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## Indian Shrimp Export Industry Get Great Relief in US Countervailing Duty US Rules in Favour of India in Countervailing Duty Investigation on Frozen Shrimp exports

The United States International Trade Commission (USITC) determined that the US industry is neither materially injured nor threatened with material injury by reason of imports of frozen warm water shrimp from India, China, Ecuador, Malaysia, and Vietnam. USITC voted 4-2 against imposition of countervailing duty (CVD) against India and other six countries. As a result of the USITC's negative determinations, US Commerce will not issue countervailing duty orders on imports of these products from India, China, Ecuador, Malaysia, and Vietnam. The final decision of USITC brings great relief to Indian shrimp industry and its exports.

It may be recalled that Commerce Secretary S R Rao had expressed optimism about the favourable final outcome in the CVD investigation, at the time of inauguration of 2nd phase of Aquatic Quarantine Facility (AQF) at Chennai on 9th January 2013. He has also said that The Marine Product Export Development Authority (MPEDA), the nodal agency for promotion of seafood exports from India will be handling the case.

It all started with, when the Coalition of Gulf Shrimp Industries filed a petition on behalf of its 28 member companies on 28th Decemeber 2012. COGSI claims that sub-sidies provided by Government of India to the Indian shrimp Industry provide an unfair advantage for Indian

shrimp exports to the US, resulting in Indian exporters to sell their products at lower prices. On behalf of Government of India, Ms. Leena Nair, Chairman, MPEDA had consultations with the USDOC on the subject matter and had meeting with USITC on January 14, 2013. Chairman, MPEDA also attended the conference /USITC hearing in connection with the investigation.

US Department of Commerce (USDOC) had issued a questionnaire for the Government of India on 14 February, 2013, and selected two major shrimp exporters from India as mandatory respondents. Based on the replies received from all relevant organizations, the response of Government of India to the questionnaires was filed by MPEDA. Two more supplementary questionnaires were also replied.

On 28th May 2013, the US Department of Commerce preliminarily determined that countervailable subsidies are being provided to producers and exporters of certain frozen Warm water shrimp (frozen shrimp) from India. USDOC has preliminarily determined a cash deposit rate of 5.91% for exports made from India. The preliminary determinations were favourable for exports from countries like Ecuador, Indonesia. In order to verify the records submitted by the mandatory respondents, USDOC officials have visited India for verifica-

tion of subsidy details submitted by Government of India and mandatory respondents.

On 13th August 2013, US Department of Commerce announced its affirmative final determinations in Countervailing Duty investigations of imports of certain frozen warm water shrimp from Ecuador, India, Malaysia, China, Vietnam and negative final determination for Indonesia & Thailand. Exporters from India have been assigned a subsidy rate of 10.84%. In preliminary determination, Ecuador was excluded from CVD, however in final determination higher CVD rate was assigned.

As some of the alleged schemes in India were terminated during the period of investigation, USDOC has finally determined a cash deposit rate of 5.85% for exports made from India. Final results on CVD for Vietnam (4.52%), China (18.16%) & Malaysia (54.5%), Ecuador (11.68%) were also announced. Indonesia and Thailand got de minimis (0%) subsidy rate in final CVD determinations. The final determinations were favourable for exports from countries like Thailand and Indonesia and these countries escaped from countervailing duties.

Due to the CVD cash deposit rate (5.85%) and present level of anti-dumping duty (3.49%), Indian Shrimp

exports to USA would have been costlier than any of its closest competi-

**US Commerce will not issue countervailing duty orders on imports of these products from India, China, Ecuador, Malaysia, and Vietnam.**

More over if countervailing duty was imposed, it would have helped Thailand and Indonesia to monopolise the US shrimp market and market access of Indian shrimp would have been affected. Due to positive final CVD determinations, USDOC instructed to US Customs and border protection to order cash deposits equal to the final subsidy rates if the USITC issues final positive injury determinations. Thailand and Indonesia was excluded from CVD in final determination.

But the ruling by USITC, which is the last step in this investigation came in favour of India and six other countries which negates the USDOC's decision. USITC today determined that the US industry is neither materially injured nor threatened with material injury by reason of imports of frozen warm water shrimp from India and four other countries. Due to this none of the seven countries including India need not pay duties for their shrimp exports to US. Chairman MPEDA said that USITC's ruling will bring a great relief to Indian shrimp industry and shrimp exporters in India. She also stressed importance of the efforts taken in the process of investigation by Govt of India, specifically commerce Secretary S R Rao, MPEDA and Seafood Exporters Association of India (SEAI) for getting a favourable ruling from USITC.



## New WTO Chief Jump Starts Doha for Bali Ministerial



New WTO Director-General Roberto Azevêdo has jump-started negotiations in Geneva by launching an intensive series of meetings aimed at narrowing gaps ahead of the global trade body's ninth ministerial conference, delegates say.

Officials told that the chief of the global trade body, who took office on 1 September, has leapt into the driving seat three months ahead of the Bali meeting, where WTO members are hoping to sign off on a set of deliverables from the Doha Round of trade talks.

### Three tiers of talks

Azevêdo is organising a series of meetings at three different levels, addressing the full range of outstanding issues for Bali, negotiators say.

Firstly, a senior officials meeting is scheduled for 19 September, with participation from capital-based negotiators.

Secondly, around three dozen Geneva-based ambassadors from a cross-section of negotiating interests and coalitions have been meeting regularly, accompanied by no more than one technical official each. The consultations - dubbed "room E" meetings after the WTO room where they are held - are nonetheless open to any country that asks for an invitation, trade sources said.

Lastly, a meeting of the Trade Negotiations Committee (TNC), which is tasked with the overall Doha Round talks, has been slated for 23 September morning.

### "Room E" meetings on agriculture, trade facilitation

A meeting was called in "room E" format on 18 September to look at a proposal to cap agricultural export subsidies and similar measures. Similar discussions were held on 12 and 13 September on other outstanding agricultural trade issues and on "trade facilitation" - a potential deal to ease red tape and administrative requirements on border crossings, which has been touted as the centrepiece of any Bali package.

A new unofficial "non-paper," prepared by a small subset of G-33 members, has proposed three options for a Bali deal in this area. Proposes an "understanding" on government stockholding programmes for food security purposes; a "decision" interpreting existing clauses in the Agreement on Agriculture on how to take into account price inflation when calculating farm subsidies; and a "peace clause" or due restraint mechanism that would commit WTO members to refrain from bringing legal disputes in this area.

For all three options, the proponents have set out draft legal language that would address their concerns.

### India-US Tell

While Azevêdo's proactive engagement might involve risks, the approach seemed to have paid off so far, one delegate said.

"India and the US are speaking to one another, at very senior political levels, about Bali," the source observed. Differences between the two countries were widely seen as having contributed to a breakdown in talks aimed at clinching a Doha Round deal five years ago.

## Biofuels: European Parliament Votes to Cap Food-based Fuel Sources

The European Parliament voted last week to cap the use of controversial biofuels made from edible agricultural crops, amid concerns over their environmental impact and effects on food prices.

The measure, which passed narrowly by a 356-327 margin, imposes a six percent cap on food-based biofuels to be blended in the EU transport fuel mix. Such biofuels, also known as first-generation biofuels, are based on agricultural crops such as rapeseed, sugar, and corn. These biofuels are then mixed with conventional transport fuel to create the final mix.

First-generation biofuels were heavily favoured during the EU's original mandate to source 10 percent of ground transport fuel from renewable resources by 2020. However, the European Parliament has since revisited the legislation following pressure from environmental groups and new scientific research about biofuels' potential impacts.

### Environmental concerns

In addition to capping first-generation biofuels, parliamentarians have also called for a 2.5 percent target of so-called "advanced" non-food based biofuels - made from sources such as seaweed and agricultural waste products - to be added to the 2020 renewable fuel mix targets.

### Lukewarm response

Biofuel industry lobbies, such as the European Biodiesel Board, have in turn called for the EU to show consistency in its legislation, while asking for a higher biofuel cap, warning that any uncertainty in future biofuel regulation could pose difficulties for investors.

The new legislation would effectively eliminate the use of many first-generation biofuels - particularly palm, rapeseed, and soy oil - due to concerns over the carbon emissions released indirectly in their use. Some industry groups, however, argue that these claims are based on "uncertain science."

## WTO Sees Demand Revival and Sluggish Trade Growth Ahead

World trade growth in 2013 and 2014 is likely to be slower than previously forecast. WTO economists now predict 2013 growth of 2.5% (down from the 3.3% forecast in April) and 4.5% in 2014 (down from 5.0%), but they say conditions for improved trade are gradually

to be slower than previously forecast. WTO economists now predict 2013 growth of 2.5% (down from the 3.3% forecast in April), and 4.5% in 2014 (down from 5.0%), but they say conditions for improved trade are gradually falling into place.

The demand for imports in developing economies is reviving but at a slower rate than expected. This hindered the growth of exports from both developed and developing countries in the first half of 2013 and was the reason for the lower forecasts, they said.

Some short-term prospects are improving with encouraging data coming from Europe, the US, Japan and China. Reports on private sector activities

World merchandise trade volume by level of development, 2010Q1-2013Q4\*  
Seasonally adjusted indices, 2005Q1=100



\* Figures for 2013Q3 and 2013Q4 are projections.

Source: WTO Secretariat.

falling into place. "There is a message for the WTO in this," said WTO Director-General Roberto Azevêdo. "The past two years of sluggish trade growth reinforce the need to make progress in the multilateral negotiations."

World trade growth in 2013 and 2014 is likely

from purchasing managers (purchasing managers' indices, which give some indication about future activity), shipping rates, automobile production and other leading indicators, suggest that the economic slowdown has bottomed out and that a tentative recovery is underway. This is

expected to be reflected in rising quarterly growth in the months ahead, WTO economists say.

The European sovereign debt crisis has eased significantly since last year, unemployment in the United States has fallen to 7.3% from a post-crisis high of 10%, and growth of GDP (gross domestic product, a measure of a country's output) in Japan has accelerated since the adoption of new fiscal and monetary policies.

Although large developing economies have slowed appreciably in recent months, the latest figures from China on industrial production suggest that the country may be regaining some of its dynamism. On the other hand, India's economy is still in the midst of a sharp contraction according to composite leading indicators calculated by the Organisation for Economic Cooperation and Development (OECD).

However, since the European Union consumes roughly one third of the world's traded goods (including shipments between member countries

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## WEEKLY INDEX OF CHANGES

### Rough Marble Blocks Quota Allocation – Monthly Returns by Importers Must

#### DGFT Issues 539 Marble Quota Allottees List

Sub: Allocation of quantity of Rough Marble and Travertine Blocks for import for Financial Year 2013-14.

07-TN In terms of Notification No.37  
19.09.2013 (RE-2013)/2009-2014 dated  
(DGFT) 26.8.2013, the allocation of 6  
lakh MTs of Rough Marble and  
Travertine Blocks for import, is attached as  
Annexure to this Trade Notice.

2. Issue of import authorisation  
by RAs of DGFT would commence  
from 20<sup>th</sup> September 2013 & end on  
25<sup>th</sup> September 2013. In case any  
applicant/firm is found to have sub-  
mitted false or erroneous informa-  
tion or have made any mis-declara-  
tion / misrepresentation, such applicant / firm,  
(a) shall forfeit the allocation made in this Trade  
Notice, (b) shall be debarred from allocation of  
Rough Marble and Travertine Blocks in future  
and (c) shall be liable for penal action under the  
provisions of Foreign Trade (D&R) Act, 1992, as



amended.

3. License holders shall file monthly returns  
regarding imports made by them, to the con-  
cerned Regional Authority of DGFT by the 15<sup>th</sup>  
of each succeeding month in which license is  
obtained (for example, if a license is obtained on  
23<sup>th</sup> September, the authorisation  
holder will file monthly return for  
imports made in September by 15<sup>th</sup>  
of October) and for each month  
thereafter by the 15<sup>th</sup> day. **This is a  
mandatory requirement as per  
para 3(C)(V) of the said notifica-  
tion no.37 dated 26.8.2013.**

**Annexure: List of 539 applicants with quan-  
tity allocated and file number of Regional  
Authority (20 Pages) is available at our  
website [www.worldtradescanner.com](http://www.worldtradescanner.com).**

### No Anti-dumping and Safeguard Exemption on Transferable Advance Licences w.e.f. 18 April 2013

Ntnf 45 In exercise of the powers  
17.09.2013 conferred by sub-section (1)  
(DoR) of section 25 of the Customs  
Act, 1962 (52 of 1962), the

Central Government, being satisfied that it is  
necessary in the public interest so to do, hereby  
makes the following further amendments in the  
notification of the Government of India in the  
Ministry of Finance (Department of Revenue)  
No. 98/2009-Customs dated the 11<sup>th</sup> Septem-  
ber, 2009 published *vide* number G.S.R. 664(E),  
dated the 11<sup>th</sup> September, 2009, namely :-

In the said notification,-

(a) in the opening paragraph, for the words and  
figure "Customs Tariff Act, except to the extent  
specified in paragraph 2 of this notification,  
subject", the words, figures and letter "Customs  
Tariff Act, except to the extent specified in  
paragraph 2 or 2A of this notification, as the  
case may be, subject" shall be substituted;

(b) the existing paragraph 2A shall be renum-  
bered as paragraph 2AB thereof and before  
paragraph 2AB as so renumbered, the following

paragraph shall be inserted, namely:-

"2A. With effect from 17<sup>th</sup> September 2013,  
the exemption from safeguard duty and anti-  
dumping duty shall not be available in case  
materials are imported against an authorisation  
that has been made transferable on or after the  
18<sup>th</sup> April, 2013 by the Regional Authority.";

(c) after paragraph 2AB as so renumbered ,  
the following paragraph shall be inserted,  
namely:-

"2AC. With effect from 17<sup>th</sup> September 2013,  
in case the imported materials are transferred  
with the permission of Regional Authority, and  
where such permission is granted on or after the  
18<sup>th</sup> April, 2013, the importer shall pay an amount  
equal to the safeguard duty and anti-dumping  
duty leviable on the material so imported and  
transferred, but for the exemption contained in  
paragraph 1 above, together with interest at the  
rate of fifteen per cent per annum from the date  
of clearance on import of the said materials."

[F.No.605/36/2013-DBK]

### Another Five Years for Anti-dumping Duty on Zinc Oxide from China in Review

Ntnf 21-ADD Whereas, the designated  
06.09.2013 authority, *vide* its notification  
(DoR) No.15/4/2011-DGAD, dated  
the 2<sup>nd</sup> May, 2012, published in  
Part I, Section I of the Gazette of India, Extraor-  
dinary, dated the 2<sup>nd</sup> May, 2012, had initiated a  
review in the matter of continuation of anti-  
dumping on imports of Zinc Oxide (hereinafter  
referred to as the subject goods) falling under  
tariff items 2817 0010 or 3812 3030 of the First  
Schedule to the Customs Tariff Act 1975, (51 of

1975), originating in, or exported from, the  
Peoples Republic of China (hereinafter referred  
to as the subject country), imposed *vide* notifi-  
cation of Government of India, in the Ministry of  
Finance (Department of Revenue), No. 64/2007  
dated the 7<sup>th</sup> May, 2007 published in Part II,  
Section 3, Sub-section (i) of the Gazette of  
India, Extraordinary, *vide* G.S.R. No. 329 (E),  
dated the 7<sup>th</sup> May, 2007.

And whereas, the Central Government had  
extended the anti-dumping duty on the subject

### MEP on Onions Raised to US\$900/MT from US\$650/MT

Subject: Export Policy of Onions.

41-Ntnf(RE) In exercise of powers  
19.09.2013 conferred by Section 5 of the  
(DGFT) Foreign Trade (Develop-  
ment & Regulation) Act, 1992  
(No. 22 of 1992) read with Para 2.1 of the  
Foreign Trade Policy, 2009-2014, the Cen-  
tral Government amends  
para 2 of Notification No.03  
(RE-2012)/2009-14 dated  
29.06.2012 read with Notifi-  
cation No.35(RE-2013)/  
2009-14 dated 14.08.2013  
with immediate effect .



2. The amended para 2 of Notification No.  
03(RE-2012)/2009-14 dated 29.06.2012 will  
now read as:

"Export of onion for the item description at  
Serial Number 51 & 52 of Schedule 2 of  
ITC(HS) Classification of Export & Import  
Items shall be permitted subject to a Mini-  
mum Export Price(MEP) of US\$ 900 per  
Metric Ton F.O.B. or as notified by DGFT  
from time-to-time".

#### 3. Effect of this Notification

Export of all varieties of onions as described  
above will be subject to a Minimum Export  
Price (MEP) of USD 900 per MT.

goods, originating in, or exported from, the  
subject country up to and inclusive of the 6<sup>th</sup>  
of May, 2013 *vide* notification of the Government  
of India, in the Ministry of Finance (Department  
of Revenue), No. 27/2012 –Customs (ADD)  
dated the 18<sup>th</sup> May, 2012, published in Part II,  
Section 3, Sub-section (i) of the Gazette of  
India, Extraordinary, *vide* G.S.R. No. 374(E),  
dated the 18<sup>th</sup> May, 2012.

And whereas, in the matter of review of anti-  
dumping on import of the subject goods, origi-  
nating in, or exported from the subject country,  
the designated authority *vide* its final findings,  
No. 15/4/2011-DGAD dated the 25<sup>th</sup> June, 2013,  
published in the Gazette of India, Extraordinary,  
Part I, Section 1, dated the 25<sup>th</sup> June, 2013, has  
come to the conclusion that –

(i) the subject goods are likely to enter the  
Indian market at dumped prices, should the  
present measures be withdrawn;

(ii) even though the domestic industry has  
improved its performance over the injury period,  
the injury to domestic industry may occur, should  
the present anti-dumping duties be withdrawn;

(iii) continuation of the antidumping duty is  
necessary against subject goods originating in  
or exported from China ;

and has recommended continued imposition  
of the anti-dumping duty against the subject  
goods, originating in, or exported from, the  
subject country ;

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 Customs Tariff

(Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final 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 tariff 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 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 a rate which is 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.	Tariff items	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	10
1	2817 00 10 or 3812 30 30	Zinc Oxide all Grades 99.5% purity	People's Republic of China	People's Republic of China	Any	Any	430.93	MT	USD
2	2817 00 10 or 3812 30 30	Zinc Oxide all Grades 99.5% purity	People's Republic of China	Any country other than People's Republic of China	Any	Any	430.93	MT	USD
3	2817 00 10 or 3812 30 30	Zinc Oxide all Grades 99.5% purity	Any country other than People's Republic of China	People's Republic of China	Any	Any	430.93	MT	USD

2. The rate of anti-dumping duty for Zinc Oxide of all grades of purity other than 99.5% shall be worked out on pro-rata basis.

3. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette. The anti-dumping duty shall be paid in Indian currency.

*Explanation.-* For the purposes of this notification, rate of exchange applicable for the pur-

poses 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, under 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.354/30/2001-TRU (Pt-III)]

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9A of the Customs Tariff Act, 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, 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, the specification of which is specified in column (4) of the Table below, falling under tariff item 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 (5), and exported from the countries as specified in the corresponding entry in column (6), and produced by the producers as specified in the corresponding entry in column (7), and exported by the exporters as specified in the corresponding entry in column (8), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (9), in the currency as specified in the corresponding entry in column (11) and per unit of measurement as specified in the corresponding entry in column (10) of the said Table:-

### Anti-dumping Duty Imposed on Sodium Perchlorate from China

Ntnf 20-ADD 06.09.2013 (DoR) Whereas, in the matter of Sodium Perchlorate (hereinafter referred to as the subject goods), falling under tariff item 28299010 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from, the People's Republic of China (hereinafter referred to as the subject country) and imported into India, the designated authority vide its final findings Fl. No. 14/10/2012-DGAD dated the 26<sup>th</sup> June, 2013, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 26<sup>th</sup> June, 2013, had come to the conclusion that-

(a) the subject goods have entered the In-

dian market from the subject country below associated normal values, thus resulting in dumping of the subject goods;

(b) the dumping margin of the subject goods imported from the subject country is above de minimus;

(c) the domestic industry has suffered material injury in respect of the subject goods; and

(d) the material injury to the domestic industry has been caused due to dumped imports of the subject goods from the subject country,

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

**Table**

SNo	Tariff-item	Description of goods	Specification	Country of origin	Country of export	Producer	Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	28299010	Sodium Perchlorate	All Grades	People's Republic of China	Any	Any	Any	0.23	Kg	US\$
2	28299010	Sodium Perchlorate	All Grades	Any	People's Republic of China	Any	Any	0.23	Kg	US\$

2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, amended and superseded earlier) from the date of 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 notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, under 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.354/144/2013-TRU]

## Arrest and Bail for Rs. 50 lakhs Plus Excise Evasion

Subject – Arrest and Bail under Central Excise Act, 1944.

974-CBEC I am directed to invite your  
17.09.2013 attention to the amendments  
(DoR) to sections 9A, 20 and 21 of  
the Central Excise Act, 1944

vide the Finance Act, 2013. A new sub-section (1A) has been inserted in section 9A to specify that the offences relating to excisable goods, where the duty involvement exceeds Rs. fifty lakh and which are punishable under clause (b) or clause (bbbb) of sub-section (1) of section 9, are cognizable and non-bailable. For ease of reference, clause (b) and clause (bbbb) of sub-section 9(1) as well as new sub-section 9A (1A) are summarized below:

(i) Clause (b) of sub-section 9(1) - Whoever evades the payment of any duty payable under this Act;

(ii) Clause (bbbb) of sub-section 9(1) - Whoever contravenes any of the provisions of this Act or the rules made there under in relation to credit of any duty allowed to be utilised towards payment of excise duty on final product.

(iii) Sub-section 9A(1A) - The offences relating to excisable goods where the duty leviable thereon under this Act exceeds fifty lakh rupees and punishable under clause (b) or clause (bbbb) of sub-section (1) of section 9, shall be cognizable and non-bailable.

1.2 All other offences under section 9 are non-cognizable and bailable.

2.1 Thus the offences under Central Excise Act fall in two categories - bailable and non-bailable. Depending on the type of offence committed, a person is liable to be arrested in either of the two category of offence. Since arrest takes away the liberty of an individual, the power must be exercised with utmost care and caution and only when the exigencies of the situation demand arrest.

### Non-bailable offences

3.1 A person is liable to be arrested for non-bailable offence only when the offence committed by him is covered under clause (b) or clause (bbbb) of sub-section 9(1) and the duty involvement exceeds Rs. fifty lakh. Thus, it is essential to examine offences in each and every case with reference to each of the clauses of sub-section 9(1) and also the quantum of duty involved prior to invoking the arrest provisions. Only where clause (b) or clause (bbbb) are the most appropriate clauses to describe the offence and duty involved exceeds rupees fifty lakhs, these provisions should be invoked. Any person arrested for offences under these clauses should be informed of the grounds of arrest and produced before a magistrate without unnecessary delay and within 24 hours of arrest.

3.2 A list of non-bailable offences where decision to arrest may be taken by the Commissioner is given below:-

- (a) clandestine removal of manufactured goods;
- (b) removal of goods without declaring the correct assessable value and receiving a portion of sale price in cash which is in excess of invoice price and not accounted for in the

books of account;

(c) taking Cenvat Credit without the receiving the goods specified in the invoice;

(d) taking Cenvat Credit on fake invoices;

(e) issuing Cenvatable invoices without delivering the goods specified in the said invoice.

3.3 In all other cases of cognizable and non-bailable offences, covered by clause (b) or clause (bbbb) of sub-section 9(1) where the duty involved exceeds rupees fifty lakhs, which are not listed at paragraph 3.2 above, e.g. (i) removal of inputs as such, without reflecting such removal in records, on which Cenvat credit has been taken, without payment of amount equal to the credit availed on such inputs (ii) irregular and wrongful availment of benefit of central excise duty exemption by reason of fraud, collusion, willful misstatement, suppression of facts, or contravention of the provisions of the Act or the rules with intent to evade payment of duty, etc, decision to arrest shall be taken by the Commissioner only with the approval of the jurisdictional Chief Commissioner.

### Bailable offence

4.1 A person is also liable to be arrested in case of non-cognizable and bailable offences, when such an offence is committed. Amendments have been made in section 20 and section 21 to provide, *inter alia*, that powers to grant bail or release an arrested person on execution of bond can be exercised only for offences which are non-cognizable. Any person arrested for non-cognizable offence shall have to be released on bail, if he offers bail, and in case of default of bail, he is to be forwarded to the custody of magistrate. In terms of notification no 9/99-C.E.(N.T.) dated 10-2-99, an officer not below the rank of Superintendent of Central Excise can exercise powers under section 21 including powers to grant bail.

4.2 Bail should be subject to the condition(s), as deemed fit, depending upon the facts and circumstances of each individual case. It has to be ensured that the amount of bail bond/ surety should not be excessive and should be commensurate with the financial status of the arrested person. Further the bail conditions should be informed by the arresting officer in writing to the person arrested and also informed on telephone to the nominated person of the person(s) arrested. Arrested person should be allowed to talk to the nominated person. If the conditions of the bail are fulfilled by the arrested person, he shall be released by the officer concerned on bail. The arresting officer may, and shall if such a person is indigent and unable to furnish surety, instead of taking bail, discharge him on executing a bond without sureties to his appearance as provided under section 436 of CrPC. However, in cases where the conditions for granting bail are not fulfilled, the arrested person shall be produced before the appropriate magistrate within 24 hours of arrest.

4.3 Only in the event of circumstances preventing the production of the person arrested before a Magistrate without unnecessary delay, the

## Service Tax on Skill Development Corp Activities Exempted

13-ST In exercise of the powers  
10.09.2013 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 amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.25/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* G.S.R. 467 (E), dated the 20th June, 2012, namely:-

In the said notification, in the opening paragraph, after entry 9, the following entry shall be inserted namely:-

"9A. Any services provided by,

- (i) the National Skill Development Corporation set up by the Government of India;
- (ii) a Sector Skill Council approved by the National Skill Development Corporation;
- (iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- (iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council

in relation to (a) the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the National Skill Development Corporation."

[F.No. 356 /17/ 2012-TRU]

arrested person may be handed over to nearest Police Station for his safe custody during night, under proper Challan and produced before the magistrate the next day. These provision shall apply for non-bailable offence also. The nominated person of the arrested person may also be informed accordingly.

### Precautions to be taken by the departmental officers

5.1 Powers to arrest a person needs to be exercised with utmost caution. Chief Commissioners/ Commissioners of Central Excise are required to ensure that approval for arrest for non-bailable offence is granted only where the intent to evade duty is evident and element of *mens rea* / guilty mind is palpable. Attention is also invited to the decision of the Hon'ble Supreme Court in case of D. K. Basu Vs State of West Bengal, wherein specific guidelines in respect of arrest have been provided. These are required to be followed.

5.2 Decision to arrest needs to be taken on case-to-case basis considering various factors, such as, nature & gravity of offence, quantum of duty evaded or credit wrongfully availed, nature

& quality of evidence, possibility of evidences being tampered with or witnesses being influenced, cooperation with the investigation, etc. To summarize, power to arrest has to be exercised after careful consideration of the facts of the case and the above factors.

5.3 There is no prescribed format for arrest memo but an arrest memo must be in compliance with the directions of Hon'ble Supreme Court in case of D. K. Basu Vs State of W.B reported as 1997 (1) SCC 416. The arrest memo should include -

- brief facts of the case;
- details of the person arrested;
- gist of evidence against the person;
- relevant Section(s) of the Central Excise Act, 1944 attracted in the case;
- the grounds of arrest must be explained to the person arrested and this fact noted in the arrest memo;
- a nominated person (as per details provided by the person arrested) of the person arrested should be informed immediately and this fact also may be mentioned in the arrest

memo;

- the date and time of arrest may be mentioned in the arrest memo and the arrest memo should be given to person arrested under proper acknowledgement;
- a separate arrest memo has to be made and provided to each person arrested.

5.4 Further there are certain modalities that should be complied with at the time of arrest and pursuant to an arrest, which include the following:-

- Arrest of a female should be carried out by or in the presence of a lady officer;
- Arrest memo should be attested by nominated person (such as member of family) of the person arrested or a respectable member of the locality from where the arrest is made;
- Medical examination of the arrested person should be conducted by a medical officer in the service of Central or State Governments and in case such medical officer is not available, by a registered medical practitioner soon after the arrest is made. If an

arrested person is a female then such an examination shall be made only by, or under supervision of a female medical officer, and in case such female medical officer is not available, by a female registered medical practitioner;

- It shall be the duty of the officer having the custody of the arrested person to take reasonable care of the health and safety of the person arrested.

#### Reports to be sent

6.0 Chief Commissioners shall send a report on every arrest to the Zonal Member within 24 hours of the arrest giving such details as have been prescribed in the monthly report. To maintain an all India record of arrests made in Central Excise, a monthly report of all persons arrested in the Zone shall be sent by the Chief Commissioner to the DGCEI, Headquarters, New Delhi in the format, hereby prescribed and enclosed, by the 5<sup>th</sup> of the succeeding month.

7.0 All previous circulars on arrest and instructions in the Supplementary manual of instructions stand modified to the above extent.

#### Monthly Report on Persons Arrested in a Zone

SNo.	Name, Designation and Age of the person arrested	Date of arrest	Commissionerate/ Concerned	Name and registration of the company	Amount of Duty Evaded	Role in evasion and nature of evidence collected
Total						

### Geo-Chem Far East, Singapore Delisted as PSIA

*Subject: Removal of Geo-Chem Far East Pte Ltd., from the list of Inspection and Certification Agencies (Appendix 5).*

26-PN(RE) In exercise of powers  
20.09.2013 conferred under paragraph 2.4  
(DGFT) of the Foreign Trade Policy,  
2009-2014, the Director

General of Foreign Trade hereby makes the following amendment in Appendix-5 (List of Inspection and Certification Agencies) of Handbook of Procedures Vol. I (Appendices and

Aayaat Niryat Forms) 2009-2014.

Public Notice No. 27 dated 19.10.2012 and Public Notice No. 38 dated 18.12.2012 had listed certain agencies as Pre Shipment Inspection Agency (for all the notified countries as mentioned in these public notices). From these lists, the name of M/s. Geo Chem Far East Pvt. Ltd., stands deleted with immediate effect:-

Sl.No.	Name of the Inspection Agency	
16	Geo-Chem Far East Pte. Ltd., BLK 47 Ayer Rajah Crescent, # 05-01 Ayer Rajah Industrial Estate, Singapore-139947, Tel: +65 67774620 Fax: +65 67774650 Email: singapore@geochemgroup.com	DELETED

#### Effect of Public Notice

The above PSIA is being de-listed from Appendix 5 and made ineligible to issue Pre-Shipment Inspection Certificate.

### Rupee Value under Indo-USSR Deferred Payment Protocols Revised to Rs. 90.052266 from 4 Sept 2013

*Subject: Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR*

AP(DIR Srs) Attention of Authorised Dealer  
Cir.49 Category-I (AD Category-I)  
20.09.2013 banks is invited to A.P.  
(RBI) (DIR Series) Circular No.47  
dated September 17, 2013,

wherein the Rupee value of the Special Currency Basket was indicated as Rs.92.985396 effective from September 02, 2013.

2. AD Category-I banks are advised that a further revision has taken place on August 30, 2013 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs.90.052266 with effect from September 04, 2013.

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

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

### Rupee Value under Indo-USSR Deferred Payment Protocols Revised to Rs. 92.985396 w.e.f. 2 Sept 2013

*Sub: Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR*

AP(DIR Srs) Attention of Authorised Dealer  
Cir.47 Category-I (AD Category-I)  
17.09.2013 banks is invited to A.P.  
(RBI) (DIR Series) Circular No.33  
dated September 04, 2013,

wherein the Rupee value of the Special Currency Basket was indicated as Rs.86.857663 effective from August 23, 2013.

2. AD Category-I banks are advised that a further revision has taken place on August 28, 2013 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs.92.985396 with effect from September 02, 2013.

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

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

## Tariff Value Up on Brass Scrap (US\$40/MT), Crude Soyabean Oil (US\$12/MT), Poppy Seeds Down (US\$46/MT)

Gold Down \$26 and Silver \$47

96-Cus(NT) In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), (DoR) the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby

makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S.O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted namely:-

**“Table-1**

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	827
2	1511 90 10	RBD Palm Oil	868
3	1511 90 90	Others – Palm Oil	848
4	1511 10 00	Crude Palmolein	880
5	1511 90 20	RBD Palmolein	883
6	1511 90 90	Others – Palmolein	882
7	1507 10 00	Crude Soyabean Oil	963
8	7404 00 22	Brass Scrap (all grades)	3785
9	1207 91 00	Poppy seeds	2717

**Table-2**

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	432 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	736 per Kilogram

**Table-3**

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tons)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	1870 (i.e. no change)"

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

## RBI Doubles Forex Borrowing Limit of Banks

*Sub: Overseas Foreign Currency Borrowings by Authorised Dealer Banks – Enhancement of limit*

AP(DIR Srs) Attention of Authorised Dealer Category - I (AD Cir.40 Category – I) banks is invited to A. P. 10.09.2013 (DIR Series) Circular No. 23 dated October (RBI) 15, 2008, in terms of which:

(i) all categories of overseas foreign currency borrowings including existing ECBs, loans and overdrafts from their Head Office, overseas branches and correspondents and overdrafts in Nostro accounts (not adjusted within five days) shall not exceed 50 per cent of their unimpaired Tier I capital as at the close of the previous quarter or USD 10 million (or its equivalent), whichever is higher, and

(ii) overseas borrowings by AD Category – I banks for the purpose of financing export credit in foreign currency, subordinated debt placed by head offices of foreign banks with their branches in India as Tier II capital, capital funds raised/augmented by the issue of innovative perpetual debt instruments and debt capital instruments in foreign currency and any other overseas borrowings with the specific approval of the Reserve Bank would be outside this limit.

## Exchange Rates for Customs Valuation

### Rupee Gains to 63.80 for Customs Valuation on Imports w.e.f. 20 September 2013

100-Cus(NT) In exercise of the powers conferred by section 14 of the 19.09.2013 Customs Act, 1962 (52 of 1962), and in supersession of (DoR) the notification of the Government of India in the

Ministry of Finance (Department of Revenue) No. 95/2013-CUSTOMS (N.T.), dated the 5<sup>th</sup> September, 2013 vide number S.O. 2676(E), dated the 5<sup>th</sup> September, 2013, except as respects things done or omitted to be done before such super session, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or vice versa shall, **with effect from 20<sup>th</sup> September, 2013** be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SNo.	Currency	Imported Goods		Exported Goods	
		Current	Previous	Current	Previous
<b>Schedule I – Rate of exchange of one unit of foreign currency equivalent to Indian rupees</b>					
1.	Australian Dollar	59.80	61.60	58.35	59.80
2.	Bahrain Dinar	172.65	181.30	163.20	170.45
3.	Canadian Dollar	62.20	64.10	60.65	62.30
4.	Danish Kroner	11.50	11.90	11.15	11.50
5.	EURO	85.45	88.60	83.45	86.05
6.	Hong Kong Dollar	8.25	8.65	8.10	8.45
7.	Kenya Shilling	74.40	78.15	70.25	73.40
8.	Kuwait Dinar	229.25	239.40	216.55	224.45
9.	Newzeland Dollar	52.60	53.10	51.30	51.45
10.	Norwegian Kroner	10.85	11.10	10.55	10.70
11.	Pound Sterling	101.75	104.80	99.45	102.10
12.	Singapore Dollar	50.80	52.65	49.60	51.10
13.	South African Rand	6.65	6.65	6.25	6.25
14.	Saudi Arabian Riyal	17.35	18.20	16.40	17.15
15.	Swedish Kroner	9.95	10.20	9.65	9.85
16.	Swiss Franc	69.15	71.65	67.50	69.55
17.	UAE Dirham	17.70	18.60	16.75	17.50
18.	US Dollar	63.80	67.00	62.75	65.55

**Schedule II – Rate of exchange of 100 units of foreign currency equivalent to Indian rupees**

1.	Japanese Yen	64.55	67.35	62.95	65.35
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[F.No.468/03/2013-Cus.V]

2. With a view to providing greater flexibility to AD Category - I banks in seeking access to overseas funds, it has been decided to liberalise this facility further. Accordingly, AD Category - I banks may henceforth borrow funds from their Head Office, overseas branches and correspondents and overdrafts in nostro accounts up to a limit of 100 per cent of their unimpaired Tier I capital as at the close of the previous quarter or USD 10 million (or its equivalent), whichever is higher, as against the existing limit of 50 per cent (excluding borrowings for financing of export credit in foreign currency and capital instruments).

3. In view of the prevailing market conditions, it has further been decided that AD Category I banks, at their option, can enter into a swap transaction with RBI in respect of the borrowings raised after the date of this circular. The swaps shall be available at a concessional rate of a hundred basis points below the market rate for all fresh borrowing with a minimum tenor of one year and a maximum tenor of three years, irrespective of whether such borrowings are in excess of fifty per cent of their unimpaired Tier I capital or not. Further, while the swaps shall be for the entire tenor of the borrowing, the rate shall be reset after every one year from the date of the swap at hundred basis points lower than the market rate prevailing on the date of reset. While the banks are free to borrow in any freely convertible currency, the swap will be available only for conversion of USD equivalent into Rupees and the USD equivalent shall be computed at the relevant

cross rate prevailing on the date of the swap. Category I AD banks may contact the Principal Chief General Manager, Financial Markets Department, Reserve Bank of India, Central Office for availing of the swap facility. The concessional swap window shall be open till November 30, 2013. It may be noted that RBI reserves the right to decline a swap transaction or to withdraw this

facility before November 30, 2013 after due notice. All other instructions contained in A. P. (DIR Series) Circular No.81 dated March 24, 2004 remain unchanged.

4. Further, the borrowings beyond the hitherto permitted level of 50 per cent of their unimpaired Tier I capital will have to subject to the following conditions:

(i) The bank should have a Board approved policy on overseas borrowings which shall contain the risk management practices that the bank would adhere to while borrowing abroad in foreign currency;

(ii) The bank should maintain a CRAR of 12.0 per cent.

(iii) The borrowings beyond the existing ceiling shall be with a minimum maturity of three years.

(iv) All other existing norms (FEMA regulations, NOPL norms etc.) shall continue to be applicable.

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

6. Reserve Bank of India has since amended the relevant Regulations vide Notification No.FEMA.286/2013-RB dated September 05, 2013, notified vide G.S.R.No.595(E) dated September 06, 2013.

7. 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 is without prejudice to permissions/approvals, if any, required under any other law.

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within the EU) and the EU unemployment rate is likely to remain at or near record levels for some time, growth in trade can be expected to be below average — that is, below the 20-year average of 5.4% — in the coming quarters).

The volume of world merchandise trade (i.e., goods trade adjusted to account for changes in prices, exchange rates and seasonal variation) was only up 1.2% in the first half of 2013 compared to the same period in 2012. For the forecast of 2.5% growth in world trade to be realized would require a 3.8% year-on-year increase in the second half of 2013, which is feasible.

Some of the demand to fuel this growth would undoubtedly come from increased imports in developed economies. These dropped 1.6% in the first six months of 2013 and would require a 1.4% rise in the second half just to achieve 0% growth for the year. Whether this happens will depend mostly on the pace of recovery in the EU.

The fact that imports of developing economies have risen roughly 12% in the last two years while those of developed economies have been flat or declining suggests that developing economies have partly cushioned the drop in developed economy imports. (For the purposes of this analysis, "developing economies" include the Commonwealth of Independent States.)

On the import side, the WTO is forecasting stagnant growth of -0.1% for developed countries and a more robust 5.8% increase for developing economies.

In 2014, world trade is expected to advance 4.5%, with exports of developed economies climbing 2.8% and those of developing countries increasing 6.3%. Imports of developed economies are projected to grow 3.2% in 2014 while those of developing economies should expand by 6.2%.