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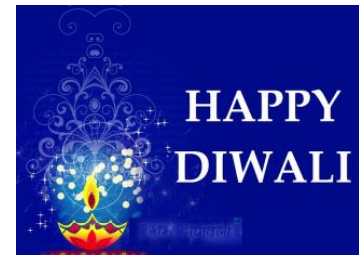
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## Government Moves into High Gear to Protect Industry -Three Anti-dumping Findings Released to Suffer Stiff Duties Soon

- 4 Met Coke, Colour Coated Steel and Jute Products from Bangladesh and Nepal
- 4 Commerce Ministry Releases Final Findings in Investigation, Customs Notifications to Implementation to Follow



### Met Coke

- 4 Investigation recommends final anti-dumping duties of \$25.20/MT (China) and \$16.29/MT (Australia).
- 4 Step of Provisional verification and data verification skipped
- 4 China incidence works out 12.5% of import value, five percent protection in Budget already available.
- 4 Protection to Saurashtra Gujarat Units will hurt downstream foundries.
- 4 "Low Ash" used for making met coke not available in India.
- 4 Earlier impost on China 2004-2009 period lapsed after failure of sunset review
- 4 Japan Investigation terminated on request of domestic industries

### Views of the domestic industry and the opposing interested parties

Views of the interested parties with regard to the product under consideration are:

- 4 The PUC is incorrectly identified and, if at all, it should be amended to only cover low ash Met Coke with ash content less than 15%. There exists no reason to show why the PUC should extend to Met Coke with ash content up to 18% when on two earlier occasions the DGAD in the Final Findings concerning import of Metallurgical Coke restricted the scope of the examination to Met Coke with ash content up to 15% only. It was also noted that the input-out norms of DGFT suggest that ash content of 15% or less is the appropriate indicator for identifying low ash Met Coke.
- 4 The PUC is incorrectly defined and Met Coke containing low ash (upto 12.5%) is to be excluded.
- 4 The PUC is incorrectly defined and Met Coke containing low ash (upto 12.5%), low phosphorous (up to 0.018%) and low sulphur (upto 0.65%) is to be excluded.
- 4 The PUC is incorrectly defined and Met Coke contain-

ing low ash (upto 12%), low moisture (upto 5%), low phosphorous (up to 0.035%) and low sulphur (upto 0.65%) is to be excluded.

- 4 The lump coke used by steel producing companies in their blast furnaces is to be excluded from the scope of the PUC as this is not produced by the domestic industry.
- 4 The producers who are captive users of Met coke cannot be legally excluded from the scope of the domestic industry.
- 4 The producers who are captive users of Met Coke cannot be excluded / included by cherry picking to establish standing. No explanation has been provided as to why Jindal Stainless Ltd. has been included as a supporting producer when Jindal Stainless Ltd. is also a producer using PUC for captive use. It must also be noted that the companies such as Nilanchal Ispat Nigam Limited and Sathavahana Ispat Ltd., which have substantial sales in the domestic market, have not been included in the analysis.
- 4 The practice of putting onus on the producer/manufacturer to complete the value chain by filling exporter/trader responses is wrong. Whether the producer/

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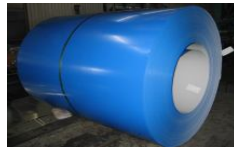
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manufacturer has exported the subject goods through one exporter/trader or through several, and if one of them denies to cooperate with DGAD, then the whole responses filed by the producer/manufacturer and its exporters/traders are penalized by rejected the data on the ground of value chain, which is again against DGAD law and practice because there is no such written law globally which speaks so and here it is being used as one of the anti-dumping mechanism tools to reject the exporters/ traders filed data/ Information.

- 4 The normal value for market economy country cannot be constructed based on the cost of the petitioners. The legal provisions at best provide for construction of the normal value based on the cost of production in the domestic market of the exporting country only. Therefore, the normal value as constructed for Australia must be rejected.
- 4 Japan cannot be taken as surrogate country as it is not the appropriate market economy third country pursuant to Annexure I of the AD Rules as the normal value calculated based on the domestic prices of the like product in Japan are likely to be much higher than that of China due to devaluation of Yen. Coal imported by



### Coated Steel

4 Provisional Anti-dumping Duty of \$849 per tonne on Colour Coated Steel from China and EU

**Items Covered:** Pre-painted, painted, colour coated or organic coated flat steels in coils or not in coils whether or not

with metallic coated substrate of zinc, aluminium-zinc or any other substrate coating

- 4 Twin Complainant Essar Steel and JSW Steel Coated Products
- 4 Indian Companies Arcelor Mittal and Tata Corus found dumping in Home country, Thyssen the Steel Giant also named
- 4 Injury margins into EU case go up to 60% while China injury margin only 30%

The domestic industry has already received multiple protection in violation of the WTO Agreements:

- 4 Increase of customs duty
- 4 Minimum import price
- 4 Anti-dumping investigations on other steel products

Japan from Australia like India results in higher purchase cost due to freight cost and high labour cost. It is further stated that the GDP per person in Japan is much higher as compared to China and the plants in China are more advanced than the plants in Japan.

- 4 No basis has been provided for calculation of the normal value. The constructed normal value for Australia is much higher than the international prevailing prices of the PUC.

per Rule 2(b).

- 4 The petitioners have done cherry picking as only 15 companies have been chosen where there are 91 mills and 31 members from the petitioning association.
- 4 Supporters should be distinguished from petitioners while determining major proportion of production.
- 4 More than 10 petitioner companies directly imported PUC from Bangladesh and petitioner has itself admitted to imports by two companies.
- 4 The petitioner does not have standing and total production of 36% disqualifies them to be an industry as per AD rule of WTO.
- 4 As per Article 11(a) of SAFTA, constructive remedies refer specifically to consultations and undertakings. Consultations were conducted and there were no requests of price undertaking by the subject country and therefore it can't be looked into.
- 4 The petitioners have not separately provided data related to market share, domestic sales, and imports volumes of three product categories.
- 4 Any shock on export performance of Jute sector in Bangladesh will have a deteriorating effect on employment situation.
- 4 As per Article 11(a) of SAFTA, constructive remedies should be looked into.
- 4 The balance of trade is heavily inclined in favour of India and imposition of antidumping duties will worsen the situation.
- 4 The trade gap situation will worsen as Indian imports are much more than Bangladesh imports.
- 4 Bangladesh had promptly lifted a temporary ban on export of jute products on friendly concerns raised by India. This should be reciprocated.
- 4 To ensure undue profit margin, Indian mills are importing Bangladeshi Low Quality Raw Jute in Huge Quantity which is being used to produce sacking. Therefore, imports are helping Indian Jute Mills.
- 4 Jute is a common heritage of India and Bangladesh and imposition of antidumping duties will impede growth of this industry.

### Jute Products



- 4 India slapped anti-dumping duty on LDC countries of South Asia namely, Bangladesh and Nepal on IJMA (Indian Jute Mill Association) Complaints
- 4 India-Bangladesh and India-Nepal relation based on Free and Open Trade at Zero Duty affected substantially.
- 4 10-20 percent dumping margin claimed.

- 4 Complex duty structure with rate varying from Nil to \$20 -\$102 per tonne slapped on jute yarn with default of \$97.19 per tonne
- 4 Hessian fabrics \$351.72 per tonne; Sacking bag \$138.97 per tonne
- 4 Nepal Duties in the region of \$8.18 to \$38.90 depending upon the item
- 4 More than 200 Bangladesh companies and 38 from Nepal named
- 4 Entire value chain starting from yarn, fabrics and sacking covered in impost
- 4 Normal value constructed as domestic price of Jute products in Bangladesh not available! (Bangladesh is the largest producer of the Jute products in the world)
- 4 Step of Preliminary findings and verification of data dropped, Incomplete and biased investigation alleged
- 4 Shift to non-environment friendly plastic bags expected with price rise in Jute products
- 4 There is no evidence or name of the nineteen companies that shut down as a result of imports.
- 4 Most of the petitioners are importers and therefore they do not have standing. Market intelligence provides that except Hukumchand Jute Mills, Naihati Jute Mills Co. Ltd, Bowreah Jute Mills Private Ltd, Murlidhar Ratanlal Exports Limited (Unit: India Jute Mills) and Murlidhar Ratanlal Exports Limited (Unit: Hastings Jute Mills) all others are importers.
- 4 Petitioners have erroneously mentioned that only Gloster and Budge Budge have imported. The standing should be reanalyzed after removing these two companies.
- 4 The volume of imports of the petitioners and their share in production should also be disclosed.
- 4 36% does not constitute major proportion as

## Sulphonated Naphthalene Formaldehyde (SNF) from China in Dumping Investigation Net on Complaint of Himadri Plus Five

[Ref: Anti-dumping Initiation Notification No. 14/15/2016-DGAD dated 13th October 2016]

Subject: Anti-Dumping investigation concerning imports of "Sulphonated Naphthalene Formaldehyde" (SNF) originating in or exported from China PR.

M/s Himadri Speciality Chemical Ltd. has filed an application before the Designated Authority for initiation of anti-dumping investigation and imposition of anti-dumping duty concerning imports of Sulphonated Naphthalene Formaldehyde (SNF). The Country concern is China PR. The above mentioned country also referred to as the Subject Country.

And whereas, the Authority notes that sufficient prima facie evidence of dumping of the subject goods, originating in or exported from the subject country, 'injury' to the domestic industry and causal link between the alleged dumping and 'injury' exists justifying initiation of an anti-dumping investigation. The Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of Rule 5 of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommending an amount of antidumping duty, which if levied, would be adequate to remove the 'injury' to the domestic industry.

### Domestic Industry & Standing

The petition has been filed by M/s Himadri Speciality Chemical Limited. There are other producers of the subject goods in India namely Mangalore Chemicals and Fertilisers Ltd (MCF), LRC Specialty Chemicals Pvt. Ltd., Gujarat Polybonds Pvt. Ltd., Gujarat Polysol Chemicals Pvt. Ltd., HR Johnson (India) produce SNF. The petition has been supported by Mangalore Chemicals and Fertilisers Ltd (MCF). The petitioner is not related to the exporters or importers of the alleged dumped article and the petitioner has not imported the product under consideration from subject countries. The facts of the case, clearly establish that petitioner should be considered eligible domestic industry within the meaning of Rule 2(b).

The Authority holds that the petitioner along with supporting domestic producer constitutes an eligible domestic industry in terms of Rule 2 (b) and satisfies the criteria of standing also in terms of Rule 5 (3) of the Rules supra.

### Product under consideration

The product under consideration is "Sulphonated Naphthalene Formaldehyde (SNF)".

Sulphonated Naphthalene Formaldehyde is a derivative of Naphthalene. Sulphonated Naphthalene Formaldehyde (SNF) Condensate is used as a water reducing admixture in construction industries for concrete. It is also used as dispersant for rubber chemicals, gypsum industries and specialty agro-chemicals industries. SNF is made from sulphonation of naphthalene and neutralization of the process by caustic soda. It is produced in 100% powder form and in liquid form in the range of solid content from 40% - 45%.

Sulphonated Naphthalene Formaldehyde is used for the production of concrete admixtures, application in tanning industry, leather auxiliaries, textile auxiliaries, vat dyes, superior quality disperse dyes, agro dispersant formulations, rubber and latex emulsion.

Sulphonated Naphthalene Formaldehyde is classified under Chapter 38 of the Customs Tariff Act under customs subheading 3824 40 90. The

Customs classification is, however, indicative only and in no way binding on the scope of the proposed investigation and proposed measures.

### Normal Value

#### China

Applicant has claimed that China should be treated as a non-market economy and normal value in case of China should be determined in accordance with para-7 and 8 of Annexure I of the Rules. The applicant has claimed normal value for China PR on the basis of cost of production in India, duly adjusted. In terms of Para 8 in Annexure 1 to the Rules it is presumed that the producers of the subject goods in China PR are operating under non market economy conditions. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters from China PR, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.

### Export Price

The applicant has determined ex-factory export price on the basis of transaction wise import data procured from IBIS a secondary source and providing evidence and basis of adjustments on account of ocean freight, marine insurance, port expenses, inland freight, bank charges, commission and VAT adjustment.

### Dumping Margin

The comparison of normal values with the ex-fac-

## Textile Commissioner and Min of Textile Email ids

[CBEC Circular No. 47 dated 20th October 2016]

Subject: Rebate of State Levies on Export of Garments – Implementation by CBEC.

Kind attention is invited to Circular No. 43/2016-Customs dated 31.8.2016 on the above cited subject. The field formations are informed for necessary action that with reference to Para 11 of the said Circular, the address of the Textile Commissioner for communication is "Nishta Bhawan, New CGO Building, 48, New Marine Lines, Mumbai-400020" and email ID is "txc-otxc@nic.in". In para 12 of the said Circular there is reference to monthly email from the Systems Directorate (and every Customs location from where any RoSL rebate may have been processed manually) conveying the relevant list of claims to Ministry of Textiles. This email is to be sent to the "Director (Export), Room No. 266, Ministry of Textiles, Udyog Bhawan, New Delhi" at the email id "neeravrkr@nic.in".

tory export price has been carried out, which shows a significant dumping margin in respect of the subject goods exported by the subject country.

### Period of Investigation (POI)

The period of investigation for the present investigation is from April 2015 – March 2016 (12 Months). The injury investigation period has been considered and proposed to cover the periods Apr'12-Mar'13, Apr'13-Mar'14, Apr'14-Mar'15 and the period of investigation.

[Full text available at [worldtradesScanner.com](http://worldtradesScanner.com)]

## RBI Permits 100% FDI in other Financial Services in Auto Route

Sub: Foreign investment in Other Financial Services

AP(DIR Srs) Attention of Authorised Dealers Cir.08 Category – I (AD Category- I) 20.10.2016 banks is invited to the Foreign (RBI) Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time (Principal Regulations).

2. At present, paragraph F.8 of Annex B to Schedule 1 of the Principal Regulations permits foreign investment up to 100%, under the automatic route, in Non-Banking Finance Companies (NBFCs) engaged in the 18 activities listed therein. Such investment is subject to the conditions, including minimum capitalisation norms.

3. On a review, in consultation with the Government of India, it has been decided to allow foreign investment up to 100% under the automatic route in 'Other Financial Services'. Other Financial Services will include activities which are regulated by any financial sector regulator viz. Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority, Pension Fund Regulatory and Development Authority, National Housing Bank or any other financial sector regulator as may be notified by the Government of India in this regard. Such foreign investment shall be subject to conditionalities, including minimum capitalisation norms, as specified by the concerned Regulator/ Government Agency.

4. Other salient features of the revised regulatory framework are as under:

- In financial services activities which are not regulated or partly regulated by any financial sector regulator or where there is lack of clarity regarding regulatory oversight, foreign investment will be allowed up to 100% under the Government approval route.
- Foreign investment in an activity which is specifically regulated by an Act, will be restricted to foreign investment levels/limits, if any, specified in that Act.
- Downstream investment by any entity engaged in 'Other Financial Services' will be subject to extant sectoral regulations and provisions of Principal Regulations.

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

6. Reserve Bank has since amended the Principal Regulations accordingly through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Thirteenth Amendment) Regulations, 2016 which have been notified through Notification No. FEMA 375/2016-RB dated September 9, 2016 vide G.S.R. No.879(E) dated September 9, 2016.

7. The directions contained in this circular have been issued under section 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 Releases Rules Summary of Export and Import Payments by Countries and Special Sectors

Sub: Foreign Exchange Management (Manner of receipt and payment) Regulations, 2016

AP(DIR Srs) Attention of Authorised Dealer  
Cir.11 Category-I (AD Category-I) banks  
20.10.2016 is invited to A.D. (M.A. Series)  
(RBI) Circular No. 11 dated May 16,  
2000 in terms of which ADs were  
advised of various Rules, Regulations, Notifi-  
cations/ Directions issued under the Foreign  
Exchange Management Act, 1999 (hereinafter  
referred to as the Act). In consultation with the  
Government of India, the Foreign Exchange  
Management (Manner of Receipt and Payment)  
Regulations, 2000; Foreign Exchange Manage-  
ment (Receipt from, and payment to, a person  
resident outside India) Regulations, 2000 and  
Foreign Exchange Management Notification  
(Transactions in Indian rupees with residents of  
Nepal or Bhutan) Regulations 2000, as amended  
from time to time have been repealed and super-  
seded by the Foreign Exchange Management  
(Manner of Receipt and Payment) Regulations,  
2016 notified vide G.S.R. No.480 (E) dated May  
03, 2016.

Further, attention of Authorised Dealers is invited  
to para A.3 of Master Direction No 16/2015-16 on  
Export of Goods and Services and B.4 of Master  
Direction No 17/2015-16 on Import of Goods and  
Services dated January 1, 2016 respectively, as  
amended from time to time.

The synopsis of the new Regulations notified  
is as under:

### 2. Manner of receipt in foreign Exchange:

(1) AD bank may receive foreign exchange by  
way of remittance or by way of reimbursement  
from his branch or correspondent outside India  
against payment for exports from India or against  
any other payment in following manner :

(A) Members of Asian Clearing Union (ACU)

(i) Bangladesh, Myanmar, Pakistan, Sri Lanka  
and Republic of Maldives -

a) Receipt for export of eligible goods and ser-  
vices, through ACU mechanism i.e. by debit to  
the ACU Dollar/Euro account in India of a bank  
of the member country in which the other party  
to the transaction is resident or by credit to the  
ACU Dollar/Euro account of the Authorised Dealer  
maintained with the correspondent bank in that  
member country,

b) In any freely convertible currency for cases  
other than export of eligible goods and services,

c) In respect of exports from India to Myanmar,  
payment may be received in any freely convertible  
currency or through the ACU mechanism from  
Myanmar.

(ii) Nepal and Bhutan-

a) In Rupees

b) In respect of exports from India to Nepal, may  
be received in any freely convertible currency also,  
provided the importer resident in Nepal has been  
permitted by the Nepal Rashtira Bank to make  
payment in free foreign exchange. However,  
such receipts shall not be routed through the  
ACU mechanism.

(iii) Islamic Republic of Iran -

In all cases including receipts for export of eligible  
goods and services, in any freely convertible  
currency and/or as prescribed by Reserve Bank  
of India from time to time.

(B) All countries other than those mentioned in

(A) above:-

(i) Receipt in rupees from the account of a bank  
situated in any country other than an ACU member,  
(ii) In any freely convertible currency.

(2) (i) In respect of export from India, receipt shall  
be made in a currency appropriate to the place of  
final destination as mentioned in the declaration  
form irrespective of the country of the residence  
of the buyer,

(ii) Any other mode of receipt of export proceeds  
as prescribed by the Reserve Bank of India from  
time to time.

(3) Payment for export of goods / software may  
be received from a Third Party (a party other than  
the buyer) as per specified conditions.

(4) Receipt for exports may also be made in  
following manner:

(i) In the form of a bank draft, cheque, pay order,  
foreign currency notes/traveller's cheque from a  
buyer during his visit to India

(ii) By debit to FCNR/NRE account in India;

(iii) In rupees from the credit card servicing bank  
in India against the charge slip signed by the  
buyer;

(iv) From a rupee account held in the name of an  
Exchange House with an Authorised Dealer if the  
amount does not exceed fifteen lakh rupees per  
export transaction;

(v) In accordance with the directions issued by the  
Reserve Bank to Authorised Dealers, where the  
export is covered by the arrangement between  
the Central Government and the Government of  
a foreign country or by the credit arrangement  
entered into by the Exim Bank with a financial  
institution in a foreign state;

(vi) In the form of precious metals i.e. gold / silver /  
platinum equivalent to value of jewellery exported  
by Gem & Jewellery units in Special Economic  
Zones and Export Oriented Units on the condition  
that the sale contract provides for the same and  
the value is declared in the relevant EDF;

(vii) In addition to (i) and (iii) above, any person  
resident in India may also receive any payment  
other than for exports by means of postal order/  
postal money order issued by a post office out-  
side India.

### 3. Manner of payment in foreign exchange:

(1) AD bank may make payment in foreign ex-  
change by way of remittance from India or by way  
of reimbursement to his branch or correspondent  
outside India against payment for import into India,  
or against any other payment in the following  
manner:

(A) Members of Asian Clearing Union:

(i) Bangladesh, Myanmar, Pakistan, Sri Lanka  
and Republic of Maldives -

a) Payment for import of eligible goods and ser-  
vices by credit to the ACU Dollar/Euro account in  
India of a bank of the member country in which the  
other party to the transaction is resident or by debit  
to the ACU Dollar/Euro account of the Authorised  
Dealer maintained with the correspondent bank  
in that member country,

b) In any freely convertible currency for cases  
other than import of eligible goods and services

c) In respect of imports to India from Myanmar,  
payment may be made in any freely convertible  
currency or through the ACU mechanism from

## Rupee Trade should not Exceed Rs. 15 Lakhs per Transaction under RDA System

Sub: Rupee Drawing Arrangement - Trade  
related remittance limit

AP(DIR Srs) Attention of Authorised Dealer  
Cir.09 Category - I (AD Category - I)  
20.10.2016 banks is invited to A.P. (DIR  
(RBI) Series) Circular No.102 dated  
May 21, 2015 permitting

them to regularize payments exceeding the  
prescribed limit under RDA provided that they  
are satisfied with the bonafide of the transaction

2. On a review and in consultation with Gov-  
ernment of India, it has been decided that the  
permitted trade transaction, under the Rupee  
Drawing Arrangements (RDAs) shall not ex-  
ceed fifteen lakh rupees per transaction. All  
other instructions issued vide A.P. (DIR Series)  
Circular No. 28 [A. P. (FL/RL Series) Circular  
No. 02] dated February 6, 2008 will remain  
unchanged.

3. The Reserve Bank has since amended the  
subject Regulations accordingly through  
Foreign Exchange Management (Manner of  
Receipt and Payment) Regulations, 2016  
which have been notified through notification  
no. FEMA 14(R)/2016-RB dated May 02,  
2016 vide G.S.R No. 480(E) dated May 3,  
2016. Master Direction No.2 dated January 1,  
2016 is being updated, to reflect the changes.  
The other instructions issued vide the above  
mentioned circulars shall remain unchanged.

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

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

Myanmar.

(ii) Nepal and Bhutan- Payment may be made in  
Rupees,

(iii) Islamic Republic of Iran -

In all cases including payments for import of eligi-  
ble goods and services, in any freely convertible  
currency and/or as prescribed by Reserve Bank  
of India to ADs from time to time,

(B) All countries other than those mentioned in  
(A) above:

(i) Payment in rupees from the account of a  
bank situated in any country other than an ACU  
member,

(ii) In any freely convertible currency.

(2) In respect of imports into India;

(i) where the goods are shipped from ACU  
member, but the supplier is resident of a country  
other than member of ACU (other than Nepal and  
Bhutan), payment may be made in rupees to the  
account of a bank situated in any country other  
than an ACU member or in any freely convertible  
currency,

(ii) In all other cases, payment shall be made in  
a currency appropriate to the country of shipment  
of goods.

(iii) Any other mode of payment as may be pre-  
scribed by the Reserve Bank of India from time  
to time.

(3) Payments for import of goods / software may be made to a Third Party (a party other than the supplier) as per specified conditions.

(4) Manner of Payment in certain cases:

(A) Payments for import of goods may be made in foreign exchange through an international card held by him / in rupees from international credit card / debit card through the credit / debit card servicing bank in India against the charge slip signed by the importer / as prescribed by Reserve Bank from time to time, provided that the transaction is in conformity with the extant provisions including the Foreign Trade Policy in force.

(B) Any person resident in India may also make payment as under:

(i) 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;

(ii) by means of a crossed cheque or a draft as consideration for purchase of gold or silver in any form imported by such person in accordance with the terms and conditions imposed under any order issued by the Central Government under the Foreign Trade (Development and Regulations) Act, 1992 or under any other law, rules or regulations for the time being in force;

(iii) a company or resident in India may make payment in rupees to its non-whole time director who is resident outside India and is on a visit to

India for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into by it or in any resolution passed by the company in general meeting or by its Board of Directors, provided the requirements of any law, rules, regulations, directions applicable for making such payments are duly complied with.

**4.** Consequent to provisions of para 3.(4) of this circular, para B.4 (iii) of Master Direction No. 17/2015-16 dated January 1, 2016 on Imports of goods and services has been amended and para B.4(iv) inserted. The amendments have already been suitably incorporated in Master Direction No. 16/2015-16 dated January 1, 2016 on Exports of goods and services.

**5.** The new regulations have been notified vide Notification No. FEMA 14 (R)/2016-RB dated May 02, 2016 c.f. G.S.R. No.480 (E) dated May 03, 2016 and shall come into force with effect from May 02, 2016.

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

**7.** The directions contained in this circular have been issued under Section 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.

## Sectoral Caps in Foreign Investments

*Sub: Review of sectoral caps and simplification of Foreign Direct Investment (FDI) Policy.*

AP(DIR Srs) Attention of Authorised Dealer  
Cir.06 Category - I (AD Category-I)  
20.10.2016 banks is invited to the Foreign  
(RBI) Exchange Management (Transfer  
or Issue of Security by a Person

Resident outside India) Regulations, 2000, notified by the Reserve Bank vide Notification No. FEMA. 20/2000-RB dated 3rd May 2000 (FEMA 20), as amended from time to time.

**2.** The Central Government had reviewed the extant FDI Policy on various sectors and has made amendments in the Consolidated FDI Policy Circular 2015 vide Press Note No. 6(2015 Series) dated June 3, 2015, Press Note No. 7(2015 Series) dated June 3, 2015, Press Note No. 8(2015 Series) dated July 30, 2015, Press Note No. 11(2015 Series) dated October 1, 2015 and Press Note 12(2015 Series) dated November 24, 2015.

**3.** While Authorised Dealers and their constituents are advised to refer to the said amendments regarding the changes made, some of the salient features are as under:

a. In all sectors where there is a limit/cap on foreign investment, such limit/cap shall be reckoned in a composite manner. In other words, "sectoral cap", i.e., the maximum amount which can be invested by foreign investors in an entity will include all types of foreign investments, direct and indirect, regardless of whether the said investments have been made under Schedules 1, 2, 2(A), 3, 6, 8, 9 and 10 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations, 2000. Foreign Currency Convertible Bonds (FCCBs) and Depository Receipts (DRs) having underlying of instruments which can be issued under Schedule 5, being in the nature of debt, shall not be treated as foreign investment under such composite limit/cap. However, any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned as foreign investment under the composite limit/cap.

b. "Total foreign investment" in an Indian company will be the sum total of direct and indirect foreign investments.

c. Portfolio investment up to aggregate foreign investment level of 49% or sectoral/statutory cap, whichever is lower, will not be subject to either Government approval or compliance with the sectoral conditions, as the case may be, provided such investment does not result in change in ownership leading to control of Indian entities [within the meaning of Regulation 14 (1) of Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000] by non-resident entities. Other foreign investments will be subject to conditions of Government approval and compliance of sectoral conditions as laid down in the FDI policy and the related Regulations under the Foreign Exchange Management Act 1999.

d. The onus of compliance with the sectoral/statutory caps on foreign investment and attendant conditions, if any, shall be on the company receiving foreign investment.

e. A company shall be considered as owned

## Banks Delegated Power to Approve Unpaid ECB Repayment Schedule and Conversion to Equity

*Sub: External Commercial Borrowings (ECB) – Extension and conversion*

AP(DIR Srs) Attention of Authorised Dealer  
Cir.10 Category-I (AD Category-I)  
20.10.2016 banks is invited to paragraph  
(RBI) No. C.14, F.18 and F.19 of Annex  
to A.P. (DIR Series) Circular

No.32 dated November 30, 2015 and paragraph No. 2.10 and 2.16 of Master Direction No.5 dated January 1, 2016 on External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers as amended from time to time. Based on experience gained, it has been decided to simplify the process of dealing with matured but unpaid ECB.

**2.** Under the extant ECB guidelines, designated AD Category-I banks can approve requests from borrowers for changes in repayment schedule during the tenure of the ECB, i.e., prior to maturity provided average maturity and all-in-cost are in conformity with applicable ceilings/ norms. To simplify the procedure relating to ECB, it has been decided to delegate the powers to designated AD Category-I banks to approve requests from borrowers for extension of matured but unpaid ECB, subject to the following conditions:

i. No additional cost is incurred;

ii. Lender's consent is available;

iii. Reporting requirements are fulfilled.

**3.** Further, powers are also delegated to designated AD Category – I bank to approve cases of conversion of matured but unpaid ECB into

equity subject to same conditions as set out in paragraph 2 while ensuring that conversion is within the terms mentioned in paragraph C.14 of Annex to Circular dated November 30, 2015 as referred to above.

**4.** It should also be noted that if the ECB borrower concerned has availed credit facilities from the Indian banking system including overseas branches/subsidiaries, any extension of tenure / conversion of unpaid ECBs into equity (whether matured or not) shall be subject to applicable prudential guidelines issued by the Department of Banking Regulation of RBI, including guidelines on restructuring. Further, such conversion into equity shall also be subject to consent of other lenders, if any, to the same borrower or at least information regarding conversions shall be exchanged with other lenders of the borrower.

**5.** All other aspects of the ECB policy shall remain unchanged. AD Category - I banks should bring the contents of this circular to the notice of their constituents and customers.

**6.** The aforesaid Master Direction No. 5 dated January 01, 2016 is being updated to reflect the changes.

**7.** The directions contained in this circular have been issued under section 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

by resident Indian citizens if more than 50% of the capital in it is beneficially owned by resident Indian citizens and/or Indian companies, which are ultimately owned and controlled by resident Indian citizens. A Limited Liability Partnership (LLP) will be considered as owned by resident Indian citizens if more than 50% of the investment in such an LLP is contributed by resident Indian citizens and/ or entities which are ultimately 'owned and controlled by resident Indian citizens' and such resident Indian citizens and entities have majority of the profit share.

f. 'Control' shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreement or voting agreement. For the purpose of LLP, 'control' shall mean right to appoint majority of the designated partners, where such designated partners, with specific exclusions to others, have control over all the policies of the LLP.

g. Foreign investment in LLP is permitted under the automatic route if the LLP is engaged in sector where 100% FDI is allowed and there are no attendant FDI linked performance conditionalities to the sector.

h. Foreign investment by way of swap of shares has been permitted provided the resident company in which the investment is made is engaged in an automatic route sector subject to the condition that irrespective of the amount, valuation of the shares involved in the swap arrangement will have to be made by a Merchant Banker registered with the Securities and Exchange Board of India (SEBI) or an Investment Banker outside India registered with the appropriate regulatory authority in the host country.

i. In terms of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2016 notified vide Notification No. FEMA 361/2016-RB dated February 15, 2016, a Non-resident Indian (NRI) has been permitted to purchase or sell shares, convertible preference shares, convertible debentures and warrants of an Indian company or units of an investment vehicle, on repatriation basis (under Schedule 3 to FEMA 20) and non-repatriation basis (under schedule 4 to FEMA 20). Investment by an NRI, including a company, a trust and a partnership firm incorporated outside India and owned and controlled by NRI, on non-repatriation basis under Schedule 4 of notification *ibid*, will be deemed to be domestic investment at par with the investment made by residents.

j. Foreign investment up to 100 percent under the automatic route has been permitted in the plantation sector which includes tea plantations, coffee plantations, rubber plantations, cardamom plantations, palm oil tree plantations and olive oil tree plantations. There have been changes in the foreign investment cap in other sectors. The updated Annex-B to schedule-1 has been notified vide Notification No. FEMA 362/2016-RB dated February 15, 2016.

k. "Real estate business" shall mean dealing in land and immovable property with a view to earning profit therefrom and does not include development of townships, construction of residential / commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships.

Further, earning of rent income on lease of the property, not amounting to transfer, will not amount to "real estate business".

l. Manufacturing has been given a precise definition and foreign investment up to 100% under the automatic route is permitted in manufacturing subject to the conditions of the FDI policy and the provisions of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000. A manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval.

m. An entity engaged in single brand retail trading operating through brick and mortar stores, is permitted to undertake retail trading through e-commerce.

4. To effect these changes the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 have been amended through the Foreign Exchange (Transfer or Issue of Security by a Per-

son Resident outside India) (Tenth Amendment) Regulations, 2015 notified vide Notification No. FEMA.354/2015-RB dated October 30, 2015, (c.f. G.S.R No.823 (E) dated October 30, 2015), the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2016 notified vide Notification No. FEMA 361/2016-RB dated February 15, 2016 (c.f. G.S.R No 165(E) dated February 15, 2016) and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2016 notified vide Notification No. FEMA 362/2016-RB dated February 15, 2016, (c.f. G.S.R No. 166 (E) dated February 15, 2016).

5. Authorised Dealer 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 section 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.

## Radiation Inspection of Un-shredded Metallic Waste and Scrap only at Entry Port in India from 1 April 2017

### 4 Corrections in Public Notice 38 dated 06.10.2016

**Effect of this Public Notice:** The wordings HMS - I & HMS - II as appearing in Public Notice No.38/ (2015-2020) dated 6th October, 2016 are replaced by un-shredded Metallic Waste and Scrap.

**Subject:** Corrigendum to Public Notice No.38/ (2015-2020) dated 6th October, 2016.

40-PN In exercise of powers conferred under paragraph 2.04 of the  
25.10.2016 Foreign Trade Policy, (2015-2020), the Director General of  
(DGFT) Foreign Trade hereby revises the subject and Paragraph I of the Public Notice  
No.38/ (2015-2020) dated 6th October, 2016 as under:

Existing subject and Paragraph 1 of Public Notice No. 38/2015-2020	Revised subject and Paragraph 1 of Public Notice No. 38/ 2015-2020
Subject: Procedure governing import of un-shredded scrap (HMS- I & HMS- II) under Para 2.54 of Handbook of Procedures (2015-2020). In exercise of powers conferred under paragraph 2.04 of the Foreign Trade Policy, (2015-2020), the Director General of Foreign Trade hereby inserts a new para (v) detailing the conditions governing clearance of imports of un-shredded scrap (HMS- I & HMS- II) by sea ports under Para 2.54 - Import of Metallic Waste and Scrap in the Handbook of Procedures, 2015-2020 as under:	Subject: Procedure governing import of un-shredded Metallic Waste and Scrap under Para 2.54 of Handbook of Procedures (2015-2020) In exercise of powers conferred under paragraph 2.04 of the Foreign Trade Policy, (2015-2020), the Director General of Foreign Trade hereby inserts a new para (v) detailing the conditions governing clearance of imports of un-shredded Metallic Waste and Scrap by sea ports under Para 2.54 - Import of Metallic Waste and Scrap in the Handbook of Procedures, 2015-2020 as under:"

## No RBI Approval to Foreign Venture Capital Investors in 10 Sectors

**Sub:** Investment by a Foreign Venture Capital Investor (FVCI) registered under SEBI (FVCI) Regulations, 2000

AP(DIR Srs) Attention of Authorised Dealers  
Cir.07 Category – I (AD Category - I)  
20.10.2016 banks is invited to the Foreign  
(RBI) Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time (Principal Regulations).

2. Investment in India by Foreign Venture Capital Investors (FVCI), registered with SEBI, is governed by the provisions of Schedule 6 of the Principal Regulations. In order to further liberalise and rationalise the investment regime for FVCIs and to give a fillip to foreign investment in the start-ups, the extant regulatory provisions have been reviewed, in consultation with the Government of India and accordingly amendments have been

carried out in Schedule 6 of Foreign Exchange Management (Transfer or Issue of security by a person resident outside India) Regulations, 2000, through Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Third Amendment) Regulations, 2016.

3. As per the Amendment Notification referred to above, any FVCI which has obtained registration under the Securities and Exchange Board of India (FVCI) Regulations, 2000, will not require any approval from Reserve Bank of India and can invest in:

a) Equity or equity linked instrument or debt instrument issued by an Indian company whose shares are not listed on a recognised stock exchange at the time of issue of the said securities/ instruments and engaged in any of the following sectors:

- i. Biotechnology
  - ii. IT related to hardware and software development
  - iii. Nanotechnology
  - iv. Seed research and development
  - v. Research and development of new chemical entities in pharmaceutical sector
  - vi. Dairy industry
  - vii. Poultry industry
  - viii. Production of bio-fuels
  - ix. Hotel-cum-convention centres with seating capacity of more than three thousand
  - x. Infrastructure sector (This will include activities included within the scope of the definition of infrastructure under the External Commercial Borrowing guidelines / policies notified under the extant FEMA Regulations as amended from time to time).
- b) Equity or equity linked instrument or debt instrument issued by an Indian 'startup' irrespective of the sector in which the startup is engaged. A startup will mean an entity (private limited company or a registered partnership firm or a limited liability partnership) incorporated or registered in India not prior to five years, with an annual turnover not exceeding INR 25 Crores in any preceding financial year, working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property and satisfying certain conditions given in the Regulations.
- c) Units of a Venture Capital Fund (VCF) or of a Category I Alternative Investment Fund (Cat-I AIF) (registered under the SEBI (AIF) Regulations, 2012) or units of a Scheme or of a fund set up by a VCF or by a Cat-I AIF.
4. It is clarified that downstream investments by a Venture Capital Fund (VCF) or a Cat-I AIF, which has received investment from FVCI, shall have to comply with the provisions for downstream investment as laid down in Schedule 11 of the

Principal Regulations.

5. Other salient features of the revised regulatory framework are as under:

- a) FVCI may open a foreign currency account and/or a rupee account with a designated branch of an Authorised Dealer for the purpose of making transactions only and exclusively under this Schedule.
- b) The consideration for all investment by an FVCI shall be paid out of inward remittance from abroad through normal banking channels or out of sale / maturity proceeds of or income generated from investment already made as per paragraph 3 above.
- c) There will be no restriction on transfer of any security/instrument held by the FVCI to any person resident in or outside India.

6. An entity receiving investment directly from a registered Foreign Venture Capital Investor (FVCI) will be required to report the investment, mutatis mutandis, in form FCGPR. The necessary changes in the E-biz portal is being made and separate instructions will be issued in due course. Till such time, reporting requirements, as hitherto, shall continue.

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

8. Reserve Bank has since amended the Principal Regulations accordingly through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Third Amendment) Regulations, 2016 which have been notified vide Notification No. FEMA 363/2016-RB dated April 28, 2016, vide G.S.R. No.465(E) dated April 28, 2016.

9. The directions contained in this circular have been issued under section 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.

products and medical devices in a manner that benefits patients and provides healthcare services and products.

## IPR

Ambassador Froman welcomed DIPP's new role in copyright administration. Minister Sitharaman reiterated the importance of the Copyright Board and expressed hope that it would be functional by the second quarter of 2017. Both countries voiced concern about the unauthorized recording, including camcording, of films in cinemas and copyright piracy on websites. India highlighted positive reforms relating to anti-camcording measures proposed in forthcoming amendments to the existing Indian Cinematograph Act. Both sides noted proactive steps initiated at the Indian state level to combat piracy.

The Ministers also commended the trade secrets workshop convened with government officials, academics, legal experts and representatives from U.S. and Indian industry in Delhi in 2016 that facilitated the exchange of information and best practices on trade secrets protection in both countries. The United States highlighted the May 2016 ratification of the Defend Trade Secrets Act in the United States, which, along with the Economic Espionage Act, provide federal causes of action for both civil and criminal enforcement against trade secrets misappropriation. India noted that it protects trade secrets through a common law approach. Ambassador Froman

## Customs Exchange Rates

[As on 26 Oct 2016]

Currency	Imports	Exports
<b>1 FC = IC</b>		
US Dollar	67.55	65.90
EURO	74.50	72.00
Pound Sterling	83.45	80.70
Australian Dollar	52.20	50.40
Bahrain Dinar	183.20	170.95
Canadian Dollar	51.60	50.00
Danish Kroner	10.05	9.65
Hong Kong Dollar	8.70	8.50
Kuwait Dinar	227.90	213.25
Newzeland Dollar	49.35	47.45
Norwegian Kroner	8.35	8.05
Singapore Dollar	48.90	47.30
South African Rand	5.00	4.65
Saudi Arabian Riyal	18.40	17.20
Swedish Kroner	7.70	7.40
Swiss Franc	68.60	66.40
UAE Dirham	18.75	17.60
Chinese Yuan	10.05	9.75
<b>100 FC = IC</b>		
Japanese Yen	65.55	63.35
Kenya Shilling	68.05	63.65

[F.No.468/01/2016-Cus.V]

[Ref: 127-Cus (NT) dated 20th Oct 2016]

## US Looks to Agro and Animal Products in India

Minister of Commerce and Industry of India Ms. Nirmala Sitharaman and U.S. Trade Representative Ambassador Michael Froman met in Delhi on October 20, 2016, for the tenth ministerial-level meeting of the India and United States Trade Policy Forum (TPF).

Minister Sitharaman and Ambassador Froman noted each other's requests and agreed to follow up on exploring the possibility of enhanced market access on identified agricultural products. Both sides welcomed India's increased shipments of mangoes and pomegranates to the United States in 2016. The United States agreed to a timely review of the information submitted by export of grapes from India. Subsequent to the receipt of additional information from the United States, India agreed for a timely review of the request for export of U.S. cherries and alfalfa hay. The United States also agreed to further collaboration to facilitate Indian rice and honey exports. India acknowledged the receipt of the U.S. proposal on Certificate for Pork Exports to India and Form 9060-5 recently submitted and agreed for a quick examination of the request. Discussion of mandatory package size requirements for pre-packaged foods for some items in India will continue in 2017.

The United States and India discussed regulation relating to end-use information for boric acid, imported and domestic, used for non-insecticidal

purposes. Both sides agreed to discuss U.S. concerns regarding market access for dairy products. U.S. concerns on GM and licensing issues were noted by India.

## E-Commerce

The importance of e-commerce, retail and direct selling in facilitating trade in goods was acknowledged by both sides. India noted that 100 percent foreign direct investment (FDI) is now permitted in the marketplace model of e-commerce as well as in the distribution of food products produced in India, including through e-commerce. To ensure that e-commerce companies can take full advantage of this market opening, India noted the continuous efforts for facilitating investment in e-commerce. Ambassador Froman welcomed the publication of the "Advisory to State Governments/ Union Territories on Model Guidelines on Direct Selling". The United States encouraged India to consider relaxing local sourcing requirements in single brand retail trade. India mentioned recent FDI reforms providing relaxation in local sourcing norms in specific cases.

Both sides agreed to explore mechanisms through technical discussions to address market access issues and trade costs for pharmaceutical

## Crude Down to \$49.20

Crude Oil (Indian Basket) from 19 - 25 Oct 2016

	19 Oct	20 Oct	21 Oct	24 Oct	25 Oct
(\$/bbl)	50.41	49.93	49.41	49.54	49.20
(Rs/bbl)	3363.38	3332.39	3305.32	3312.04	3290.57
(Rs/\$)	66.71	66.74	66.89	66.86	66.88

(Previous Trading Day Price)

Source: Ministry of Petroleum & Natural Gas

## GST Scanner

### GSTN Moves Forward to Shortlist 88 Service Providers to Interface with Network

GSTN, based in Aerocity near the IGI Airport as centralised hub to handle to the GST transactions has shortlisted 88 Service Providers including the Public Sector Giant ISDL to provide the interface to the 65 lakh plus Users of the GST. The final selection of the SPs will be based on verification of the infrastructure with the agencies.

The SPs will work the Application Developers who will develop software based solutions according to the needs of the users.

The dashing CEO of GSTN Navin Kumar (former Civil Service Officer of IAS 1975) told a packed hall of SP applicants at the NDMC Convention Hall on 25 Oct that the initial short list is confined to the biggies among the aspirants. With time, the system will evolve to give recognition others in the applicant list.

All the 300 plus among the applicants are registered and will be considered for recognition in further rounds, he added.

(The small service provider operating in specific geographies as well as the 200 plus accounting software companies are not too happy with the monopolization of GST by the Big SPs. They want the system be open to all on the pattern of the stock exchanges and broker linkages).

Kumar and his team of five seniors explained the complexities and basis of the



GST system in both regulatory and technical environments to the eager audience.

The challenge before GSTN is huge. The Plus 65 lakh users will generate billions of invoices which will come in thru the GSTR1 and GSTR 1A returns. The corresponding purchase registers will be GSTR2 and GSTR 2A. With the total returns numbering to 61 per year, the volumes in the system will be humongous. Infosys has set up the hardware and software to handle the info flows.

Some 55 of the best talent drawn from Government and private sector is with GSTN. The legal and regulatory frame is complex with 31 State tax jurisdictions, a meddlesome Central Government and indecisive GST Council with consensus based decision making. The number of Laws and Rules and amendments will generate yet another complexity.

Can they do it? That is a difficult question to answer. The GST is a win-win for the revenue hungry Governments and Control freak administrators. The industry is happy to be rid of archaic taxation laws with multiple taxation of same transaction and item without relief of input credit. This "hunger in the belly" may well be the engine to complete the GST Act, with or without tears. The passage of the Constitution Amendment Bill is a good omen of what lies in the future.

### Old VAT in New Bottles – Multiple-rate GST Bad for India

*Three or Four Rates Enough, says Chidambaram*

The proposed multiple rate GST structure will be "disastrous" and nothing more than same old VAT in new bottles, former finance minister P Chidambaram said on Monday, 25 Oct 2016.

"We sincerely hope that we do not misinterpret the design of standard, standard minus and plus rates of GST. We can have 20 rates.

"A well designed GST is expected to have standard rate, plus and minus standard rate. That latitude interpreted to me as multiple rate - zero to 100 - that's not GST.

At the GST Council meeting last week, there was virtual consensus among states on imposing a cess on specific commodities to compensate the States for loss of revenue, which tax experts and industry have opposed vehemently, saying it defeats the very concept of one-nation, one-tax.

Besides, a four-slab tax structure of 6, 12, 18 and 26 per cent with lower tariff for essential items and the highest bracket for luxury and sin goods also found favour with them but a decision was put off to the next meeting on November 3-4.

and Minister Sitharaman were appreciative of the full exchange of views by participants and the identification of next steps in this regard. They reiterated their commitment to strong protection of trade secrets in their respective countries and to continue engagement on effective trade secret protection mechanisms. A toolkit would be prepared for industry, especially SMEs, to highlight applicable laws and policies that may enable them to protect their trade secrets in India. A training module for judicial academies on trade secrets may also be considered. A further study on various legal approaches to protection of trade secrets will also be undertaken by India.

With respect to computer-related inventions (CRI), Minister Sitharaman noted that India has set up a Committee to re-examine the guidelines on examination of CRI patent applications, and expressed hope that a final decision would be taken soon in this regard consistent with Indian law.

Ministers reaffirmed their commitment to exchange information on standards, Conformity Assessment procedures and the Common Criteria Recognition Arrangement (CCRA) in the electronics sector.

India and the United States also agreed to continue their dialogue on conformity assessment based on international standard systems across various sectors by respective regulators.

### New Revised DTAA between India and Korea

A new revised Double Taxation Avoidance Agreement (DTAA) between India and Korea for the Avoidance of Double Taxation and the Prevention of Fiscal evasion with respect to taxes on income was signed on 18th May 2015 during the visit of the Prime Minister Shri Narendra Modi to Seoul. It has now come into force on 12th September 2016, on completion of procedural requirements by both countries. The earlier Double Taxation Avoidance Convention between India and Korea was signed on 19th July, 1985 and was notified on 26th September 1986.

Provisions of the new DTAA will have effect in India in respect of income derived in fiscal years beginning on or after 1st April, 2017.

Some of the salient features of new DTAA are:

The existing DTAA provided for residence based taxation of capital gains on shares. In line with India's policy of taxation of capital gains on shares, the revised DTAA provides for source based taxation of capital gains arising from alienation of shares comprising more than 5% of share capital.

In order to promote cross border flow of investments and technology, the revised DTAA provides

for reduction in withholding tax rates from 15% to 10% on royalties or fees for technical services and from 15% to 10% on interest income.

The revised DTAA expands the scope of dependent agent Permanent Establishment provisions in line with India's policy of source based taxation.

To facilitate movement of goods through shipping between two countries and in accordance with international principle of taxation of shipping income, the revised DTAA provides for exclusive residence based taxation of shipping income from international traffic under Article 8 of revised DTAA.

The revised DTAA, with the introduction of Article 9(2), provides recourse to the taxpayers of both countries to apply for Mutual Agreement Procedure (MAP) in transfer pricing disputes as well as apply for bilateral Advance Pricing Agreements (APA). Further, as per understanding reached between the two sides, MAP requests in transfer pricing cases can be considered if the request is presented by the tax payer to its competent authority after entry into force of revised DTAA and within three years of the date of receipt of notice of action giving rise to taxation not in accordance with the DTAA.