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India Gives Zero Duty to South Asia LDCs and Sri Lanka

Pak to Suffer Concessional Duty



The Government of India has finally taken the bold step to officially give zero duty treatment to all imports from the five LDCs in the SAFTA region. The only exceptions are liquor and tobacco. Bangladesh will be the biggest beneficiary of the gesture by the Big Brother India since the partial concessions in the earlier dispensation to

window since the rules of origin in these are liberal compared to those under SAFTA.

Maldives is also at zero duty now but not much is being imported from the country.

In the case of developing countries in South Asia, Sri Lanka is already under zero tariff FTA, only Pakistan remains as the country on which concessional tariff under Appendix 1 of SAFTA and SAPTA will be applicable.

It may be noted that actual South Asia trade with India will take place only where infrastructure for its facilitation is created at the international border. As of now, transport, warehousing, customs and security at the border crossing is very poor.

the Eastern neighbour operated through the SAFTA window. Now the window is open to all LDCs in South Asia, there is no duty or tariff quota on imports from Bangladesh. Similarly, Afghanistan as an LDC will also gain from the Indian market, specially with regard to dry fruits like almonds.

Nepal and Bhutan are already under zero duty regimes under separate agreement. Imports from these countries will be through the special notifications and not through the SAFTA

Arun Goyal India Trade Notes

Delays, thefts, extortions, cheating and corruption rule the roost. There is no coordination between security, immigration, foreign exchange, customs and local police. The answer lies in moving towards one window clearance by amending the jungle of laws applicable at the border. For this, understanding and coordination between India, Pak and Bangladesh is very important. We have to return to the trade and transport links of the pre-partition days when the sub-continent was a joint family.

Zero Duty on All Goods except Liquor and Tobacco from LDCs under SAFTA

Ntfn 99 09.11.2011 (DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), and in supersession of the notifications of the Government of India,

in the Ministry of Finance (Department of Revenue), **No. 51/2008-Customs, dated the 21st April, 2008** [G.S.R. 297 (E), dated the 21st April, 2008] **and No. 85/2011-Customs dated 6th September, 2011**[G.S.R.662 (E), dated the 6th September, 2011], except as respects things done or omitted to be done before such supersession, the Central Government, being satisfied that it is necessary in public interest so to do, hereby exempts **all goods other than those mentioned in the ANNEXURE** to this notification, from the **whole of the duty of customs** leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when imported into India from a country listed in APPENDIX to this notification.

Provided that the importer proves to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, that the goods, in respect of which the benefit of this exemption is claimed, are of the origin of the country listed in the APPENDIX in accordance with the Rules of Determination of Origin of Goods under the Agreement on South Asian Free Trade Area (SAFTA), 2006, published in the notification of the Government of India in the

Ministry of Finance (Department Revenue) No 75/2006-Customs, (NT) dated the 30th June,2006.

Annexure

S. No.	HS Code	Description
(1)	(2)	(3)
1	2203 to 2206	All goods
2	220710	All goods
3	2208	All goods
4	Chapter 24	All goods

Appendix

S. No.	Country
(1)	(2)
1.	People's Republic of Bangladesh
2.	Kingdom of Bhutan
3.	Republic of Maldives
4.	Nepal
5.	Islamic Republic of Afghanistan

[F.No. 354/42/2002-TRU (Pt.)]

APEC FTA in One Year's Time, Japan Demurs on Again

Nine Asia-Pacific nations including the U.S. outlined a framework for a free trade accord and agreed to accelerate negotiations with the aim of completing an agreement within the next year.

Leaders involved in the Trans-Pacific Partnership trade talks are setting July as a target for reaching an agreement, Malaysian Prime Minister Najib Razak said in Honolulu on Nov. 12. President Barack Obama said the aim is to reach a formal pact in the next 12 months and a U.S. official said there is "no firm deadline." Negotiators will meet in early December and schedule more discussions then, the leaders said in a statement.

An accord among the Pacific Rim nations would be the first trade deal that Obama signed rather than inherited and the biggest for the U.S. since the North American Free Trade Agreement with Canada and Mexico that took effect in 1994. It would also help the U.S. regain economic influence it has ceded to China in a region that contains sea lanes vital to world commerce, as well as coal, oil and other commodities.

Seeking Agreements

Some nations are seeking their own free-trade agreements as the World Trade Organization's Doha round of global talks remains unfinished after a decade. Japanese Prime Minister Yoshihiko Noda, rebuffing opponents of the trade deal within his own Democratic Party of Japan, said before the APEC summit started that he aims to join the U.S.-led TPP negotiations.

The current TPP talks involve Australia, Chile, Peru and Singapore, all of which already have separate free-trade agreements with the U.S., as well as Malaysia, New Zealand, Vietnam and Brunei. In addition to tackling traditional trade issues such as tariffs and market access, negotiators at the talks are seeking restrictions on government-owned companies and stricter protections for patents and copyrights.

A dispute between the U.S. and Japan emerged almost immediately. Japan's Ministry of Foreign Affairs denied a White House statement that Noda told Obama during their Nov. 12 meeting that he is willing to negotiate all his country's goods and services at the TPP.

Two-Way Trade

Two-way trade between the U.S. and the eight nations in the TPP totaled \$171 billion last year, compared with \$457 billion with China, \$181

billion with Japan and \$88 billion with South Korea, according to the U.S. Commerce Department. Taken together, the eight member economies would be America's fifth largest trading partner, Obama said.

"An APEC agreement on broad outlines may not signify much," Razeen Sally, director of the Brussels-based European Center for International Political Economy, said by telephone. "It might provide some kind of impetus to the negotiations, but there's still a long way to go given how disparate the membership is."

A trade accord such as the TPP may face political hurdles as leaders fight protectionism and sensitive issues in domestic politics. Japan's largest farm lobby submitted a petition with almost 11.7 million signatures saying the accord would mean the "collapse" of a farm industry that accounts for about one percent of the country's economy.

Polls show Japanese are divided over the

accord. Thirty-four percent of respondents said Japan should join the TPP, 25 percent said it shouldn't, and 39 percent didn't know, according to a Mainichi newspaper poll published Nov. 7. The paper surveyed 981 voters and didn't provide a margin of error.

In Malaysia, reluctance to change policies that give preferential treatment for some state contracts to ethnic Malays and indigenous people were among issues that led to a previous breakdown in negotiations with the U.S. on a free trade pact.

The U.S.-South Korea free trade pact, initially agreed on by presidents George W. Bush and Roh Moo Hyun more than four years ago, was delayed as their successors Obama and Lee Myung Bak sought wide domestic support for the deal. While Obama signed the agreement into law on Oct. 21 after Congress passed it earlier that month, South Korea's main opposition Democratic Party has stalled the government's efforts since June to put the bill to a vote.

Pak Gives MFN to India

In a landmark move, Pakistan announced on 2 November that its cabinet had unanimously agreed to grant its neighbour - and often political rival - India most favoured nation (MFN) status. The decision is expected to substantially boost trade between the neighbours.

Most favoured nation status, which is required of WTO members, mandates that all members treat their trading partners equally. India had granted Pakistan MFN status in 1996; both countries hold membership at the global trade body.

SAFTA was agreed upon in 2004 between Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka and went into force in 2006; the agreement was meant to lower tariffs among members. India has argued for years that Pakistan was not respecting their WTO commitments regarding MFN treatment, nor the terms of the SAFTA.

In September, the commerce ministers also set the November meeting as a deadline to "lay down specific timelines to normalise all trade relationships including dismantling of all non-tariff barriers." India's product quality standards and customs procedures have traditionally been criticised by Pakistan as being overly strict.

Pakistan had not granted MFN status to its neighbour previously due to the countries' ongoing disagreements over the Kashmir region.

Prior to the WTO replacing the GATT system in the 1990s, neither country had granted the other with MFN status; India only granted it after the Uruguay Round of trade talks that established the WTO.

Pakistan's refusal to grant India MFN status in the past has never been challenged at the global trade body. The reasons for India's decision not to pursue a WTO dispute were never made clear, though many observers have speculated that New Delhi either did not consider the option viable, or because there was already illegal trade between the two nations.

31st India International Trade Fair Inaugurated

Finance Minister Expresses Concern over Growing Protectionism

This year IITF expects to attract 1.5 million visitors and 6000 exhibitors. The 14-day event at Pragati Maidan here will host products from 26 countries in addition to 27 Indian States, 31 Central Government Ministries and 260 private companies. The theme for this year's Trade Fair is 'Indian Handicrafts - the Magic of the Gifted Hands'. Bundelkhand and Jharkhand are the partner states and Bihar and Orissa are the focus states.

Anand Sharma also inaugurated African Pavilion and Handicraft Pavilion at the Trade Fair.

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Dollar-Rupee Rate at NSE Futures

Trade Date	Open Price	High Price	Low Price	Close Price	Daily Settlement Price	Open Interest	No. of Contracts	Value (Rs. lakhs)	RBI Reference rate
15-Nov-11	50.5475	50.8950	50.5275	50.8275	50.8275	1204892	1947135	988318	50.5645
14-Nov-11	50.0625	50.5725	50.0300	50.5050	50.5050	1190633	1677298	843417	50.0845
11-Nov-11	50.5000	50.6050	50.0750	50.2900	50.2900	1219334	1882237	947438	50.2795
09-Nov-11	49.5475	50.3500	49.5200	50.2700	50.2700	1266943	2102926	1051707	49.7810
08-Nov-11	49.3025	49.6550	49.2675	49.6200	49.6200	1208987	1228092	607957	49.3800

[Source: NSE and RBI Website]

WEEKLY INDEX OF CHANGES

No Rupees in Customs Area – Forex Counters in International Airports to be Compliant by End of Year

Subject: Location of Foreign Exchange Counters at International airports.

51-CBEC 11.11.2011 (DoR) References have been received in the Board from field formations seeking clarification on the issue of location of Foreign Exchange Counters in departure / arrival hall of international airports.

2. It is reported that, Foreign Exchange Counters located after immigration and before Customs (green / red channel) in the arrival hall and after Customs in the departure hall, are posing problems in enforcement of FEMA regulations / RBI guidelines in regard to import and export of Indian Currency by Indian resident passengers as well as non resident passengers / foreign tourists.

3. The matter has been examined in consultation with RBI. RBI vide letter No. RBI/2011-12/234, [A.P. (DIR Series) Circular No. 38] dated Oct 25, 2011, in respect of Foreign Exchange Counters (full-fledged branches / extension counters) opened by Authorised Dealer Category-I banks, Authorised Category-II and Full Fledged Money Changers beyond the Domestic Tariff Area in international airports in India, has clarified that:

(a) Foreign Exchange Counters in the arrival halls in international airports in India shall ideally be established after the Customs Desk (Green Channel/Red Channel). However, Foreign Exchange Counters may also be estab-

lished between the Immigration Desk and the Customs Desk in international airports in India, subject to the condition that these counters shall only purchase Foreign currency and sell Indian Rupees (INR) and 'Encashment Certificates', shall invariably be issued by the money changers to the customers.

(b) Similarly, Foreign Exchange Counters in the departure halls in international airports in India shall be established only before the Customs Desk or the Immigration Desk, whichever comes first. Putting up suitable display at these counters, reminding the passengers that the area is the last point for non-residents to possess Indian Rupees (INR) may be followed up with the Airport Authorities.

(c) The Foreign Exchange Counters of Authorised Dealers Category-I banks, Authorised Dealers Category-II and Full Fledged Money Changers, not conforming to the above, should be relocated in accordance with the above instructions, latest by 31.12. 2011.

4. All Commissioners in charge of International airports are directed to ensure that the directions contained in the said Circular are complied with scrupulously.

5. Wide publicity may be given to the above directions of the RBI for compliance by all concerned.

F.No.520/25/2008-Cus.VI (pt.)

Eligibility of Construction Equipments under Project Imports

Plant Site Verification Certificate must be Submitted for Finalization of Project

Subject: Eligibility of assessment of construction equipments under Project Imports Regulations (PIR), 1986 – Instructions.

49-CBEC 04.11.2011 (DoR) References have been received that divergent practice are being followed by field formations regarding assessment of import of construction equipments required for the initial setting up of a unit, for a specified project under Customs Tariff Heading No. 98 01 (Project Imports).

2. The issue has been examined by Board in view of decision of Hon'ble Supreme Court in the case of Commissioner of Customs, Mumbai vs. M/s. Toyo Engineering India Ltd., 2006(201) ELT 513 SC where in it has been observed; "The goods imported by the respondent such as hydle truck cranes, excavator, shovel loader, truck, forklift truck, power generators, diesel welder, welding rectifier, containers tools and tackles instruments, level Nako with tripod and theodolite Nako with accessories & tripod would certainly be auxiliary equipments which would help in the initial setting up of the industrial plant." It is also observed by Hon'ble Apex Court in Punjab Power State Electricity Board [1997(91) ELT 247(SC)], "that the vehicles, which

are used in the shifting of the transformers would not constitute integral activity of the project".

3. In view of above said decisions it is clarified that the scope of the items eligible for import under the Project Import Regulations 1986, shall cover construction equipments as auxiliary equipment; if essentially required for initial setting up or substantial expansion of registered projects.

4. Further it is clarified that the construction equipments may be permitted to be transferred to other registered project under CTH 9801, after completion of its intended use, on recommendations of sponsoring authority.

5. It is also clarified that 'Plant Site Verification Certificate' (PSVC) required to be submitted for finalization of project as per Circular No. 14/2006-Cus F.No. 528/9/2006-Cus (TU) shall also incorporate the details of construction equipments imported and used for the project, to ensure proper utilization of goods imported.

6. These instructions should be brought to the

notice of all the concerned by way of issuance of instructions /trade notice.

7. Difficulty faced if any, may be brought to the notice of the Board.

Applications for DEPB on Cotton Yarn Export during 01 April to 04 Aug 2011

Subject: -Filing of applications for DEPB to the RA concerned with "Free Shipping Bills" for exports of "Cotton yarn including Melange yarn" made from 01.04.2011 to 04.08.2011 and "Cotton" from 01.10.2010 to 04.08.2011.

Reference: Public Notice Nos.67/2009-2014(RE2010) and 68/2009-2014 (RE2010 both dated 04.8.2011.

47-Pol.Cir 08.11.2011 (DGFT) DEPB on export of "Cotton yarn including Melange yarn" and "Cotton" which was withdrawn earlier has been restored by the above mentioned Public Notices. During that period as DEPB was not available on export of "Cotton yarn including Melange yarn", the exporters have made their exports under "Free Shipping Bills".

2. The matter has been considered in this Directorate and it has been decided to lay down the following procedure to grant DEPB on the export of "Cotton yarn including Melange yarn" made between the period from 01.04.2011 to 04.08.2011 and on the export of "Cotton" made between the period from 01.10.2010 to 04.08.2011 on the basis of "Free Shipping Bills":-

(i) The exporters will apply to RA by feeding the details of the "Free Shipping Bill" manually on their on-line application;

(ii) A hard copy of the "Free Shipping Bill", duly attested by the exporter will be submitted to the RA.;

(iii) On the basis of the export description given on the shipping bill, the RA will decide whether that export product is entitled for DEPB or not; and

(iv) If the RA is satisfied that description of the export product in the shipping bill is the same as in the relevant DEPB entry, based on the FOB value of the shipping bill/Bank Realisation Certificate (BRC), the DEPB will be issued.

3. This issues with the approval of DGFT.

FPS, VKGUY Can be Used for Duty Payment on Clearance from Bonded Warehouses

Subject: - Clearance of goods from Custom Bonded Warehouses utilizing duty credit scrips of SFIS, VKGUY, FMS, FPS, SHIS

50-CBEC 09.11.2011 (DoR) I am directed to invite your kind attention to an issue which has been raised before the Board as to whether duty credit scrips issued under the Chapter 3 schemes of the Foreign Trade Policy (FTP) viz Served from India Scheme (SFIS), Vishesh Krishi Gram Udyog Yojana (VKGUY), Focus Market Scheme (FMS), Focus Product Scheme (FPS) and Sta-

tus Holder Incentive Scheme (SHIS) can be utilized for clearance of goods from Custom Bonded warehouses.

2. The matter has been examined. Clearance of goods from Custom Bonded warehouses is allowable by utilizing DEPB credit scrips as per procedure mentioned in Circular No. 68/2000 dated 18.8.2000 and Circular No. 72/2003-Cus dated 11.8.2003. However, since the schemes such as SFIS, VKGUY, FMS, FPS, SHIS have come into being only after issuance of these circulars, these schemes do not find specific mention in the said circulars.

3. All the schemes viz SFIS, VKGUY, FMS, FPS, SHIS provide for duty credit scrips which can be utilized for import of goods subject to conditions and limitations detailed in the Foreign Trade Policy (2009-14). It is clarified that duty credit scrips of these schemes are allowed for clearance of goods from Custom Bonded warehouses under the same procedure as prescribed for DEPB scrips under Circular 68/2000 dated 18.8.2000 and 72/2003-Cus dated 11.8.2003 and subject to the conditions and limitations mentioned in Foreign Trade Policy(2009-14).
F.No.605/53/2011-DBK

No Online Authorisation Yet for FPS Scrips

Subject:- Authorizations issued by DGFT not transmitted by message exchange to Customs to be registered / operated on production of physical copy of authorization only.

46-Pol.Cir 08.11.2011 (DGFT) DGFT receives requests from exporters / importers about non appearance of details of authorizations issued by DGFT on Custom's server leading to delays in registration / export and import clearances.

2. Message exchange between DGFT and Customs is operational only in respect of Advance Authorization (on and after 01.04.2009), Export Promotion Capital Goods (on and after 01.04.2009), Duty Free Import Authorization (on and after 13.10.2011) and DEPB (which is on EDI mode for almost 6 years). Only these

authorizations are therefore available for 'on-line' verification.

3. Other authorizations i.e. Annual Advance Authorization, Annual EPCG, SHIS, restricted / SCOMET import / export authorization, Chapter 3 Reward Scheme are yet to be covered under message exchange with customs. Therefore, these authorizations need to be registered / operated by custom on production of physical copy of authorization only with no 'on-line' verification.

4. The above procedure is being reiterated for information to all stake holders.

DGFT Permits Six Companies to Export Casein and Casein Products

Subject:- Exemption for export of excise verified stock of 1053. 625 MTs of casein and casein products manufactured prior to imposition of ban on export of milk products i.e. 18.02.2011.

21-TN 31.10.2011 (DGFT) Notification No. 83 dated 31.10.2011 has permitted export of excise verified stock of 1053. 625 MTs of casein and casein products manufactured prior to imposition of ban on export of milk products i.e. 18.02.2011.

2. On the basis of information available with the DGFT, the following firms are permitted to export the excise verified stock of quantities mentioned against their names (which were manufactured prior to ban):

Sl.No.	Name of the firm	Quantity permitted in MTs
1	Modern Dairies Ltd., Chandigarh	278.225
2	V.R.S. Foods Ltd., New Delhi	497.905
3	Bhole Baba Dairy Industries Ltd., New Delhi	75.475
4	Schriber Dynamix Dairies Ltd., Mumbai	85.125
5	Industrial Progressives (I) Ltd., Palwal, Haryana	30.200
6	Mahaan Proteins Ltd., New Delhi	86.695

Exchange Rate on Date of Authorisation to be Used for Composition Fee Calculation

Subject: Clarification on applicability of exchange rate for the purpose of calculation for composition fee

45-Pol.Cir 08.11.2011 (DGFT) Attention is invited to para 4.28 (ii) of HBP v.1 regarding regularization of bona fide default by the authorization holders. In case of any shortfall in value, authorization holder is required to deposit an amount equal to 1% shortfall in FOB value in Indian

Rupee. Clarification has been sought on the exchange rate applicable for determination of shortfall in Export Obligation.

2. Basis of calculation of exchange rate would be the date of issue of authorization.

This issues with the approval of DGFT.

FII's Can Invest in Infrastructure NBFCs

Subject: Foreign investment in India by SEBI registered FIIs in other securities

AP(DIR) Srs. Cir.42 03.11.2011 (RBI) Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to A.P.(DIR Series) Circular No.55 dated April 29, 2011, in terms of

which the limit for FII investment in non-convertible debentures / bonds issued by Indian companies in the infrastructure sector was enhanced from USD 5 billion to USD 25 billion. This was subject to the conditions that such instruments shall have a residual maturity of five years and above, the investments would have a lock-in-period of three years and 'infrastructure' would be as defined under the extant External Commercial Borrowings (ECB) policy. Attention of the AD Category-I banks is also invited to A.P. (DIR Series) Circular No.8 dated August 9, 2011, in terms of which Qualified Foreign Investors as defined therein (QFIs) were allowed to invest in units of Mutual Funds debt schemes upto a limit of USD three billion within the overall limit of USD 25 billion for FII investment in non-convertible debentures / bonds issued by Indian companies in the infrastructure sector.

2. On a review it has been decided as under :

i) FIIs would also be allowed to invest in non-convertible debentures / bonds issued by Non-Banking Financial Companies categorized as 'Infrastructure Finance Companies'(IFCs) by the Reserve Bank of India within the overall limit of USD 25 billion.

ii) The lock-in-period of three years for FII investment stands reduced to one year up to an amount of USD 5 billion within the overall limit of USD 25 billion. This lock-in-period shall be computed from the time of first purchase by FIIs.

iii) The residual maturity of five years and above stipulated would now onwards refer to the original maturity of the instrument at the time of first purchase by an FII.

iv) The above changes at (i) and (iii) above would also apply for QFI investment in units of Mutual Fund debt schemes within the limit of USD three billion.

3. Necessary amendments to the Foreign Exchange Management (Transfer of Issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 are being notified separately.

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

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

Amendments in IEC Application Form

Full Details of Applicant, PAN and Email ID of Banker Must be Included in IEC Application Form

Subject: Modification of ANF2A of Handbook of Procedures, Vol. I, 2009-2014 - Application form for IEC.

84-PN(RE) In exercise of the powers conferred under Paragraph 11.11.2011 2.4 of the Foreign Trade Policy, 2009-14, the following (DGFT) amendments are made in ANF2A of the Handbook of Procedures, Vol. I, 2009-2014:

1. **Serial No. 1 (Applicant Firm Details)** - Part A of ANF2A is amended as under:

“

1. Applicant Details

- i. Name:
- ii. Address:
(Registered Office Address is required in case of Companies. Head Office Address is required for all other categories)
Flat/Plot/Block No.:
Street/Area/Locality:
City:
State: PIN Code
- iii. *For endorsing Addresses of Branches, Divisions, Units, Factories located in India & abroad, please attach extra sheet if require. However, please use the same address format as specified above]*
- iv. Telephone / Fax Nos.: Area Code along with Telephone/Fax No.
Landline (1):
Landline (2)*:
Fax No.*:
- v. Email ID / Website Address:
Email ID: For correspondence with DGFT
Alternate Email ID:*
Website Address:* (if any)
- vi. Full Name, Designation and Mobile Number of the Signatory (Signatory's photograph is to be affixed on the Bank Certificate).

First Name	Middle Name	Last Name
Designation:		
Mobile Number:		

Note 1: When the name of an individual is required to be filled up, full name (in the order - First name, Middle name and Surname should be filled up as far as possible, without using any abbreviations.

For example, please fill up the full name - ANIL KUMAR SINGH (instead of abbreviated forms like ANIL K SINGH; ANIL SINGH; A.K.SINGH; A KUMARSINGH; A.KUMAR SINGH; ANILSINGH; ANILKUMAR SINGH etc.)

This note applies to the entire ANF, particularly to Sr. No. 2 so that wherever the name / father's name are required to be filled up, they are filled up correctly.

Fields marked * are optional. All others are mandatory

2. **Serial No. 6 (PAN Details)** – Part A of ANF2A is amended as under:

6. PAN Details:

- i. PAN Number:
(Alphanumeric Field – Size 10)
- ii. PAN Issuing Authority:
- iii. Name as appearing on the PAN Card:
- iv. Date as mentioned on PAN Card:
Date of Birth for Individuals:
Date of Incorporation for all other categories (Trusts/ HUFs / Firms / LLPs / Companies etc.)
- v. Father's Name in case of PAN allotted to Individuals:

“

3. In the **Part B** (Format of Bank Certificate for Issue of IEC) of ANF2A the following is added at end (below the Designation of the Banker):

“Email ID of the Banker:

[Email ID of the official issuing this Bank Certificate]”

Effect of Public Notice:

1. Complete PAN details, Telephone Numbers, Email IDs, and Mobile Number (of the Signatory of the ANF2A) have been made mandatory fields; while Alternate Email ID, Website Address are optional. This is required to facilitate updating the IEC records. No payment of application fee is required till 31.3.2012 for such updating of IEC Records.
2. Email ID of the Banker would assist RA to cross-check the issuance of the Bank Certificate from the Banker, if in doubt.
3. Several instances have come to the notice of DGFT wherein several IECs get allocated when the applicant does not indicate the full name of the individuals. Hence it is now being made mandatory that full name (in the order - First Name, Middle Name and Last Name) should be filled up, without using any abbreviations wherever in ANF2A the name of an individual is required to be filled up.
4. An illustrative example is given in Annexure A to this Public Notice. (F.No.01/93/180/04/AM-12/PC-2(B))

Annexure A to Public Notice No. 84/2009-2014 (RE-2010) Dated 11th November 2011

An Illustrative Example to fill up Serial No. 1 (Applicant Firm Details) - Part A of ANF2A

1. Applicant Details

- i. Name: **Directorate General of Foreign Trade**
- ii. Address:
(Registered Office Address is required in case of Companies. Head Office Address is required for all other categories)
Flat/Plot/Block No.: **Udyog Bhawan, H-Wing, Gate No. 2,**
Street/Area/Locality: **Maulana Azad Road**
City: **New Delhi**
State: **Delhi** PIN Code **1 1 0 0 1 1**
- iii. *For endorsing Addresses of Branches, Divisions, Units, Factories located in India & abroad, please attach extra sheet if require. However, please use the same address format as specified above]*
- iv. Telephone / Fax Nos.: Area Code along with Telephone/Fax No.
Landline (1): **0 1 1 2 2 2 2 1 2 3 4**
Landline (2)*:
Fax No.*: **0 1 1 2 2 2 2 5 6 7 8**
- v. Email ID / Website Address:
Email ID: For correspondence with DGFT: **dgft@nic.in**
Alternate Email ID:*
Website Address:* (if any) **http://dgft.gov.in**
- vi. Name, Designation and Mobile Number of the Signatory (Signatory's photograph is to be affixed on the Bank Certificate).
First Name Middle Name Last Name
Prabhu Arun Sinha
Designation: **Company Secretary**
Mobile Number: **0 8 7 2 7 9 9 1 2 3 4**

Note 1: When the name of an individual is required to be filled up, full name (in the order - First name, Middle name and Surname should be filled up as far as possible, without using any abbreviations.

For example, please fill up the full name - ANIL KUMAR SINGH (instead of abbreviated forms like ANIL K SINGH; ANIL SINGH; A.K.SINGH; A KUMARSINGH; A.KUMAR SINGH; ANILSINGH; ANILKUMAR SINGH etc.)

This note applies to the entire ANF and to Sr. No. 2 so that wherein names / father's name are required to be filled up, they are filled up correctly.

Fields marked * are optional. All others are mandatory

— End of Illustrative example —

TV Tuners Both Internal and External Classified under HS Code 8528 71 00

Subject: Customs Tariff classification of TV Tuners used with ADP machines of Harmonised Customs Tariff 8471

52-CBEC 11.11.2011 (DoR) References have been received on divergent practices followed by field formations regarding

classification of TV tuners. It was reported that external TV tuners are being classified in heading 8528 or 8529, and internal PCI TV tuners / cards are being classified in subheading 8528 or 8529 or subheading 8473.

2. These issues were discussed during Conference of Chief Commissioners of Customs held on 9th-10th May, 2011 in Bangalore. There was agreement on principal function of TV tuners and it was held that said device provide the television function through the reception of broadcast signal from television station and conversion in to audio and video information of the broadcast signal enabling television broadcasts to be viewed on the screen. Broadly, there are two types of TV tuners, viz., (i) internal PCI TV Tuner / card, and (ii) external TV Tuner.

3. Reportedly, an internal PCI TV tuner is a device that is connected to the expansion port of the motherboard of Automatic Data Processing (ADP) machine of heading 8471. An external TV Tuner is generally not connected to the PC expansion bus. Reportedly, in such cases the TV signals are controlled and processed by the tuner and the television is operated independently from the regular computer functions without the use of any software and the computer does not have to be turned on for one to receive television broadcast signals. Some external TV tuners are connected as USB device as well. TV Tuner is a device for reception of television broadcast signal as well as a conversion device. However, even if this device does function as a dual device with each function operating independently, the *principal function* of the device is critical in determining its classification in terms of *Note 3 to Section XVI* of first Schedule to the Customs Tariff Act, 1975, which states that *unless the context requires otherwise, machines adapted for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or being that machine which performs the principal function*.

4. The principal function of TV tuner is reception of television broadcast signal and hence the applicable subheading under consideration is in 8528 which includes: "Reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus:

85287100: Not designed to incorporate a video display or screen"

Harmonised System Commodity Explanatory Notes to heading 8528 states that, "Monitors and projectors may be capable of receiving a variety of signals from different sources. How-

ever, if they incorporate a television tuner they are considered to be reception apparatus for television." Further, for subheading Reception Apparatus for Television Harmonised System Commodity Explanatory Notes mentions that, "receivers are intended to be used with video recording or reproducing apparatus, monitors, projectors or televisions. However, devices which simply isolate high-frequency television signals (sometimes called video tuners) are to be classified as parts in heading 85.29."

5. The issues raised have been examined by the Board. External TV Tuners merit classification under CTH 8528 on application of GIR 1, 6 and read with Note 3 to section XVI and Chapter Notes. As regard to Internal TV Tuners cards it is observed that generally these cards are connected to the ADP via a peripheral component interconnect PCI slot. The internal TV tuner works with the software installed on the computer and can not function without the



ADP machine. It even fulfils the conditions stipulated under paragraph 5(C) of Chapter Note 84. However, it can qualify as a *part* of ADP systems only if it is outside the ambit of items listed in paragraph 5 (D) and those which meet the criteria stipulated in paragraph 5 (E) to chapter Note 84. In this regard, it is seen that paragraphs **D (ii)** covers apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network). Whether external or internal, the principal function of TV tuner cards remains the same, that is, to provide the television function through the reception of broadcast signal from television station. The conversion into audio and video information of the broadcast signal enabling television broadcasts to be viewed on the screen remains the secondary reception. Taking into consideration the principal function of TV tuners, and provisions of paragraph 5(D) and 5(E) to chapter 84, internal TV tuner cards are found to be outside the ambit of heading 8473.

6. Also TV tuners are other than those devices which simply isolate high-frequency television signals (sometimes called video tuners) and hence can not be classified as parts in the heading 85.29. Therefore, on application of General Interpretative Rules (GIR) 1 and 6, read with Note 3 to Section XVI and Chapter Notes 5(C) to Chapter 84, it is clarified that TV tuners, both internal and external are more appropriately classifiable in Harmonised Customs Tariff in tariff item 85287100.

7. Suitable instructions may be given to the field formation and all pending assessments, if any, may be finalized accordingly. Difficulty faced, if any, may be brought to notice of the Board.

F. No. 528/122/2011-STO (TU)

Software Export Realisation Period Extended to One year

Subject: Export of Goods and Software – Realisation and Repatriation of export proceeds – Liberalisation

AP(DIR)Srs. Attention of Authorised Dealer Cir.40 Category-I (AD Category-I) 01.11.2011 (RBI) banks is invited to A.P. (DIR Series) Circular No. 47 dated March 31, 2011 enhancing the period of realization and repatriation to India of the amount representing the full export value of goods or software exported, from **six months to twelve months** from the date of export. This relaxation was available up to September 30, 2011.

2. The issue has since been reviewed and it has been decided, in consultation with the Government of India, to extend the above relaxation w.e.f. October 01, 2011 till September 30, 2012.

3. The provisions in regard to period of realization and repatriation to India of the full export value of goods or software exported by a unit situated in a Special Economic Zone (SEZ) as well as exports made to warehouses established outside India remain unchanged.

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

5. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (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 Protocol Revised to Rs. 69.09329 from 20 Sept 2011

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.39 Category-I (AD Category-I) 01.11.2011 (RBI) banks is invited to A.P. (DIR Series) Circular No.10 dated September 07, 2011, wherein the Rupee value of the special currency basket was indicated as Rs.66.9682 effective from August 23, 2011.

2. AD Category-I banks are advised that a further revision has taken place on September 15, 2011 and accordingly, the Rupee value of the special currency basket has been fixed at Rs.69.09329 with effect from September 20, 2011.

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.

Guidelines on Transfer of Shares in FDI Cases

Subject: Foreign Direct Investment – Transfer of Shares

AP(DIR) Srs Attention of Authorized Dealers Category-I (AD Cir. 43 Category-I) banks is invited to Regulations 9 and 10 of 04.11.2011 the Foreign Exchange Management (Transfer of 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.

Accordingly, the transfer of shares from a Resident to a Non Resident where i) the transfer does not conform to the pricing guidelines as stipulated by the Reserve Bank from time to time; or ii) the transfer of shares requires the prior approval of the FIPB as per the extant Foreign Direct Investment (FDI) policy; or iii) the Indian company whose shares are being transferred is engaged in rendering any financial service; or iv) the transfer falls under the purview of the provisions of SEBI (SAST) Regulations, require the prior approval of the Reserve Bank of India.

Further, transfer of shares from a Non Resident to a Resident which does not conform to the pricing guidelines as stipulated by the Reserve Bank of India from time to time also requires the prior approval of the Reserve Bank of India.

2. As a measure to further liberalize and rationalize the procedures and policies governing FDI in India, it has now been decided to allow the following without the prior approval of the Reserve Bank of India :

A. Transfer of shares from a Non Resident to Resident under the FDI scheme where the pricing guidelines under FEMA, 1999 are not met provided that :-

i. The original and resultant investment are in line with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation, etc.;

ii. The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations / guidelines (such as IPO, Book building, block deals, delisting, exit, open offer/ substantial acquisition / SEBI SAST, buy back); and

iii. Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations / guidelines as indicated above is attached to the form FC-TRS to be filed with the AD bank.

B. Transfer of shares from Resident to Non Resident :

i) where the transfer of shares requires the prior approval of the FIPB as per the extant FDI policy provided that :

a) the requisite approval of the FIPB has been obtained; and

b) the transfer of share adheres with the pricing guidelines and documentation requirements as specified by the Reserve Bank of India from time to time.

ii) where SEBI (SAST) guidelines are attracted subject to the adherence with the pricing guidelines and documentation requirements as

specified by Reserve Bank of India from time to time.

iii) where the pricing guidelines under the Foreign Exchange Management Act (FEMA), 1999 are not met provided that:-

a) The resultant FDI is in compliance with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation etc.;

b) The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations / guidelines (such as IPO, Book building, block deals, delisting, exit, open offer/ substantial acquisition / SEBI SAST); and

c) Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations / guidelines as indicated above is attached to the form FC-TRS to be filed with the AD bank.

iv) where the investee company is in the financial sector provided that :

a) NOCs are obtained from the respective financial sector regulators/regulators of the investee company as well as transferor and transferee entities and such NOCs are filed along with the form FC-TRS with the AD bank; and

b). The FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation etc., are complied with.

3. Necessary amendments to the Foreign Exchange Management (Transfer of Issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 are being notified separately.

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

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

Tobacco Producers Opposed Australia Labelling on Cigarette Packs

A proposed Australian bill intended to make cigarette packaging less appealing to consumers and decrease tobacco consumption has once more met opposition at the WTO with a number of tobacco-producing developing countries, citing competitiveness concerns. The Australian government announced that cigarette companies will be given additional time to comply with the public health measure, due to repeated delays in moving the legislation through Parliament.

The Australian legislation would require that all cigarettes sold in Australia be packaged with one colour and shape only, and that a significant portion of the front and back packaging be used for health warnings.

Some developing country tobacco producers - such as Nigeria, the Dominican Republic, Honduras, and Cuba - say such a law would curtail competitiveness in the cigarette market and may not effectively address intended public health objectives.

They echo a sentiment also expressed by big tobacco companies, particularly Philip Morris International, which is currently pursuing litigation to stop these efforts claiming that they violate international trade and investment obligations.

Article 20 of the TRIPS Agreement forbids trademark usage from being “unjustifiably” held back by special requirements, which pertain to “use in a manner detrimental to its capability to distinguish the goods or services of one undertaking from those of other undertakings.”

Uruguay - another key player in the cigarette packing debate - supported the proposed measures in the Australian bill at the meeting, stressing that the legislation is indeed consistent with TRIPS and the flexibility that the agreement provides for WTO members.

“Big tobacco” warns of legal action in Australia

Yet in Australia - a much bigger market for cigarettes than Uruguay - Philip Morris has vowed to continue fighting back. Estimates place Australian cigarette sales at 22 billion cigarettes each year.

Customs Valuation Exchange Rates

November 2011		Imports	Exports
Schedule I			
1	Australian Dollar	52.70	51.35
2	Canadian Dollar	50.20	48.85
3	Danish Kroner	9.45	9.15
4	EURO	69.80	68.20
5	Hong Kong Dollar	6.45	6.35
6	Norwegian Kroner	9.15	8.85
7	Pound Sterling	80.35	78.55
8	Swedish Kroner	7.70	7.45
9	Swiss Franc	57.05	55.65
10	Singapore Dollar	39.80	38.85
11	U.S. Dollar	50.05	49.25
Schedule II			
1	Japanese Yen	66.10	64.35

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

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

(Source: Customs Notification 74(NT)/27.10.2011)

However, procedural delays on the implementation of the bill have won tobacco companies time, since the Australian government acknowledged that tobacco companies will need substantial investments to recalibrate and re-tool their machinery to comply with these changes.

The bill was originally expected to take effect on 1 July 2012; due to the delays in the Senate vote, tobacco companies will now have until 1 December 2012 to make the necessary changes, the Australian government announced on 2 November.

WTO transparency rules. The report, however, rejected these secondary claims.

"The panel rejected almost all of the claims advanced by China," EU Trade Spokesman John Clancy commented. The three experts considered such investigations "to be legal under WTO law, with the exception of a few issues."

In the eyes of the EU, the case does not have any direct implications. "Even with respect to individual treatment claims, the EU faces no implementation obligations, as the anti-dumping duties on Chinese footwear expired on 31 March 2011," Clancy said.

Nonetheless, Beijing sees merit in the partial victory. "We expect that the European Union will not repeat the violations of the Anti-Dumping Agreement and will fully comply with regard to the individual treatment practice," China said.

The EFA is now demanding compensation payments from the EU for the anti-dumping duties that have been collected impermissibly over the last five years. The direct applicability of WTO rulings for EU businesses and consumers, however, has been previously denied by the European Court of Justice. Also, WTO law does not provide for compensation payments.

This is the second case brought by China against the EU at the WTO. Last July, the Appellate Body ruled in favour of China in a similar case concerning anti-dumping measures on iron and steel fasteners from China. Both countries now have 60 days to appeal to the Appellate Body.

EU Loses Shoe Dumping Case in China Complaint at WTO on Ground of "Non Market Economy" Status



On 28 October, a WTO panel ruled EU anti-dumping duties on Chinese footwear illegal. The duties had been put in place in 2006 after European shoe makers from Italy, Spain, and other EU countries had complained about competition from the Asian trading giant.

Beijing had specifically challenged the EU's anti-dumping calculation method for non-market economies. Brussels denies Sino-based producers individual treatment during anti-dump-

ing investigations, instead defining and applying duties for the economy as a whole. This stands in stark contrast to common practice for market economies and can result in considerably higher identified dumping margins. The panel ruling backed China on this main claim, but dismissed others.

Beijing had argued that the denial of individual treatment violated the WTO's principle of non-discrimination, as market economies automatically receive this preferential treatment.

Beijing had further criticised the EU's methods for original investigations and expiry reviews - two other regular stages of anti-dumping investigations - as well as the application of

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China Holds Investment on Solar Panels in US

The Chinese Commerce Ministry calling the anti-dumping and countervailing solar panel investigation in US a "lose-lose" situation for both countries. In a statement to the Wall Street Journal, the ministry cautioned that if the US took action on the complaint, imposing stiff anti-dumping and countervailing duties on imported Chinese solar panels, the move would strongly affect US equipment and raw materials exports to China.

China's largest solar power plant developer, CECEP Solar Energy, announced on Monday that it would be putting on hold a US\$500 million planned installation of China-made solar panels in California, New Jersey, and Texas. The company's general manager Cao Huabin cited the threat of higher US duties on solar panels imported from China as the core reason for the decision.

"If solar panel prices increase by, say, 30 percent in the United States following the move, then we would certainly drop the plan because there's no profit to be made," Cao told a news conference in Beijing.

While the US Department of Commerce has decided to move forward with the investigation, the US International Trade Commission (ITC) still needs to give its approval for the investigation to proceed. An ITC investigation panel is expected to vote on the decision on 2 December.