publication of this notification in the Official Gazette and shall be payable in Indian currency.

Explanation.- For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notifi-

cation of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962, (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[F. No.354/239/2011-TRU]

Anti-dumping Duty on Rubber Chemicals PX-13 (6PPD) from Korea – Duty Hiked in Review

Ntn 92
20.09.2011
(DoR)

Whereas, the designated authority vide notification No. 15/21/2010-DGAD, dated the 9th August, 2010, published in Part I, Section 1 of the Gazette of India, Extraordinary, dated the 9th August, 2010, had initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on Rubber Chemical PX-13 (6PPD) (hereinafter referred to as the subject goods) falling under Chapters 29 and 38 of the First Schedule to the Customs Tariff Act 1975, (51 of 1975), originating in, or exported from, Korea RP (hereinafter referred to as the subject country), imposed *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue), No.133/

2008-Customs, dated the 12th December, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R.853 (E), dated the 12th December, 2008;

And whereas, in the matter of Mid-term review of anti-dumping on import of the subject goods, originating in, or exported from, the subject country, the designated authority *vide* its final findings No. 15/21/2010-DGAD dated the 5th August, 2011, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 5th August, 2011, had come to the conclusion that-

(i) the subject goods were entering the Indian market from the subject country at dumped prices and dumping margins of the subject goods imported from the subject country was significant and above de-minimis. The subject goods continue to be exported to India at dumped prices in spite of existing anti dumping duties;

(ii) though the situation of the domestic industry had improved due to existing anti-dump-

ing duties, it is noted that price undercutting and price underselling were significant from the subject country. Hence, injury to the domestic industry is likely to recur in case the present anti-dumping duties are not modified.

and had recommended continuation of anti-dumping duty, at modified rates, against imports of the subject goods, originating in, or exported from, the subject country, so as to remove injury to the domestic industry;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) read with rules 18 and 23 of the said rules, the Central Government, after considering the aforesaid findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under sub-heading of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), and exported from the country as specified in the corresponding entry in column (5), and produced by the producer as specified in the corresponding entry in column (6), and exported by the exporter as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty which shall be equal to the amount mentioned in the corresponding entry in column (8) in the currency as specified in the corresponding entry in column (10) and per unit of measurement as specified in the corresponding entry in column (9), of the said Table.

Table

SNo	Sub-heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Duty amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	292519, 292520, 293420, 381210, 381212, 381220, 381230	PX-13 (6PPD) having chemical description N-(1,3-dimethyl butyl)-N" phenyl-P-1 or 6C, Piflex 13, Sirantox 4020 Anti-oxident 4020, Kumhonax 13 Vulcanox 4020 etc.	Korea RP	Korea RP	Kumho petrochemicals Company Ltd.	Kumho petrochemicals Company Ltd.	36.23	Kg	INR
2	-do-	-do-	Korea RP	Korea RP	Any combination of Producer and Exporter other than at 1 above		42.99	Kg	INR
3	-do-	-do-	Korea RP	Any Country	Any other than above		42.99	Kg	INR
4	-do-	-do-	Any country other than China PR and EU	Korea RP	Any other than above		42.99	Kg	INR

2. The anti-dumping duty imposed under this notification shall be effective from the date of publication of this notification in the Official Gazette and up to and inclusive of 4th May, 2013 and will be paid in Indian currency.

Explanation.- For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962, (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[F. No.354/32/2008-TRU (Pt-I)]

BSNL Eligible for Service Tax Exemption for Local Calls provided through Village Panchayat Telephones

Subject: Service Tax – Audit of the accounts of M/s Bharat Sanchar Nigam Ltd, Tiruchirapalli – Issue of eligibility or otherwise of Notification No.03/1994 - ST dated 30.6.1994 in case of telephone services for local calls provided through Village Panchayat Telephones

146-ST
20.09.2011
(DoR)

Reference has been received from the Chief Commissioner, Central Excise, Coimbatore, wherein, a clarification has been requested for uniformity in assessment as regards levy of service tax on telephone services rendered by M/s BSNL through Village Panchayat Telephone (VPT) with local call facility, after M/s BSNL have become a public sector unit.

2. The issue in brief is that M/s. BSNL, which

was earlier (that is, prior to 1.11.2000) known as Department of Telecommunications, had been rendering telephone services through Village Panchayat Telephone (VPT) for local call facility.

2.2 Notification No.3/94-ST dated 30.6.1994 exempts specified taxable services and includes interalia - 'Departmentally run Public Telephones for local calls' (Sl.No.12 of the table under the Notification). Thus, upto 31.10.2000, the Department of Telecommunications was correctly

availing exemption under the above provisions for rendering the said services. However, after 1.11.2000, Department of Telecommunications was corporatized into M/s BSNL, a public sector undertaking. **Therefore, a doubt has arisen as to whether M/s BSNL would be eligible for the said exemption under Sl.No.12 of the table appended to notification No.3/94, since it is not a government department anymore.** There have been conflicting views on the subject and a clarification has therefore been requested.

3. The matter has been examined. As per Sl.No.13 of the table appended to the Notification No.3/94(S.T.) dated 30.6.94, there is exemption for 'Guaranteed Public Telephone operating only for local calls' and therefore, M/s.

BSNL is eligible for exemption under this provision. In this context, the PSU Division of Department of Communications, Ministry of Communications and IT, has also clarified that Village Public Telephones (VPTs) with facility of local calls (without 95 dialing facility or STD facility) would fall under the category of 'Guaranteed Public Telephone operating only for local calls'.

4. **Thus, even after 1.11.2000, M/s. BSNL continue to be covered under the ambit of the said notification** (by virtue of Sl.No.13 of the table appended to the notification) **and, therefore, are clearly eligible for exemption.**

5. It is requested that all pending matters on this issue may please be decided accordingly.
F. No. 137/115/2011 – Service Tax

R&D Cess on Transfer of Technology

47-ST In exercise of the powers
19.09.2011 conferred by sub-section (1)
(DoR) of section 93 of the Finance
Act, 1994 (32 of 1994), the
Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 17/2004-Service Tax, dated the 10th September, 2004, which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 591 (E), dated the 10th September, 2004, namely:-

In the said notification, for the words, figures and brackets "amount of cess paid on the said transfer of technology under the provisions of Section 3 of the Research and Development Cess Act, 1986 (32 of 1986).", the following words, figures and brackets shall be substituted, namely:-

"amount of cess payable on the said transfer of technology under the provisions of section 3 of the Research and Development Cess Act, 1986 (32 of 1986), subject to the following conditions, namely:-

(A) the said amount of Research and Development Cess is paid within six months from the date of invoice or in case of associated enterprises the date of credit in the books of account:

Provided that the exemption shall be available only if the Research and Development Cess is paid at the time or before the payment for the service;

(B) records of Research and Development Cess are maintained for establishing the linkage between the invoice or the credit entry, as the case may be, and the Research and Development Cess payment challan.

2. This notification shall come into force on the date of publication in the Official Gazette.

[F. No. 354/140/2011-TRU]

CBEC Wants Proper Handing Over Charge to New Officer

Sub: *Handing over of Charge-Need for proper Handing Over Note.*

954-CBEC It has come to the notice of the
15.09.2011 Board that at the time of
(DoR) transfer of an officer, detailed
Handing Over Note indicating
the confidential records and documents, including documents/information relating to pending investigations, information reports like DRI-1 or AE-1, vigilance related records, pending important and time-bound matters, such as, audit objections, appeals, SLP/CA proposals, VIP references etc. in the custody or knowledge of such officer, is not given to/left for the new incumbent. In the absence of proper handing over of charge, important records/documents are lost sight of or even get lost/misplaced and important pending matters remain unattended. Such events often lead to avoidable situation, like, SCNs getting hit by limitation, delay in filing SLP/CA in the Supreme Court in cases involving substantial revenue or important question of law delay in completion of vigilance proceedings etc.

2. All the officers including subordinate staff are, therefore, directed to give a detailed Handing Over Note to their successors, incorporating

all pending matters requiring immediate attention. The Handing Over Note should be given at the time of handing over of charge or within seven working days. The confidential records, pertaining to vigilance matters, pending investigations etc. should be personally handed over to the successor. A copy of the Handing Over Note should be endorsed to the immediate superior officer. In case, any officer fails to give a proper Handing Over Note to the successor, the successor should bring it to the notice of his superior who will take appropriate action against the erring of officer.

3. The Commissioners who have recently been promoted as Chief Commissioner or the Chief Commissioners who have recently been transferred must send a handing over note to their respective successors, if not already done, before handing over/relinquishing charge, latest by 3-10-2011 under intimation to Chairman, CBEC, who is personally monitoring this matter.

4. These instructions may be brought to the notice of all concerned for strict compliance.

F.No. 296/125/2011-CX-9

DGFT Invites Suggestion for Modification in Appnx 37D (FPS Products) of Handbook Policy

F.No. 01/91/180/754/AM 12/PC3

Directorate General of Foreign Trade

Subject: *Suggestion for modification in Appendix 37D of HBPv1*

The Directorate General of Foreign Trade is constantly endeavouring to simplify the procedures relating to the Foreign Trade Policy. During the Sectoral Review Meetings with EPCs held in July 2011, copies of the Appendix 37D were circulated in the meetings and EPCs were requested to provide their suggestions to simplify the Appendix 37D of the Handbook of Procedures, Vol. 1.

2. In order to redesign Appendix 37D, all the stakeholders are requested to send their suggestions, if any, on the matter,

- Replies to be sent by mail to hardeep.singh@nic.in.
- Last date of sending the suggestions is 10.10.2011

R&D Cess on Transfer of Technology

46-ST In exercise of the powers
19.09.2011 conferred by sub-section (1)
(DoR) of section 93 of the Finance
Act, 1994 (32 of 1994), the

Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 18/2002-Service Tax, dated the 16th December, 2002, which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 823 (E), dated the 16th December, 2002, namely:-

In the said notification, for the words, figures and brackets "amount of cess paid on the said transfer of technology under the provisions of Section 3 of the Research and Development Cess Act, 1986 (32 of 1986).", the following words, figures and brackets shall be substituted, namely:-

"amount of cess payable on the said transfer of technology under the provisions of section 3 of the Research and Development Cess Act, 1986 (32 of 1986), subject to the following conditions, namely:-

(A) the said amount of Research and Development Cess is paid within six months from the date of invoice or in case of associated enterprises the date of credit in the books of account:

Provided that the exemption shall be available only if the Research and Development Cess is paid at the time or before the payment for the service;

(B) records of Research and Development Cess are maintained for establishing the linkage between the invoice or the credit entry, as the case may be, and the Research and Development Cess payment challan.

2. This notification shall come into force on the date of publication in the Official Gazette.

[F. No. 354/140/2011-TRU]

Excise RAC Now Only at Zonal Level

Sub: Regional Advisory Committee for organized sector and small scale industries –Meetings to be chaired by Chief Commissioners.

953-CBEC
12.09.2011
(DoR)

I am directed to invite your attention to the instructions contained in the Board's letter F.No. 282/10/93-CX.9, dated

21.12.93, wherein, in supersession of earlier instructions, guidelines were issued for constitution of Regional Advisory Committee (RAC) for organized sector in each of the Central Excise Collectorate (since re-christened as Commissionerate). Attention is also invited to the Board's instructions on the constitution of a separate RAC for small scale industries, issued vide letter F.No.282/34/73-CX-9, dated 22.12.75. It may be recalled that in terms of existing guidelines, there can be 12 members in the RAC for organized sector and it is open for the Commissioner to co-opt not more than 3 members for a specified period or for any particular meeting. Similarly, in terms of the existing instructions, the RAC for small scale industries shall consist of not more than 8 members and not more than 2 members can be co-opted for a specific period or for any particular meeting. The RAC meetings, which are held once in three months for organized sector and once in six months for small scale industries are presently being chaired by the Commissioner and the functions of the RAC are purely advisory in nature intended to resolve procedural difficulties of general nature. The Committees, which were earlier constituted with the approval of the Board, are now being constituted by the Chief Commissioner of the Zone and the earlier requirement of seeking post-facto approval of the Board for the re-constituted RAC has also been dispensed with vide Board's letter F.No. 282/5/2008-CX.9, dated 24.9.2008.

2. The subject of upgrading the level of RAC has been under consideration of the Board for past some time. The Board is of the view that to facilitate greater participation of the representatives of the trade and industry and also to raise

the quality of deliberations in the forum, the RAC should be constituted at the zonal level and the Chief Commissioner should preside over the RAC meetings. Constitution of the RAC at the Zonal level will also ensure uniformity of action within the Zone and expeditious implementation of the decisions taken in such meetings.

3. In view of above, it has been decided by the Board that:-

(a) A single RAC may be constituted/for both the organized sector as well as small scale industry by the Zonal Chief Commissioner for the entire zone and not for individual Commissionerates under his jurisdiction.

(b) The number of members in the RAC is raised from 12 to 16 so that all the registered Trade Associations, Chambers within the zone are adequately represented. Representatives of the State Government, Manufacturers, SSI, Exporters' Association, PSU etc . may also be included in the RAC.

(c) The Chief Commissioner is also empowered to co-opt three members from the industry or assessee group important from the zonal point of view for a specific period or for a particular meeting.

(d) The RAC meetings are to be convened on a quarterly basis under the Chairmanship of the Zonal Chief Commissioner.

(e) In respect of the Zones covering Commissionerates in different cities, the Chief Commissioner may, in his discretion, hold the RAC meetings at different Commissionerate Headquarters, if so felt necessary.

4. The existing guidelines stand superseded to the extent above.

5. It is requested that necessary action to re-constitute the RACs for the zones may kindly be taken immediately.

File No. 282/5/2008-CX.9(pt.)

tive security system for receipt, storage and clearance of bonafide cargo.

iv. Installation of CCTV camera in all common/public places

- Senior Officers of the Customs visiting CFS should not only sensitise the staff about security but also monitor the CCTV footage.

3. Apart from these measures, the CFS should sensitise and train their staff / labourers about the various security measures. Further, the CFS should explore the possibility for installing system to facilitate the use of Smart Card in future as proposed by BCHAA.

4. Any difficulties experienced in this regard may be brought to the notice of undersigned immediately.

F. No. S/5-Gen-48/2011 CFS M. Cell

Medical Expenses Paid to NRI by Resident Individuals will Cover under Term 'Services Related Thereto'

Subject: Meeting of Medical expenses of NRIs close relatives by Resident Individuals

AP(DIR Srs) Attention of Authorised Dealer Cir.20 (AD) banks is invited to para 2 16.09.2011 of the Notification No. FEMA (RBI) 16/RB-2000 dated May 3, 2000 viz. Receipt from and Payment

to, a Person Resident Outside India, as amended from time to time, in terms of which a resident may make payment in rupees towards meeting expenses on account of boarding, lodging and services related thereto or travel to and from and within India of a person resident outside India who is on a visit to India.

2. The Committee to review the facilities for individuals under the Foreign Exchange Management Act (FEMA), 1999 has in its Report recommended that the ambit of FEMA Notification No.16/RB-2000 dated May 3, 2000 may be expanded to include permission to residents to bear medical expenses of visiting NRIs/PIOs.

3. The extant position has been reviewed and it has been decided that where the **medical expenses in respect of NRI close relative (relative as defined in Section 6 of the Companies Act, 1956) are paid by a resident individual, such a payment being in the nature of a resident to resident transaction may be covered under the term "services related thereto"** under Regulation 2(i) of Notification No. FEMA 16 /2000- RB dated May 3, 2000, *ibid*.

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

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

Improving Security Measures in the CFSs Premises

The following Public Notice was issued by the Commissioner of Customs (Export) Jawaharlal Nehru Custom House on 16th September 2011

Sub: Improving security in the premises of CFSs.

121-PN
16.09.2011

In the backdrop of deteriorating security environment, Chief

Commissioner of Customs, Mumbai II held a meeting with all the representatives of the CFS on 14.09.2011 and discussed the various measures for upgrading the security of the CFS.

2. It has been decided that the CFS should take up the following security measures immediately:-

i. Regulate the entry of persons

- Photo I-Card may be issued to all concerned i.e. staff, labour by the CFS
- All the person entering into the CFS should display their I-Card at the gate as well as throughout their stay in the CFS.

- Gate Register/Visitor Register should be strictly maintained by the CFS.

ii. Regulate the entry of vehicle

- CFS should take the photocopy of license of all the truck / lorry drivers entering into the CFS and retain the same for some time.
- CHAs should be asked to give the nos. of the trucks and drivers' particulars entering on their behalf.
- CFS should make arrangement to search all vehicles incoming/outgoing into CFS.

iii. Separate Internal Security Arrangement

- CFS should make arrangement for effec-

Repayment of Loans of Non-Resident Close Relatives by Residents

AP(DIR Srs) Attention of the AD banks
Cir.19 is invited to Regulation 8 (d)
16.09.2011 of the FEMA Notification
(RBI) No.4/2000- RB dated May 3,
2000 viz. Foreign Exchange
Management (Borrowing and Lending in Rupees) Regulations, 2000, as amended from time to time, in terms of which the housing loan provided to a non-resident Indian or a person of Indian origin resident outside India by an authorised dealer or a housing finance institution in India approved by the National Housing Bank for acquisition of a residential accommodation in India, may be repaid by any relative of the borrower in India by crediting the borrower's loan account through the bank account of such relative (relative as defined in section 6 of the Companies Act, 1956). Thus, repayment of loan by close relative in respect of loan in rupees availed by NRI is restricted to housing loans only.

2. The Committee to review the facilities for individuals under the Foreign Exchange Management Act (FEMA), 1999 has in its Report recommended that resident individuals may be

granted general permission to repay loans availed of from banks in Rupees in India by their NRI close relatives as defined under Section 6 of the Companies Act.

3. The extant provision has now been reviewed and it has been decided that where an authorised dealer in India has granted loan to a non-resident Indian in accordance with Regulation 7 of the Notification No. FEMA 4/2000-RB, *ibid*, such loans may also be repaid by resident close relative (relative as defined in Section 6 of the Companies Act, 1956), of the Non-Resident Indian by crediting the borrower's loan account through the bank account of such relative.

4. The necessary amendments to the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 are being issued separately.

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

RBI Permits Resident Individuals to Lend a Loan to NRI

Subject: Loans in Rupees by resident individuals to NRI close relatives

AP(DIR Srs) Attention of the Authorised
Cir.18 Dealer (AD) banks is invited
16.09.2011 to Regulation 7 of the
(RBI) Notification No. FEMA 4/2000
dated May 3, 2000, viz.

Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000, as amended from time to time, in terms of which an authorised dealer in India may grant loan in rupees to a non-resident Indian.

2. The Committee to review the facilities for individuals under the Foreign Exchange Management Act (FEMA), 1999 has in its Report recommended that resident individuals may be granted general permission to lend in Rupees to their non-resident close relative (means relative as defined in Section 6 of the Companies Act, 1956) for any personal purpose or business activities other than agricultural/plantation activities or real estate or relending business.

3. The extant position has been reviewed and it has been decided to permit a resident individual to lend to a Non resident Indian (NRI)/ Person of Indian Origin (PIO) close relative [means relative as defined in Section 6 of the Companies Act, 1956] by way of crossed cheque /electronic transfer, subject to the following conditions:

(i) the loan is free of interest and the minimum maturity of the loan is one year;

(ii) the loan amount should be within the overall limit under the Liberalised Remittance Scheme of USD 200,000 per financial year available for a resident individual. It would be the responsibility of the lender to ensure that the amount of loan is within the Liberalised Remittance Scheme limit of USD 200,000 during the financial year;

(iii) the loan shall be utilised for meeting the borrower's personal requirements or for his own business purposes in India;

(iv) the loan shall not be utilised, either singly or in association with other person, for any of the activities in which investment by persons resident outside India is prohibited, namely;

(a) the business of chit fund, or

(b) Nidhi Company, or

(c) agricultural or plantation activities or in real estate business, or construction of farm houses, or

(d) trading in Transferable Development Rights (TDRs).

Explanation: For the purpose of item (c) above, real estate business shall not include development of townships, construction of residential / commercial premises, roads or bridges.

(v) The loan amount should be credited to the NRO a/c of the NRI /PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c;

(vi) the loan amount shall not be remitted outside India; and

(vii) repayment of loan shall be made by way of inward remittances through normal banking channels or by debit to the Non-resident Ordinary (NRO) / Non-resident External (NRE) / Foreign Currency Non-resident (FCNR) account of the borrower or out of the sale proceeds of the shares or securities or immovable property against which such loan was granted.

4. The necessary amendments to the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 and Foreign Exchange Management (Deposit) Regulations, 2000 are being issued separately.

5. AD banks may bring the contents of this circular to the notice of their constituents and customers concerned.

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

RBI Permits Resident Individuals can Make Rupee Gifts to NRI by Way of Cross Cheque or E-Transfer

Subject: Gift in Rupees by Resident Individuals to NRI close relatives

AP(DIR Srs) Attention of the Authorised
Cir.17 Dealer (AD) banks is invited
16.09.2011 to A.P. (DIR Series) Circular
(RBI) No. 24 dated December 20,
2006 and A.P. (DIR Series)

Circular No. 9 dated September 26, 2007 in terms of which the remittances towards gift and donation by a resident individual was included in the Liberalised Remittance Scheme.

2. The Committee to review the facilities for individuals under the Foreign Exchange Management Act (FEMA), 1999 has in its Report recommended that the ambit of FEMA Notification No.16/RB-2000 dated May 3, 2000 may be expanded to include permission to residents making gifts to and bearing medical expenses of visiting NRIs/PIOs.

3. The extant position has been reviewed and it has been **decided to permit a resident individual to make a rupee gift to a NRI/PIO who is a close relative of the resident individual [close relative as defined in Section 6 of the Companies Act, 1956] by way of crossed cheque /electronic transfer.** The amount should be credited to the Non-Resident (Ordinary) Rupee Account (NRO) a/c of the NRI / PIO and credit of such gift amount may be treated as an eligible credit to NRO a/c. The gift amount would be within the overall limit of USD 200,000 per financial year as permitted under the Liberalised Remittance Scheme (LRS) for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount being remitted is under the LRS and all the remittances under the LRS during the financial year including the gift amount have not exceeded the limit prescribed under the LRS.

4. The necessary amendments to the Foreign Exchange Management (Deposit) Regulations, 2000 and Notification No. FEMA 16/RB-2000 dated May 3, 2000 viz. Receipt from and Payment to, a Person Resident Outside India are being issued separately.

5. AD banks may bring the contents of this circular to the notice of their constituents and customers concerned.

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

FII into NRE/FCNR Accounts Facility Extended to NRIs also

Subject: Credit of sale proceeds of Foreign Direct Investments in India to NRE/FCNR (B) accounts - Clarification

AP(DIR Srs) Attention of the Authorised Dealer (AD) banks is invited to Regulation 11 of the Notification No. FEMA 20/2000-15.09.2011 RB dated May 3, 2000 viz. Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, as amended

from time to time.

2. The Committee constituted to Review the Facilities for Individuals under the Foreign Exchange Management Act, 1999 in its Report has recommended that sale proceeds of FDI investments may be permitted to be credited to NRE/FCNR accounts as there is no provision under Regulation 11, *ibid*, for credit of the sale proceeds of FDI investments into NRE/FCNR accounts.

3. Hitherto, in terms of Schedule 3, 4 and 5 of the FEMA Notification No. 20/2000-RB dated May 3, 2000, sale proceeds of Foreign Investments in India were treated as eligible credit to NRE/FCNR (B) accounts, where the purchase consideration was paid by the Non-resident Indians / Persons of Indian Origin out of inward remittance or funds held in their NRE/FCNR (B) accounts and subject to applicable taxes, if any. It is now clarified that the same facility would be available to NRIs/ PIOs under Regulation 11 of the said Notification.

4. AD banks may be accordingly guided and bring the contents of this circular to the notice of their constituents/customers concerned.

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

Operating Joint Account in EEFC/RFC Bank Accounts on 'Former or Survivor' Basis

Subject: Exchange Earners Foreign Currency (EEFC) Account and Resident Foreign Currency (RFC) account – Joint holder - liberalisation

AP(DIR Srs) Attention of the Authorised Dealer (AD) banks is invited to the Regulation 4 and 5 of the Notification No. FEMA 15.09.2011 10/2000-RB dated May 3, 2000 viz. Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000 in terms of which resident individuals are permitted to open EEFC and RFC account, respectively.

2. The Committee to Review the Facilities for Individuals under the Foreign Exchange Management Act, 1999 has in its Report recommended that RFC / EEFC accounts may be permitted to be held jointly with a resident close relative, as defined in Section 6 of the Companies Act, 1956.

3. On a review, it has been decided that **resident individuals may be permitted to include resident close relative(s) as defined in the Companies Act, 1956 as a joint holder(s) in their EEFC/RFC bank**

Customs Valuation Exchange Rates

September 2011	Imports	Exports	
Schedule I			
1 Australian Dollar	48.85	47.65	
2 Canadian Dollar	47.35	46.10	
3 Danish Kroner	9.05	8.80	
4 EURO	67.25	65.60	
5 Hong Kong Dollar	5.95	5.85	
6 Norwegian Kroner	8.65	8.35	
7 Pound Sterling	76.45	74.65	
8 Swedish Kroner	7.40	7.15	
9 Swiss Franc	55.07*	53.58*	
10 Singapore Dollar	38.60	37.70	
11 U.S. Dollar	46.55	45.75	
Schedule II			
1 Japanese Yen	60.80	59.10	

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

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

(Source: Customs Notification 62(NT)/26.08.2011; *w.e.f 16.09.2011)

Commodity Spot Prices in India – 23-26 September 2011

These commodity prices are taken from Multi Commodity Exchange of India (Mumbai) at 6 pm every day.

(Rs.)					
Commodity	Unit	Market	23-Sep	24-Sep	26-Sep
CER (Carbon Trading)	1 MT	Mumbai	531.5	543	543
Chana	100 KGS	Delhi	3560	3633	3618
Masur	100 KGS	Indore	3214	3199	3190
Potato	100 KGS	Agra	461.6	461.4	453
Potato TKR	100 KGS	Tarkeshwar	448.5	448.5	430.6
Areca nut	100 KGS	Mangalore	NA	NA	NA
Cashewkern	1 KGS	Quilon	NA	NA	NA
Cardamom	1 KGS	Vandanmedu	706.9	706.8	696.7
Coffee ROB	100 KGS	Kushalnagar	NA	NA	NA
Jeera	100 KGS	Unjha	NA	NA	NA
Pepper	100 KGS	Kochi	NA	NA	NA
Red Chili	100 KGS	Guntur	NA	NA	NA
Turmeric	100 KGS	Nzmbad	5338	5338	5335
Guar Gum	100 KGS	Jodhpur	NA	NA	NA
Maize	100 KGS	Nzmbad	1143	1141.5	1140
Wheat	100 KGS	Delhi	1169.6	1170.9	1168.8
Mentha Oil	1 KGS	Chandausi	1478.3	1466.8	1494.6
Cotton Seed	100 KGS	Akola	NA	NA	NA
Castorsd RJK	100 KGS	Rajkot	4481.5	4412	4251
Guar Seed	100 KGS	Bikaner	4603	4638	4570
Soya Bean	100 KGS	Indore	2263	2274	2170
Mustrdsd JPR	20 KGS	Jaipur	601	601.4	597
Sesame Seed	100 KGS	Rajkot	5981	5967	5963
Coconut Oil Cake	100 KGS	Kochi	NA	NA	NA
RCBR Oil Cake	1 MT	Raipur	NA	NA	NA
Kapaskhali	50 KGS	Akola	1394.2	1389.4	1366.8
Coconut Oil	100 KGS	Kochi	8996	8996	8996
Refsoy Oil	10 KGS	Indore	660.05	659.25	654.05
CPO	10 KGS	Kandla	500	497.8	487.7
Mustard Oil	10 KGS	Jaipur	662.1	657.9	655.2
Gnutoilexp	10 KGS	Rajkot	930	902.1	850
Castor Oil	10 KGS	Kandla	NA	NA	NA
Crude Oil	1 BBL	Mumbai	3931	3966	3966
Furnace Oil	1000 KGS	Mumbai	NA	NA	NA
Sourcrd Oil	1 BBL	Mumbai	NA	NA	NA
Brent Crude	1 BBL	Mumbai	5150	5165	5165
Gur	40 KGS	Muzngr	NA	NA	NA
Sugars	100 KGS	Kolhapur	2690	2690	NA
Sugarm	100 KGS	Delhi	2940	2940	2940
Natural Gas	1 mmBtu	Hazirabad	180.9	183.8	183.8
Rubber	100 KGS	Kochi	21483	21360	21178
Cotton Long	1 Candy	Kadi	NA	NA	NA
Cotton Med	1 Maund	Sriganganagar	NA	NA	NA
Jute	100 KGS	Kolkata	2594	2597.5	2583
Gold	10 GRMS	Ahmd	27308	26682	26128
Gold Guinea	8 GRMS	Ahmd	21934	21432	20987
Silver	1 KGS	Ahmd	55521	53060	49800
Sponge Iron	1 MT	Raipur	NA	NA	NA
Steel Flat	1000 KGS	Mumbai	NA	NA	NA
Steel Long	1 MT	Gobindgarh	NA	NA	NA
Copper	1 KGS	Mumbai	375.45	359.2	359.2
Nickel	1 KGS	Mumbai	890.3	890.3	912.3
Aluminium	1 KGS	Mumbai	107.8	107.8	108.9
Lead	1 KGS	Mumbai	101.7	101.7	98.9
Zinc	1 KGS	Mumbai	96.45	96.45	92.25
Tin	1 KGS	Mumbai	948.75	948.75	1032

(Source: MCX Spot Prices)

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Releasing on 3 Oct 2011

ARUN GOYAL

SEPTEMBER 2011

BIG's EASY REFERENCE
CUSTOMS TARIFF

31st Edn., As on 30 Sept. 2011

- E-Payment of Duty
- Self-Assessment
- **RTA:** Indo-Japan CEPA, Indo-Malaysia PTA, Philippines
- Mobile Phones on 1%
- New Weights and Measures (LM Act) from 1 August
- **Anti-dumping:** Glass Fibre, Opal Glassware, Hydrofluoric Acid, Sewing Machine Needles, Silk Fabrics
- New Marble Policy
- MRP Based Assessment; MRP Labelling
- Rice, Onion and Cotton Exports
- Imports and Exports by Courier
- Second Hand Computers; Parts of Printers
- Skimmed Milk Powder TRQ
- Baggage • Samples • Project Imports
- Export Tariff and DGFT Restrictions
- EPCG/SEZ/EOUs • Free Trade Agreements • Re-exports • Exhibitions

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accounts on 'former or survivor' basis. However, such resident Indian close relative, now being made eligible to become joint account holder, shall **not be eligible to operate the account during the life time of the resident account holder.**

4. The necessary amendments to the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000 are being issued separately.

5. AD banks may bring the contents of this circular to the notice of their account holders concerned.

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