

Postal Regn.No. DL(C)-01/1251/09-11
Licence to Post without
Prepayment U(C)-30/09-11
RNI No. 42906/84

WORLD TRADE SCANNER

ISSN: 0971-8095

Single copy Rs. 20 \$2

Vol. XXVIII No 39 21-27 December 2011

Promoted by Indian Institute of Foreign Trade, World Trade Centre,
Academy of Business Studies

Annual subscription Rs 750



WTO Ministerial Concludes

- Chair's Summary Replaces Declaration
- Single Undertaking Abandoned in Favour of Harvesting Low Hanging Fruit
- Accession of LDCs made Simpler <More>

The WTO's eighth ministerial conference came to a close on Saturday evening, after three days of high-level meetings that saw the accession of Russia, Samoa, and Montenegro, along with the clinching of a 42-country deal that would liberalise billions of dollars in public contracts.

At the close of the three-day talks, ministerial conference chair Olusegun Olutoyin Aganga of Nigeria described the high-level discussion and mapped out how members saw the future.

'New' issues or Doha?

There was a "shared sense" among ministers, Aganga noted, that the "key question" to unlocking the impasse in the ten-year old Doha talks regards the balance between emerging and advanced economies over their respective contributions and responsibilities.

Long-standing disagreements between developed economies - such as the US and EU - and major emerging economies - such as Brazil, China, and India - on non-agricultural and agricultural market access have widely been faulted for putting the negotiations on hold.

In light of the Doha Round's current difficulties, much of the trade dialogue has turned toward ensuring the WTO's continued relevance in the multilateral trading system.

The option of introducing new issues into the global trade body to address emerging challenges - such as climate change, food security, trade and exchange rates, and energy - has been suggested by some members as one such way of keeping the global trade body current and credible. This view was reiterated by some ministers this past week.

However, Aganga told the closing session, other ministers "expressed reservations" about beginning negotiations on new topics, due to concern either about "the possibility of addressing issues selectively or shifting the focus away from unresolved issues in the DDA negotiations."

Many ministers would rather that any new issues be instead brought to WTO committees, "in accordance with their normal rules and procedures and within their respective mandates," the conference chair added.

WTO Director-General Pascal Lamy, speaking to reporters on Saturday evening, downplayed these concerns, adding that talking about an issue and negotiating about an issue are not the same thing. Talking about new issues, he added, does not mean that new issues are set to replace the old ones.

Doha: low-hanging fruit?

The same tensions between WTO members found expression in the part of the chair's statement on the Doha Round. Aganga noted that many members expressed "deep regret" at the

impasse in the negotiations - but at the same time reaffirmed their commitment to delivering on the mandate for the decade-long talks.

Trade ministers had emphasised their openness to different negotiating approaches, Aganga's statement said - something which the US in particular has urged. However, some had also "expressed strong reservations" about plurilateral approaches, the chair observed.

Many negotiators are fearful that the multilateral trading system could be seriously weakened if some countries give up on trying to reach accords that include everyone, and instead embark on a series of deals amongst subsets of the membership.

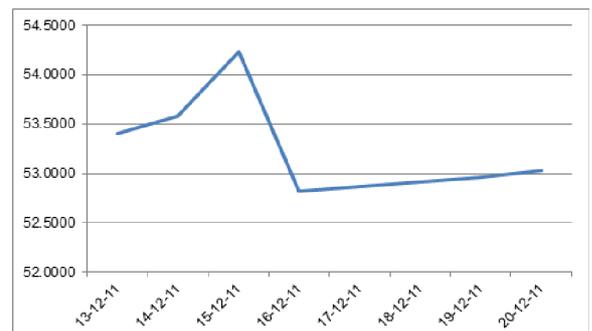
Echoing one of the central themes of the conference, Aganga said that many ministers had stressed the need to identify areas where agreements could be reached in the short term. Others had called for a step-by-step approach, respecting the Doha negotiating mandate and the 'single undertaking' - under which all issues are treated as parts of one larger deal.

According to the chair's statement, ministers had stressed the centrality of development and underlined the need to prioritise issues of interest to least developed countries (LDCs), including cotton, a question that has dogged trade talks for over eight years and which was raised again by West African ministers during this year's gathering.

Lamy told reporters on Saturday evening that African cotton exporters had received new commitments on market access and development assistance during the three-day meeting.

Rupee Peaks at 54.23 to the Dollar

RBI Intervenes to Control Inter Banking Trading to Stabilise Re



"These were not previously part of the landscape," he said.

On a related note, the chair's statement noted that many ministers had urged their counterparts to commit to a 'standstill' on all forms of protectionism - a move that the Cairns Group of net agricultural exporters had championed in particular. Others had instead emphasised their right to use WTO-consistent policy space to achieve economic and development objectives - something that a number of developing countries had stressed.

Aganga observed that, during the conference, many ministers had also urged their counterparts to agree not to impose export restrictions on food aid purchased by the World Food Programme - echoing the language of an accord amongst heads of state from the G-20 group of major economies at their Cannes summit in November.

Also on food security, the chair's statement reflected support amongst some ministers for a work programme on trade and food price volatility, and its impact on LDCs and net food-importing developing countries.

Decisions in favour of LDCs

On 17 December, ministers agreed to a waiver that makes it possible for members wishing to grant least developed countries greater access to their services markets, even if it means deviating from the most-favoured-nation principle.

For a decade, LDCs have maintained that WTO members should be allowed to treat services and service suppliers from the poorest countries more favourably than those of other nations. To achieve that aim, they needed to convince the membership to waive one of the core principles of the multilateral trading system: the obligation to treat all members equally.

While countries may discriminate between least developed countries and the rest of the membership, all preferences must be extended to the entire LDC group. The waiver also provides the possibility for preferences to be conferred beyond just market access measures, although such preferences would need to be approved ex-ante by the Council for Trade in Services.

Touching on the potential value for LDCs, International Lawyers and Economists Against Poverty (ILEAP) Executive Director David Primack suggested that the waiver itself was merely a mechanism that had little substantive value in its own right.

Its potential value, he argued, will depend on how well LDCs can assess how and where the preferential treatment could confer enough of a

commercial advantage for their service providers to expand into new markets, as well as the political will of preference-granting countries to offer meaningful concessions in areas of interest to the recipients.

Countries that grant preferential access to LDC service suppliers must make a detailed notification to the Council for Trade in Services, which will review annually whether the exceptional circumstances justifying the waiver still exist.

LDC accessions

Least developed countries acceding to the WTO have long complained that trading partners routinely ask them to take on commitments beyond their capacity, as well as beyond those that were required from LDCs that joined the WTO earlier.

These countries have often criticised the opaque negotiation process, alleging that bilateral meetings are held behind closed doors without multilateral oversight.

The ministerial decision on LDC accession commits WTO members to develop market opening benchmarks by July 2012. With regard to goods, the benchmarks are likely to be based on the average post-accession tariff level of existing LDC members.

TRIPS transition period

The third LDC-related decision concerns the application of WTO rules on intellectual property rights. Least developed countries' exemption from implementing the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) expires in July 2013; however, they will be able to submit 'duly motivated' further extension requests, which the TRIPS Council has been instructed to 'consider fully'.

Other decisions

Ministers also adopted decisions on electronic commerce, TRIPS non-violation complaints, a work programme on small and vulnerable economies, and the fourth appraisal of the trade policy review mechanism.

Members question process

Five Latin American countries - Bolivia, Cuba, Ecuador, Nicaragua, and Venezuela - had, on Thursday, submitted a document to the conference citing "exclusionary and undemocratic practices" in the consultation process leading up to the high-level gathering.

They argued that the political guidance document that had been agreed before the ministerial "represents only the opinion of some members," and were therefore dissociating

Samoa, Montenegro welcomed into the fold

The WTO also welcomed Samoa and Montenegro into their ranks on Saturday, just a day after the ministerial conference had approved the accession protocol of Russia.

Montenegro, which started its accession process seven years ago, will gain visibility in global affairs and trade as a result of joining the WTO, the country's prime minister, Igor Lukšić, said.

Meanwhile, Samoa is the fifth least developed country to join the global trade body since 1995 - in its case after a 13-year wait. During the accession ceremony, Lamy underscored the difficulties LDCs face in accession, noting that technical assistance and capacity building are essential to "empower countries like Samoa to be in a position to negotiate trade rules."

themselves from the consensus.

However, the ministerial conference chair told reporters that the issues with those five members had been resolved, explaining that the countries "made absolutely clear that they were not breaking consensus."

WTO Launches Integrated Trade Intelligence Portal for Accessing Trade Policy Information

The WTO has developed a new application that will allow users to access via one portal all trade policy information notified to the WTO by its members. Known as the Integrated Trade Intelligence Portal (I-TIP), the new application will encompass tariffs, non-tariff measures and related trade statistics.

In its current version, access is limited to WTO members only. However, I-TIP will also be made available to the public via a user-friendly interface, making it an extremely useful tool for governments, the private sector, academia and the public at large. "This new application reinforces the WTO's role as the depository of trade intelligence," said Director-General Pascal Lamy.

I-TIP will allow the user to see all non-tariff measures (i.e. policy measures, other than tariffs, that can potentially affect trade in goods) introduced by WTO members for one or more products over a particular timeframe, as chosen by the user. It also provides access to the tariff rates and import flows for the same products for which non-tariff measures, such as anti-dumping measures, have been notified. Over time, measures related to services and intellectual property rights will also be added to I-TIP

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
19-Dec-11	53.1300	53.3675	52.9300	52.9800	52.9800	1256211	1924763	1022821	52.9575
16-Dec-11	53.1800	53.1825	52.3000	52.8375	52.8375	1212129	3049060	1611279	52.8140
15-Dec-11	54.4625	54.6375	53.7725	53.8175	53.8175	1129454	3197845	1732065	54.2355
14-Dec-11	53.6775	54.0850	53.6500	53.9800	53.9800	1198768	2323598	1251224	53.5770
13-Dec-11	53.1125	53.6950	53.1125	53.3550	53.3550	1208046	2455680	1313615	53.4030

[Source: NSE and RBI Website]

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After Eighteen Year “Marathon,” Russia Crosses WTO Finish Line

Trade ministers formally welcomed Russia into the WTO on Friday afternoon, putting the finishing touches on a nearly two-decade long process fraught with disagreements and setbacks. Meanwhile, negotiators also spent the day debating the role of the global trade body in the multilateral trading system, and revisiting thorny trade topics such as cotton and fish subsidies.

Friday's ceremony marked the entry of the world's largest non-WTO economy into the institution, an event that was widely anticipated to be one of the main highlights of the three-day ministerial conference. Thursday's finalising of the Government Procurement Agreement negotiations and Friday's accession ceremony are primarily “what this ministerial will be remembered for,” one source said.

The approval by consensus of Russia's accession protocol drew wide applause from trade officials.

“This is clearly a historic moment for the Russian Federation and for the rules-based multilateral trading system, after an 18-year marathon,” WTO Director-General Pascal Lamy told the audience.

The role of the Swiss government in mediating between Russia and Georgia was credited for making Friday's accession possible - a task that Swiss President Micheline Calmy-Rey admitted had “seemed like mission impossible.”

The disagreements between the two countries had threatened to keep the accession process on hold, with Moscow and Tbilisi only agreeing to a Swiss-brokered compromise in early November.

The benefits of the accession to Russia are expected to be numerous, Nabiullina told reporters. These include improved quality of goods and a signal to investors of a better business climate, she added. Russian Deputy Prime Minister Igor Shuvalov reaffirmed this assessment, adding that the majority of Russian national industries will benefit.

Having access to the WTO's dispute settlement system was another benefit that Nabiullina highlighted, adding that Russia is currently losing US\$2 billion per year due to trade restrictions in chemicals and transportation, among others.

The Russian minister also told reporters that, during the accession process, Russia had changed 300 legal acts and brought them into conformity with international trade rules.

Echoing the general sentiment amongst speakers, US Trade Representative Ron Kirk told the audience that the accession is “a development that will truly make us a *world* trade organisation.”

With the ministerial conference also set to approve Saturday three draft decisions on issues

of great importance for least developed countries (LDCs), Bangladeshi Commerce Minister Muhammad Faruk Khan underlined the “useful lessons” that the Russian story could provide for streamlining the LDC accession process.

The difficulties of joining the global trade body were also underscored by Cuba, which added that 30 developing countries still remain on the accession waiting list.

Kazakh Minister of Economic Integration Zhanar Aitzhanova explained to the audience that the commitments being undertaken by Russia will be incorporated into the regulatory framework of all members of the Russia-Belarus-Kazakhstan customs union, which will in turn have an immediate impact on Astana's trade regime. The approval of the Russian bid will



also “accelerate Kazakhstan's accession to the WTO,” she added.

Russian officials also stressed that Moscow has no plans of being an obstacle to the ongoing Doha talks. According to Deputy Prime Minister Shuvalov, Russia is already monitoring the negotiations, and intends to play a positive role.

With China celebrating the tenth year since its accession to the global trade body, many observers have drawn parallels between the bids of the two emerging economies. However, Lamy, speaking at a separate civil society event on Friday, underscored that Russia's trade patterns are completely different from those of China, adding that there was no chance of the sort of turbulence seen when China acceded.

The accession package still needs to be ratified by the Russian Parliament before coming into force. Thirty days after ratification, Russia will officially be a full member. The ministerial conference is also set to welcome three other countries into the global trade body before the end of the weekend: Montenegro, Samoa, and Vanuatu.

Differing views on protectionism

On Friday morning, trade officials held an informal working session on the future of the multilateral trading system.

The session largely saw members restating well-known positions, one delegate noted.

“There's no discussion,” the official continued, while another observed that few ministers were actually in attendance.

One delegate who witnessed the discussions commented that, although members reiterated their opposition to protectionism, several had different interpretations of what this meant in

practice. While some members called for tariffs to be kept at low applied levels, others pointed to non-tariff barriers and subsidies in the developed world as a worrying gap between rhetoric and action.

Another said that the issue of non-tariff barriers appeared to be an emerging challenge, which current market access negotiations were ill-equipped to deal with.

Friends of Fish

Trade ministers from the Friends of Fish group - Argentina, Australia, Chile, Colombia, Ecuador, New Zealand, Norway, Peru, and the US - released a statement on Friday, reaffirming their continued commitment to press on with the negotiation of strong new rules aimed at eliminating subsidies that contribute to fleet overcapacity, which in turn leads to overfishing and the depletion of stocks. They underlined that the consequences would not be merely environmental, but also threatened livelihoods and food security, particularly in developing countries.

Some 85 percent of the world's oceans are fully exploited, over-exploited, depleted or recovering from depletion, up 10 percent from four years ago. Harmful subsidies are estimated at US\$16 billion annually, with Japan, China, the EU, the US, and Russia topping the list.

Cotton: C-4 urge subsidy reform

New proposals for development aid and market access need to be accompanied by the reform of trade-distorting cotton subsidies if they are to contribute to the fight against poverty, trade ministers from West-African cotton-producing countries said on Friday.

Mahamat Allaou Taher, Minister of Trade and Industry for Chad, told a press conference that the C-4 cotton producing countries - Benin, Burkina Faso, Chad, and Mali - were still considering a new US proposal for development assistance and enhanced market access, after discussing it with US Trade Representative Ron Kirk.

However, the minister emphasised that development assistance represented only one part of a two-pronged approach to the problem. “We are also committed to the trade track,” he said.

Subsidy reform - and not just market access - was needed, Allaou Taher argued. He pointed out that only around two percent of his country's cotton was actually exported to the US, which is a net cotton exporter.

Two days prior, the C-4 had also been offered development assistance by China, the minister explained.

The US has argued that Beijing's support to the cotton sector should also be reduced under any eventual Doha deal.

However, Allaou Taher argued that US support remained the main target of the group's initiative. “The United States is not alone, but their subsidies are the greatest,” the minister said.

India May Join U.S.-China Solar Trade Spat

India may jump into an escalating U.S.-China trade fight over solar energy as local manufacturers lobby New Delhi for protection against imports from rivals including First Solar Inc. (FSLR) and Suntech Power Holdings Co. (STP)

India may initiate an anti-dumping probe in a month focused on imports of Chinese solar products, China's Commerce Ministry said in a statement on 18 December. India's Commerce Secretary Rahul Khullar declined to comment in a phone call.

Indian manufacturers are also seeking a 15 percent tariff on imports of thin-film solar panels, the country's Renewable Energy Ministry Secretary Tarun Kapoor said in an interview. The biggest thin-film panel company is Tempe, Arizona-based First Solar.

Indian suppliers such as Tata BP Solar India Ltd., Indosolar Ltd. (ISLR) and Moser Baer India Ltd. (MBI) have failed to benefit from a rule intended to spawn a domestic manufacturing hub in one of the world's fastest-growing markets.

Instead, low-cost Chinese rivals like Suntech and Trina Solar Ltd. (TSL) and U.S. firms backed by preferential trade finance including First Solar have reaped most of the equipment orders for 1,100 megawatts of plants to be built by January.

Default, Stalled Production

Local manufacturers have received almost no orders from developers building plants in India and are producing far below their factories' full capacity, Subramanya said. India's total manufacturing capacity is about 1,500 megawatts of panels and 500 megawatts of cells.

Indosolar, the nation's biggest cell company, stopped production in June and has defaulted on 2.75 billion rupees (\$52 million) of long-term bank loans as its business became "unviable," Fitch Ratings analysts Vivek Jain and Salil Garg said in a Dec. 5 note. They attributed the company's problems to a 62 percent plunge this year in the selling price of cells to about 52 cents a watt amid intense Chinese competition and declining demand in Europe where governments cut subsidies.

The complaint alleged Beijing uses cash grants, raw-materials discounts, preferential

loans, tax incentives and currency manipulation to boost exports of solar cells.

U.S. Suppliers Targeted

The Indian complaints extend to both U.S. and Chinese exporters.

U.S. and Chinese suppliers have benefited from Indian orders because of cheap credit provided by state-backed lenders, said Anmol Singh Jaggi, director of Gensol Consultants Pvt., which advises project developers.

Indian projects that import U.S. equipment may be eligible for loans from the Export-Import Bank of the U.S., which charges about 3 percent to 4 percent interest. After hedging, the cost of borrowing comes to about 9 percent compared with 13 percent if they buy and borrow locally, he said.

In some cases, state-backed Chinese companies are offering to supply equipment and get paid two years later, he said.

Thin-Film Exemption

U.S. and Chinese imports can be brought into the country tax-free, whereas Indian manufacturers have to pay duties on raw materials to make the same products. U.S. panel makers including First Solar and Abound Solar Inc. have also benefited from an exemption for thin-film products in the government's Solar Mission program that requires developers to use local equipment.

Indian manufacturers have asked the renewable ministry to waive duties on raw materials and supplies and to impose a 15 percent tariff on imports of thin-film panels, the ministry's Kapoor said by phone from New Delhi.

"Maintaining open markets globally is critical to making solar an affordable and meaningful part of the energy mix," Alan Bernheimer, a First Solar spokesman, said in an interview. He wouldn't discuss the Indian trade complaints because the company hasn't seen any details of the proposals.

The U.S. International Trade Commission on Dec. 2 took the first step toward imposing added tariffs on Chinese solar imports, voting unanimously on the petition that called for anti-dumping and countervailing duties. The commission is now holding a full investigation.

Anand Sharma Asks All Countries to ESCHEW Protectionism Addresses Inaugural Plenary of the WTO Ministerial Conference

Addressing the inaugural plenary of the Ministerial Conference on 15 December, Anand Sharma, India's Commerce, Industry and Textiles Minister made a strong pitch against protectionism. "In the backdrop of the global economic downturn, all countries must eschew protectionism which can only be counterproductive as it will deepen the recession and delay recovery", he said.

Urging members to respect the mandate, he underscored the need to build on the progress already achieved. Expressing India's concern at the impasse in the DDA negotiations, he said

"We cannot cast aside the mandate that was so arduously negotiated. Nor can we abandon the processes that make the WTO a uniquely democratic institution".

Expressing strong reservation about recent suggestions for negotiating agreements among a critical mass of members, he cautioned that this path was fraught with risk as they lacked the in-built checks and balances of multilateral agreements.

Addressing a Working Session of the Conference today on the Importance of the Multilateral Trading System and the WTO, Mr.

Sharma stressed the importance of strengthening the WTO especially in light of the new forms of protectionism that adversely affected developing countries.

Mr. Sharma urged members to get a multilateral trade deal done, not only for the trade liberalisation and rule building that the DDA aims to achieve but also for the credibility of the multilateral trading system. Plurilateral trading arrangements, among a few, cannot substitute the multilateral system and are also against the spirit of the fundamental WTO principles of transparency and inclusiveness, said Mr. Sharma.

In a reference to the gradual shift away from the development agenda in the DDA discourse, he said that "Trade cannot flourish if the interests of over three-fourths of the world's population are held hostage to the commercial interests of the few that already command global trade."

Mr. Sharma has invited key interlocutors of developed and developing countries for an informal discussion on the way forward.

Rupee Jumps Most Since May 2009 on Central Bank's Move to Curb Speculation



India's rupee surged the most in 2 1/2 years, extending its rebound from an all-time low reached on 14 December, after the central bank announced

measures to curb speculation in the foreign-exchange market.

The currency, this year's worst performer among Asian currencies, strengthened the most in the region after the Reserve Bank of India said companies can't enter into multiple forward contracts to cover a single overseas transaction. The new rule applies to domestic as well as foreign investors and takes effect immediately, according to a central bank statement published after the market closed on 14 December.

The rupee jumped 2.3 percent to 52.41 per dollar. It fell to an all-time low of 54.3050 on 14 December and remains the region's worst-performing currency of 2011 with a 14.8 percent loss.

The central bank also said it will reduce the amount of open positions dealers can maintain overnight. Forwards are agreements to buy or sell assets at a set price and date.

The Reserve Bank's move will be positive for the rupee in the "short-term," increasing transaction costs and showing the RBI is looking to curb currency-market speculation, according to Standard Chartered Bank Plc.

Overseas funds cut holdings of Indian shares by \$311 million this year after adding \$29 billion in 2010, data from the market regulator, as Europe's debt crisis slows growth in Asia's third-largest economy. The nation's current-account shortfall, which was \$14.2 billion in the three months ended June 30, may widen to 3.5 percent of gross domestic product in the year ending March, Commerce Secretary Rahul Khullar said this month.

WEEKLY INDEX OF CHANGES

Anti-dumping Review on Foshan Dihai Trading China in Ceramic Glazed Tiles Case Initiated Provisional Assessment on Import Clearance without Duty Ordered

Ntnfn 109
15.12.2011
(DoR)

Whereas, in the matter of import of ceramic glazed tiles other than vitrified tiles where at least one of the sides

(length or width) exceeds 17 inches or 431.80 millimeters (mm) or 43.18 centimeters (cm) or 1.4167 feet (hereinafter referred to as the subject goods), falling under tariff item 6908 90 90 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in or exported from China PR (hereinafter referred to as the subject country), the designated authority, *vide* its final findings, *vide* notification No. 14/16/2008-DGAD, dated the 9th October, 2009, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 12th October, 2009, has come to the conclusion that -

(i) the subject goods have been exported to India from the subject country below its normal value;

(ii) the domestic industry has suffered material injury; and

(iii) the injury has been caused by the dumped imports from subject country,

and had recommended imposition of definitive anti-dumping duty on all imports of the subject goods from the subject country in order to remove the injury to the domestic industry;

And whereas, on the basis of the aforesaid findings of the designated authority, the Central Government had imposed an anti-dumping duty on the subject goods, *vide*, notification of the Government of India in the Ministry of Finance (Department of Revenue), No.127/2009-Customs, dated the 2nd December, 2009, published in Part II, Section 3, Sub-Section (i) of the Gazette of India, Extraordinary, dated the 2nd December, 2009, [G.S.R. 853 (E), dated the 2nd December, 2009];

And whereas, M/s Gaoyao Marshal Ceramics Co. Ltd China PR (producer) through M/s Foshan Dihai Trading Development Co. Ltd.-China PR (exporter) have requested for review in terms of rule 22 of the Customs Tariff (Iden-



tification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in respect of exports of the subject goods made by them, and the designated authority, *vide* new shipper review notification No. 15/38/2010-DGAD, dated 19th October, 2011, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 19th October, 2011, has recommended provisional assessment of all exports of the subject goods made by the above stated party till the completion of the review by it;

Now therefore, in exercise of the powers conferred by sub-rule (2) of rule 22 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid recommendation of the designated authority, hereby orders that pending the outcome of the said review by the designated authority, the subject goods, when originating in or exported from China PR in respect of the producer through exporter and imported into India, shall be subjected to provisional assessment till the review is completed.

2. The provisional assessment may be subject to such security or guarantee as the proper officer of customs deems fit for payment of the deficiency, if any, in case a definitive anti-dumping duty is imposed retrospectively, on completion of investigation by the designated authority.

3. In case of recommendation of anti-dumping duty after completion of the said review by the designated authority, the importer shall be liable to pay the amount of such anti-dumping duty recommended on review and imposed on all imports of subject goods when originating in or exported from China PR in respect of the producer through exporter and imported into India, from the date of initiation of the said review.

[F. No. 354/ 117/2009-TRU] (Pt-1)

BIS Restriction on Tyre Import to Cover Tyres in Vehicles– Declaration on Tyre Standard Must

[CBEC Instruction dated 15th December 2011]

Subject: Implementation of The Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009.

Attention is invited to CBECE instructions F.No.528/109/2011 – STO (TU) dated 29.11.2011, on the issue of the implementation of the Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009. Representations have been received in the Board seeking clarification on applicability of exemption under sub-clause 3(a) to (e) of the said Order. As such, in continuation to the

above mentioned Instructions, it is further clarified that in addition to the exemption under sub-clause 3(f) of the said Order which currently applies to total 316 pneumatic tyres, the tyres covered under sub-clause 3(a) to (e) are also exempted. These exemptions are as follows:

(a) Pneumatic tyres manufactured in India for exports;

(b) Pneumatic tyres imported by Original



Corrigendum dated 14 December 2011 to Ntnfn 110/ 19.10.2010

[Woongjin Chemical in the FD Yarn Anti-dumping]

[Corrigendum dated 14th December 2011]

In the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 110/2010-Customs, dated the 19th October, 2010 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 846 (E), dated the 19th October, 2010,-

for the words and letters "Woongjin Chemicals co Ltd" wherever it occurs, read "Woongjin Chemical Co Ltd".

[F.No.354/80/2006 –TRU]

Equipment Manufacturers (OEM) and / or their authorized companies for fitment on vehicles or after sales, meant for exports;

Note: In both cases (a) and (b) above, exports may be either directly as individual components or as part of a vehicle completely built or in drive away chassis form or in Completely Knocked Down (CKD) or Semi-Knocked Down (SKD) condition. Also nothing in the said Order shall apply in relation to pneumatic tyres required for export, which conforms to any specification required by the foreign buyer.

(c) Pneumatic tyres imported as part of Completely Built Unit (CBU), irrespective of the value of the CBU, so long as such pneumatic tyres meet the requirements of specified standard. In such cases self-declaration by CBU manufacturers in the vehicles manual to the effect that the tyres fitted in the vehicles meet the requirements of the BIS and they comply with the requirements under the Central Motor Vehicles Rules (CMVR), 1989, would suffice. If vehicles are already exempted by Director General of Foreign Trade (DGFT) notifications for homologation in India, self declaration will not be required;

(d) Pneumatic tyres imported or manufactured for research and development purposes;

(e) Pneumatic tyres imported by Original Equipment Manufacturers (OEM) for fitment on vehicles manufactured in India for domestic market (completely built or drive away chassis form). In such cases, self-declaration by the OEM in the vehicles manual to the effect that tyres fitted in the vehicles meet the requirements of BIS and that they comply with the requirements under the Central Motor Vehicles Rules (CMVR), 1989, would suffice;

2. As such, other than exempted pneumatic tyres, as provided under sub-clause 3 (a) to (f) of the Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order, 2009, no person shall by himself or through any person on his behalf, import, store for sale, sell or distribute imported pneumatic tyres (which include pneumatic tubes) that do not conform to the specified standards and that do not bear the BIS Standard Mark.

F. No. 528/109/2011-STO (TU)

Six More Months for Compulsory Meat Acquisition from APEDA Registered Abattoir, Provision to come into Effect from 15 June 2012

Subject: Deferment in the date of effect of one provision contained in Note-6 of Notification No. 82 of 31.10.2011 relating to export of meat.

89-Ntnf(RE) In exercise of the powers
15.12.2011 conferred by Section 5 of the
(DGFT) Foreign Trade (Development &
Regulation) Act, 1992 (No.22
of 1992) read with Para 1.3 and 2.1 of the
Foreign Trade Policy, 2009-14, the Central
Government hereby makes the following amend-
ments in Notification No. 82 (RE 2010)/2009-14
dated 31.10.2011 as under:-

2. Notification No. 82 (RE 2010)/2009-14 dated
31.10.2011 contained 8 notes. Note- 6 of this
notification is reproduced below:

"Note 6: Export of meat and meat products
will be allowed subject to the exporter furnishing
a declaration, attached with copies of valid
APEDA Plant Registration Certificate(s) to the
customs at the time of exports that the above
items have been obtained/ sourced from an
APEDA registered integrated abattoir or from
APEDA registered meat processing plant which
sources raw material exclusively from APEDA
registered integrated abattoir/abattoir".

3. The provision in Note-6 of Notification No. 82
about exporters of meat and meat products
having sourced raw material exclusively from
APEDA registered integrated abattoir/abattoir

was a new stipulation. This provision, alongwith
all other provisions of Notification No. 82, be-
came effective from the date of notification i.e.
31.10.2011.

4. Now it has been decided to grant some
transition time to make this provision effective.
Accordingly, this amendment is being notified
to bring into effect the above provision of Note-
6 of Notification No. 82 **after six months from
today i.e. from 15th June, 2012**. Rest of the
Notification No. 82 (RE-2010)/2009-14 dated
31.10.2011 continues to be effective from the
date of issue i.e. 31.10.2011. This transitional
arrangement would enable the exporters of meat
and meat products to upgrade their abattoirs for
sourcing of raw material and obtain registration
from APEDA. Keeping in view paramount concern
for public health and hygiene, no further
extension of time will be granted.

5. Effect of this notification

The stipulation that raw material for export of
meat and meat products must be sourced ex-
clusively from APEDA registered abattoir/inte-
grated abattoir will come into effect on
15.06.2012, instead of 31.10.2011.

Empty Gelatin Capsules Freely Exportable to EU Subject to Shipment Clearance Certificate and Health Certificate

Subject: Export of empty Gelatin Capsule, to EU.

90-Ntnf(RE) In exercise of the powers
15.12.2011 conferred by Section 5 of the
(DGFT) Foreign Trade (Development &
Regulation) Act, 1992 (No.22
of 1992) read with Para 2.1 of the Foreign Trade
Policy, 2009-2014, the Central Government
hereby makes the following amendments in the

Schedule 2 of ITC(HS) Classification of export
and import items:

2. With immediate effect, a new entry at Sl.
No. 165 A in Chapter 96 is added in Schedule 2
of ITC(HS) Classification of export and import
items as follows:-

Chapter 96

SNo.	Tariff Item HS Code	Unit	Item Description	Export Policy	Nature of Restriction
165 A	9602 00 30	Kg	Empty Gelatin Capsules, not intended for human consumption	Free	Export of the item to EU, produced from Animal By-Products, is allowed subject to the following conditions: (i) A 'Shipment Clearance Certificate' is to be issued consignment-wise by CAPEXIL indicating details of the name and address of the exporter, address of the registered plant, IEC No. of the exporter, plant approval number, nature of export product, quantity, invoice number and date, port of loading (Name of the port) and destination. (ii) After the shipment is made, the exporter shall also provide 'Health Certificate' consignment-wise to the buyer giving details of vessel name, shipping bill number with date, production process, etc. as per the regulations stipulated by EC (EU) from time to time. The Certificate would be issued jointly by CAPEXIL and Regional Animal Quarantine Officer, Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture, Government of India.



3. Effect of this notification

For export of Empty Gelatin capsule to EU,
CAPEXIL will be the competent authority for
issuance of shipment clearance certificate. Post
shipment Health certificate will be issued jointly

by CAPEXIL and Regional Animal Quarantine
Officer, Department of Animal Husbandry, Dairy-
ing and Fisheries, Ministry of Agriculture, Gov-
ernment of India.

Service Tax Leviable on Film Distributors and Movie Exhibitors under "Business Support Services"

Subject: Clarification on levy of service tax on
distributors/sub-distributors of films & exhibitors
of movie.

148-ST Representations requesting
13.12.2011 clarification on taxability of
(DoR) consideration earned by the
distributors/sub-distributors

area distributors of Indian & Foreign films in the
form of 'revenue share' from the exhibitors of
the movie, and on revenue retained as percent-
age by the exhibitors of the movie from the sale
of tickets have been received from certain sec-
tions of service providers in the light of recent
changes in the law and CBEC Circular No 109/
03/2009 dated 23.02.2009 issued under F. No.
137/186/2007-CX.4.

2. These representations have been exam-
ined. Subsequent to issuance of CBEC Circular
No. 109/03/2009 dated 23.02.2009 significant
changes in the law have taken place. Tempora-
ry transfer or permitting the use or enjoyment
of, any copyright defined in the Copyright Act,
1957 (14 of 1957), except the rights covered
under sub-clause (a) of clause (1) of section 13
of the said Act were made taxable w.e.f.
01.07.2010 under the sub-clause (zzzzt) of Sec
65(105) by the Finance Act of 2010. Also, for the
words 'operational assistance for marketing',
the words 'operational or administrative assis-
tance in any manner' were substituted in the
clause (104c) of Sec 64 of the Act by the
Finance Act, 2011, w.e.f. 01.05.2011.

3. The normal business practice in the indus-
try is that the producer of the film, who owns the
intellectual property rights of the film, tempora-
rily transfers the rights to a person [normally
distributor or any other person] who directly or
indirectly enters into an agreement with the
exhibitor [normally theatre owner] for screening
of the film. There are also other variant modes
of transaction in the industry.

4. In cases where distributor transfers the
rights to sub-distributor, area distributor, exhibi-
tor or theatre owner, the distributor is liable to
collect the service tax under copyright service &
deposit it with the government exchequer. Simi-
larly when the sub-distributor or area distributor
etc further transfers the rights to any person, he
is also liable to collect the service tax under
copyright service & deposit it with the govern-
ment exchequer.

5. In cases where no such copyrights are
transferred by the distributor or sub-distributor
or area distributor to the exhibitor or theatre
owner, the same is not chargeable to service tax
under Copyright Services. However the busi-
ness transaction needs to be examined for
leviability of service tax under other heads.
Depending upon the arrangement whether the
theatre owner has merely let out its premises to
the distributor or is also involved in giving sup-
port services for the business of the distributor,
there can be a case of leviability of service tax

on the remuneration retained by such theatre owner under "Business Support service" or "Renting of Immovable Property". The definition of "Business Support service" has been amended in Budget 2011 to include "operational or administrative assistance in any manner" in its definition.

6. It is being represented that in certain situation the distributor and the theatre owner conduct business together and hence no service tax is leviable. Arrangement amongst two or more entities can either be on principal-to-principal basis or on partnership/joint/collaboration basis. In the former, the constituent members are independent of each other and do not share any risk/revenue/profit/loss/liability of the other while in latter the constituent members join hands for mutuality of interest and share common risk/profit together.

7. Unincorporated joint venture, not operating on principal-to-principal basis, will exist only if the arrangement entered into between the two independent persons is also recognized as a person. It may be noted that the word "person" has not been defined in the Finance Act, 1994. As per Sec 3(42) of General Clauses Act, 1897 "person shall include any company or association or body of individuals, whether incorporated or not". In this regard attention is invited to explanation to Sec 65 of the Finance Act, 1994 wherein the taxable service includes any taxable service provided or to be provided by any unincorporated association or body of persons to a member thereof.

8. Such a joint venture is also recognized as a legal & juristic entity in the nature of a partnership of the constituent companies by the hon'ble Supreme Court of India in the case of New Horizons [1995 SCC (1) 478; 1994-TMI-83686] wherein it was held that "the expression 'joint venture' connotes a legal entity in the nature of a partnership engaged in the joint undertaking of a particular transaction for mutual profit or an association of persons or companies jointly undertaking some commercial enterprise wherein all contribute assets and share risks. It requires a community of interest in the performance of the subject-matter, a right to direct and govern the policy in connection therewith, and duty, which may be altered by agreement, to share both in profit and losses. The independence of joint venture as a separate legal entity, away from its constituent members, has further been fortified in the case of M/s Gammon India Ltd. Vs Commissioner of Customs, Mumbai, 2011-TMI - 204309 wherein the hon'ble Supreme Court categorically denied the benefit of exemption to the JV as the impugned goods were directly imported by constituent member.

9. Thus, where the distributor or sub-distributor or area distributor enters into an arrangement with the exhibitor or theatre owner, with the understanding to share revenue/profits and not provide the service on principal-to-principal basis, a new entity emerges, distinct from its constituents. As the new entity acquires the character of a "person", the transactions between it and the other independent entities namely the distributor / sub-distributor / area

distributor and the exhibitor etc will be a taxable service. Whereas, in cases the character of a "person" is not acquired in the business transaction and the transaction is as on principal-to-principal basis, the tax is leviable on either of the constituent members based on the nature of the transaction and as per rules of classification of service as embodied under Sec 65A of Finance

Act, 1994.

10. To sum-up the above, the arrangements entered into by the distributor or sub-distributor or area distributor etc and the exhibitor or theatre owner etc in exhibiting the film produced by the producer, the original copyright holder, the arrangements and their respective service tax classification is tabulated as under:

Type of Arrangement	Movie exhibited on whose account	Service Tax Implication
Principal –to – Principal Basis	Movie being exhibited by theatre owner or exhibitor on his account – i.e. The copyrights are temporarily transferred	Service tax under copyright service to be provided by distributor or sub-distributor or area distributor or producer etc, as the case may be
	Movie being exhibited on behalf of Distributor or Sub-Distributor or Area Distributor or Producer etc – i.e. no copyrights are temporarily transferred	Service Tax under Business Support Service / Renting of Immovable Property Service, as the case may be, to be provided by Theatre Owner or Exhibitor
Arrangement under unincorporated partnership/ joint/ collaboration basis	Service provided by each of the person i.e. the 'new entity'/ Theater Owner or Exhibitor / Distributor or Sub-Distributor or Area Distributor or Producer etc, as the case may be, is liable to Service Tax under applicable service head	

11. It is understood that the Circular dated 23.02.2009 has been misinterpreted to exclude all 'revenue sharing' arrangements from the levy of service tax. Remuneration or payment arrangements on basis of fixed or revenue sharing or profit sharing or hybrid versions of these may exist. However, the nature of transaction determines the levibility of service tax. Each

case may be looked into on its merits and decision be taken on case to case basis.

12. The arrangements mentioned in this Circular will apply *mutatis mutandis* to similar situations across all the services taxable under the Finance Act.

F.No.354/27/2011-TRU

Service Tax Refund to Exporters through EDI

Exporters Requested to Register Bank Account, Excise Registration Number or Service Tax Code with Customs

Subject: Service Tax Refund to exporters through the Indian Customs EDI System (ICES).

149-ST So far Service Tax Refund
16.12.2011 (STR) was made available
(DoR) to exporters (other than SEZ Units/Developers) on specified services used for export of goods covered in Notification 17/2009-ST dated 07.07.2009 (as amended) subject to certain conditions. In this connection, Honourable Finance Minister, had stated in his Budget Speech that

"There have been considerable difficulties in the sanction of refunds, relating to tax paid on services used for export of goods. I propose to shortly introduce a scheme for the refund of these taxes on the lines of drawback of duties in a far more simplified and expeditious manner".

2. Accordingly, Government has proposed to introduce a simplified scheme for electronic refund of service tax to exporters, on the lines of duty drawback. With the introduction of this new scheme, exporters now have a choice: either they can opt for electronic refund through ICES system, which is based on the 'schedule of rates' or they can opt for refund on the basis of documents, by approaching the Central Excise/Service Tax formations.

3. To obtain benefit under the new electronic STR scheme, which is based on the 'schedule of rates', an exporter: (i) should have a bank account and also a central excise registration or service tax code number and the same should be registered with Customs ICES 1.5 using

'Annexure –A' Form;(ii) should declare his option to avail STR on the electronic shipping bill while presenting the same to the proper officer of Customs.

4. In the 'schedule of rates', to be notified shortly, rates are specified for goods of a class or description. An exporter, who wishes to obtain electronic STR, should express his option by mentioning in the shipping bill, chapter/sub-heading number at the first two digits or four digit levels specified in the schedule of rates, as applicable to the export goods declared in the shipping bill. This chapter/sub heading number should tally with RITC code mentioned in the Shipping Bill against the export goods. Eligible refund amount of service tax paid on the specified services used for export of goods declared in the shipping bill will be calculated electronically by the ICES system, by applying the rate specified in the schedule against the said goods, as a percentage of the FOB value.

5. Exporters who do not like to obtain electronic STR on the basis of 'schedule of rates', but wish to opt for claiming STR on the basis of documents, through the Central Excise/Service Tax field formations should declare chapter/subheading number as 9801 in the electronic Shipping Bill. Minimum STR will be Rupees Fifty for an electronic shipping bill. An exporter who wants to get the chapter/sub heading number amended, for any reason, can get the same

carried out through the ICES service centre by filing an amendment request; amendment request can also be filed through ICEGATE using Remote EDI System (RES) software. Exporters can track the status of their refund claim and details of refund amount through ICEGATE Document Tracking and Touch Screen Enquiry.

6. STR amount processed under the ICES will be disbursed through the branch of the authorized bank at each customs location. The STR amount in respect of individual exporters will be credited directly to the bank account of the exporter, in the authorized bank branch at a Custom location or to any core banking enabled banking account of the exporter, in any branch/ bank anywhere in the country (through the NEFT/ RTGS). For this purpose, the exporters are required to register with Customs, the Indian Financial Service Code (IFSC) of the bank branch in which s/he wishes to receive the STR amount, the core banking enabled account number, bank name and address, using 'Annexure-A'. The procedure for registration of bank account is the same as existing procedure for registration of bank account for receiving drawback amount. Form for registration of bank account, namely, 'Annexure-A' is enclosed to this Circular, for the convenience of the exporters.

7. Duly filled in 'Annexure-A' form enclosed in this Circular (along with self-certified photocopy of central excise registration or service tax code number), should be submitted to the Designated Superintendent in the Customs Houses/ Customs formations, as soon as possible, to get benefit of the electronic refund scheme. (Merchant Exporters, who require a service tax code, can use Form A-2 provided in the Notification 17/2009-ST and obtain the same from jurisdictional central excise or service tax by following the procedure prescribed in the notification). In respect of exporters who already have their bank accounts registered for receiving drawback amount, no new/separate account will be necessary for receiving service tax refund; but they should register their central excise registration or service tax code number with Customs ICES using Annexure-A Form, if they wish to opt for electronic STR. An exporter availing drawback scheme cannot have separate bank accounts for drawback and service tax refund.

8. A new head of accounts under Major Head "0044- Service Tax" has been opened, namely 00441082 for booking of consolidated elec-

tronic refunds.

9. Chief Commissioners/ Commissioners are requested to cause wide publicity to the new electronic STR scheme among exporters. Necessary steps may be taken to disseminate information regarding the salient features of the new electronic STR scheme to the Industry and Trade Bodies/ Chambers / Exporters / CHA Associations. In major Custom Houses, special arrangements may be made to receive the duly filled in 'Annexure-A' forms from the exporters. Systems Managers may make necessary arrangements to verify the Annexure -A forms and upload the details in the ICES. This circular is also being posted on the CBEC website, www.cbec.gov.in and www.icegate.gov.in for the information of all stakeholders.

F.No.354/66/2011-TRU

Annexure A

Part- A

Bank Account Registration for E-STR

I.E.C. Number :
 IFS Code :
 Bank Account Number :
 Bank Name & Address :

Certificate from the bank

Certified that the above particulars are correct.

Signature

(Bank Branch Manager along with official seal)

PART-B

Central Excise Registration/Service Tax Code Number

In case, Service Tax Refund (STR) is to be claimed electronically through ICES 1.5, on the basis of 'schedule of rates', please provide following details:

Central Excise Registration Number:.....

OR

Service Tax Code Number:.....

Declaration

I declare that the above particulars mentioned in Part A and B are correct.

Signature

Exporter/ Authorized Representative

Non Basmati Rice Quota of 10,000 tonnes from FCI Stock to Kenya, Somalia and Djibouti Allowed to Private Trade

- Price of Rs. 20,690 per tonne Fixed
- The other countries of the Horn, namely Sudan, Ethiopia and Uganda are missing from the list

Subject: Export of 10,000 Tonnes of non-Basmati rice to Horn of Africa (Kenya, Somalia & Djibouti).

88-Ntnf(RE) In exercise of powers
 12.12.2011 conferred by Section 5 of the
 (DGFT) Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992) read with Para 2.1 of the Foreign Trade Policy, 2009-2014, the Central Government hereby amends Notification No. 71 (RE-2010)/2009-14 dated 09.09.2011 read with Notification No. 76 (RE-2010)/2009-14 dated 23.09.2011 with immediate effect, as under.

2. Sub-para 2.1 and 2.2 were added at the end of para 2 in the Notification No. 71 (RE-2010)/2009-14 dated 09.09.2011 through Notification No. 76 (RE-2010)/2009-14 dated 23.09.2011. Now a new sub-para 2.3 is added in the Notification No. 71 (RE-2010)/2009-14 dated 09.09.2011, as follows:

2.

"2.3 Export of 10,000 tonnes of non-basmati rice to Horn of Africa (Kenya, Somalia & Djibouti) from Central Pool Stock of FCI at economic cost of Rs. 20,689.50 per tonne shall be permitted".

3. Effect of this notification

Export of 10,000 tonnes of non-basmati rice to Horn of Africa (Kenya, Somalia & Djibouti) from Central Pool Stock of FCI at economic cost has been permitted.

Note: 1. Import Item No. 1 OR alternative Import Items at S. No. 2 and 3 can be used for manufacturing of export product.

2. Import Item No. 1 will be subject to the conditions as prescribed under Import Licensing Note (1) to Chapter 29 of ITC (HS).

Effect of amendment

This export product is an engineering polymer commonly known as Teflon. A new SION has been fixed for this.

Teflon SION Notified

Subject: Fixation of new Standard Input-Output Norms for the export product "Polytetrafluoroethylene/ PTFE Powder / Granular PTFE".

85-PN(RE) In exercise of the powers conferred under Paragraph 2.4
 14.12.2011 of the Foreign Trade Policy, 2009-14, the following
 (DGFT) amendments are made in the Handbook of Procedure,
 Vol. II (as stated in paragraph 1.1 of Vol.I):

2. After SION No. H-570 of Plastic Product Group (Product Code H), new entry being number H-571 will be included as under:

New SION Export Item No.	Qty	Import Item	Qty
H-571 Polytetrafluoroethylene/PTFE Powder/Granular PTFE	1 kg	1. Monochloro DI-Fluoro Methane (Refrigerant R-22/HCFE 22)	2.140 kg
		OR	OR
		2. Methanol	0.993 kg
		3. Fluorspar	3.546 kg

RBI Permits 100% FDI in Pharma Sector in Existing Companies (Brownfield Route) under Govt. Approval Route

Sub: Foreign Investment in Pharmaceuticals Sector - Amendment to the Foreign Direct Investment Scheme

AP(DIR Srs) Attention of Authorised
 Cir.56 Dealers Category - I (AD
 09.12.2011 Category - I) banks is invited to
 (RBI) the Foreign 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. In terms of Schedule 1 of the Notification *ibid*, Foreign

Direct Investment (FDI) up to 100 per cent is permitted in pharmaceuticals sector under the automatic route of the FDI Scheme.

2. The extant FDI policy for pharmaceuticals sector has since been reviewed and it has now been decided as under:

(i) FDI, up to 100 per cent, under the automatic route, would continue to be permitted for green field investments in the pharmaceuticals sector.

(ii) FDI, up to 100 per cent, would be permitted for brownfield investment (i.e. investments in existing companies), in the pharmaceutical sector, under the Government approval route.

3. A copy of Press Note 3 (2011 Series) dated November 8, 2011 issued in this regard is

enclosed.

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

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

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

RBI Tightens Forex Forward Contracts Transactions

Sub: Risk Management and Inter Bank Dealings

AP(DIR Srs) Attention of Authorized Dealers Cir.58 Category – I (AD Category – I) 15.12.2011 banks is invited to the Foreign Exchange Management (RBI)

(Foreign Exchange Derivative Contracts) Regulations, 2000 dated May 3, 2000 [Notification No.FEMA/25/RB-2000 dated May 3, 2000] and A.P.(DIR Series) Circular No.32 dated December 28, 2010, as amended from time to time.

2. Keeping in view the developments in the foreign exchange market, it has been decided to implement the following measures **with immediate effect** until further review.

i. Under contracted exposures, forward contracts, involving the Rupee as one of the currencies, booked by residents to hedge current account transactions, regardless of the tenor, and to hedge capital account transactions, falling due within one year, were allowed to be cancelled and rebooked.

It has now been decided to withdraw the above facility. Forward contracts booked by residents irrespective of the type and tenor of the underlying exposure, once cancelled, cannot be rebooked.

ii. Under probable exposures based on past performance residents were allowed to hedge currency risk on the basis of a declaration of an exposure and based on past performance up to the average of the previous three financial years' (April to March) actual import/export turnover or the previous year's actual import/export turnover, whichever is higher. Further, contracts booked in excess of 75 per cent of the eligible limit were to be on deliverable basis and could not be cancelled.

It has now been decided that

a. For importers availing of the above past performance facility, the facility stands reduced to 25 percent of the limit as computed above, i.e., 25 percent of the average of the previous three financial years' (April to March) actual import/export turnover or the previous year's actual import/export turnover, whichever is higher. In case of importers who have already utilised in excess of the revised / reduced limit, no further bookings may be allowed under this facility.

b. All forward contracts booked under this facility by both exporters and importers hence forth will be on fully deliverable basis. In case of cancellations, exchange gain, if any, should not be passed on to the customer.

iii. All cash/tom/spot transactions by the Authorised Dealers on behalf of clients will be undertaken for actual remittances / delivery only and cannot be cancelled / cash settled.

iv. Foreign Institutional Investors (FIIs) are currently allowed to hedge currency risk on the market value of entire investment in equity and/

RBI Puts Breaks on Currency Trading in Forwards

- Deliveries Compulsory
- No Rebooking of Forwards Allowed
- Open Position Limits Prescribed

[RBI Press Release dated 15th December 2011]

Sub: Risk Management and Inter Bank Dealings

Keeping in view the developments in the foreign exchange market, it has been decided to implement the following measures with immediate effect until further review.

i. Under contracted exposures, forward contracts, involving the Rupee as one of the currencies, booked by residents to hedge current account transactions, regardless of the tenor, and to hedge capital account transactions, falling due within one year, were allowed to be cancelled and rebooked.

It has now been decided to withdraw the above facility. Forward contracts booked by residents irrespective of the type and tenor of the underlying exposure, once cancelled, cannot be rebooked.

ii. Under probable exposures based on past performance residents were allowed to hedge currency risk on the basis of a declaration of an exposure and based on past performance up to the average of the previous three financial years' (April to March) actual import/export turnover or the previous year's actual import/export turnover, whichever is higher. Further, contracts booked in excess of 75 per cent of the eligible limit were to be on deliverable basis and could not be cancelled.

It has now been decided that

a. For importers availing of the above past performance facility, the facility stands reduced to 25 percent of the limit as computed above, i.e., 25 percent of the average of the previous three financial years' (April to March) actual import/export turnover or the previous year's actual import/export turnover, whichever is higher. In case of importers who have already utilised in excess of the revised / reduced limit, no further bookings may be allowed under this facility.

b. All forward contracts booked under this facility by both exporters and importers hence

forth will be on fully deliverable basis. In case of cancellations, exchange gain, if any, should not be passed on to the customer.

iii. All cash/tom/spot transactions by the Authorised Dealers on behalf of clients will be undertaken for actual remittances / delivery only and cannot be cancelled / cash settled.

iv. Foreign Institutional Investors (FIIs) are currently allowed to hedge currency risk on the market value of entire investment in equity and/ or debt in India as on a particular date. The contracts once cancelled cannot be rebooked except to the extent of 10 per cent of the market value of the portfolio as at the beginning of the financial year. The forward contracts may, however, be rolled over on or before maturity.

It has now been decided that henceforth forward contracts booked by the FIIs, once cancelled, cannot be rebooked. The forward contracts may, however, be rolled over on or before maturity.

v. The Board of Directors of Authorised Dealers were allowed to fix suitable limits for various Treasury functions with net overnight open exchange position and aggregate gap limits required to be approved by the Reserve Bank.

It has now been decided that

a. Net Overnight Open Position Limit (NOOPL) of Authorised Dealers would be reduced across the board. Revised limits in respect of individual banks are being advised to the Authorised Dealers separately.

b. Intra-day open position / daylight limit of Authorised Dealers should not exceed the existing NOOPL approved by the Reserve Bank.

c. The above arrangement would be reviewed on an ongoing basis keeping in view the evolving market conditions.

Other details are available in A.P. (Dir Series) Circular No.58 dated December 15, 2011.

or debt in India as on a particular date. The contracts once cancelled cannot be rebooked except to the extent of 10 per cent of the market value of the portfolio as at the beginning of the financial year. The forward contracts may, however, be rolled over on or before maturity.

It has now been decided that henceforth forward contracts booked by the FIIs, once cancelled, cannot be rebooked. The forward contracts may, however, be rolled over on or before maturity.

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It has now been decided that

a. Net Overnight Open Position Limit (NOOPL) of Authorised Dealers would be reduced across the board. Revised limits in respect of individual banks are being advised to

the Authorised Dealers separately.

b. Intra-day open position / daylight limit of Authorised Dealers should not exceed the existing NOOPL approved by the Reserve Bank.

c. The above arrangement would be reviewed on an ongoing basis keeping in view the evolving market conditions.

3. Necessary amendments to Notification No. FEMA.25/RB-2000 dated May 3, 2000 [Foreign Exchange Management (Foreign Exchange Derivatives Contracts) Regulations, 2000] are being notified separately.

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

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.

Equity Shares Issue by Conversion of Machinery Investment under FDI under Government Route

Sub: Foreign Direct Investment (FDI) in India - Issue of equity shares under the FDI scheme allowed under the Government route

AP(DIR Srs) Attention of Authorised
Cir.55 Dealers Category – I (AD
09.12.2011 Category - I) banks is invited to
(RBI) the A.P. (DIR Series) Circular
No. 74 dated June 30, 2011,

allowing thereby issue of equity shares/ preference shares under the Government route by conversion of import of capital goods, / machineries/equipments (including second-hand machineries) and pre-operative / pre-incorporation expenses (including payments of rent, etc.), subject to terms and conditions stated therein.

2. It has now been decided to amend certain conditions in the aforesaid A.P. (DIR Series) Circular. The amended conditions are given in the Annex.

3. All the other instructions contained in the

A.P. (DIR Series) Circular No. 74 dated June 30, 2011 shall remain unchanged.

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

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

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

Annex

[A. P. (DIR Series) Circular No. 55 dated December 09, 2011]

c.f. A.P.(DIR Series) Circular No. 74 dated June 30, 2011	Earlier condition	Revised condition
Para 3 (I) (d)	All such conversions of import payables for capital goods into FDI should be completed within 180 days from the date of shipment of goods.	Applications complete in all respects, for conversions of import payables for capital goods into FDI being made within 180 days from the date of shipment of goods.
Para 3 (II) (d)	The capitalization should be completed within the stipulated period of 180 days permitted for retention of advance against equity under the extant FDI policy.	The applications, complete in all respects, for capitalisation being made within the period of 180 days from the date of incorporation of the company.

Compounding of Delay Contraventions under FEMA, 1999

Sub: Foreign Exchange Management Act, 1999 (FEMA) Foreign Exchange (Compounding Proceedings) Rules, 2000 (the Rules) - Compounding of Contraventions under FEMA, 1999

AP(DIR Srs) Attention of all the Authorised
Cir.57 Dealer Category - I (AD
13.12.2011 Category - I) banks and their
(RBI) constituents is invited to A.P.
(DIR Series) Circular no. 56

dated June 28, 2010 and the Foreign Exchange

(Compounding Proceedings) Rules, 2000 notified by the Government of India vide G.S.R.No.383(E) dated 3rd May 2000, as amended from time to time.

2. As a measure of customer service and in order to facilitate the operational convenience,

it has been decided to delegate the powers to the Regional Offices of the Reserve Bank of India mentioned below to compound the contraventions of FEMA involving (i) delay in reporting of inward remittance, (ii) delay in filing of form FC-GPR after allotment of shares and (iii) delay in issue of shares beyond 180 days (viz. paragraphs 9(1)(A), 9(1)(B) and 8, respectively, of the Schedule I to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, notified vide Notification No. FEMA 20/2000-RB dated 3rd May 2000 and as amended from time to time:

a) Paragraphs 9 (1) (A) and 9 (1) (B) of Schedule I to FEMA 20/2000-RB dated May 3, 2000 -

Bhopal, Bhubaneshwar, Chandigarh, Guwahati, Jaipur, Jammu, Kanpur, Kochi, Patna and Panaji for amount of contravention below Rupees One hundred lakh only (Rs. 1,00,00,000 /-).

b) Paragraphs 9 (1) (A), 9 (1) (B) and 8 of Schedule I to FEMA 20/2000-RB dated May 3, 2000 -

Ahmedabad, Bangalore, Chennai, Hyderabad, Kolkata, Mumbai and New Delhi for amount of contravention without any limit.

The Compounding Authorities attached to these Regional Offices of the Foreign Exchange Department have been authorised to compound such cases at their level(s) within the financial powers as per the Foreign Exchange (Compounding Proceedings) Rules, 2000. Accordingly, all applications for compounding whether received on the advice of the Regional Office concerned or suo-moto, relating to the contraventions mentioned at (a) and (b) above and up to the amount of contravention stated therein, may be submitted by the companies falling under the jurisdiction of the aforesaid Regional Offices directly to the Regional Office concerned, together with the prescribed fee and other relevant documents. All other applications may be submitted to the Compounding Authority, Cell for Effective implementation of FEMA (CEFA), Foreign Exchange Department, 5th floor, Amar Building, Sir P.M.Road, Fort, Mumbai-400001, as hitherto. The prescribed fee of Rs. 5000/- (Rupees Five thousand only) may be paid by way of a demand draft drawn in favour of "Reserve Bank of India" and payable at the Regional Office where the application is being submitted and at Mumbai if the application is submitted at CEFA, Mumbai.

3. In terms of sub-rule (1) to Rule 8 of Foreign Exchange (Compounding Proceedings) Rules, 2000, the Compounding Authority may call for any information, record or any other documents relevant to the compounding proceedings. It has been observed that there is no uniformity in submitting the required details with supporting documents along with the compounding application. This results in avoidable correspondence between Reserve Bank and the applicant. It has, therefore been decided that along

Tariff Value on Brass Scrap and Poppy Seeds Down by US\$95/MT and US\$73/MT Respectively

87-Cus(NT) In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Board, being satisfied that it is necessary and expedient so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Cus (N. T.), dated, the 3rd August 2001, namely: -
In the said notification, for the Table, the following Table shall be substituted namely:-

"Table

SNo.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	447 (i.e. no change)
2	1511 90 10	RBD Palm Oil	476 (i.e. no change)
3	1511 90 90	Others – Palm Oil	462 (i.e. no change)
4	1511 10 00	Crude Palmolein	481 (i.e. no change)
5	1511 90 20	RBD Palmolein	484 (i.e. no change)
6	1511 90 90	Others – Palmolein	483 (i.e. no change)
7	1507 10 00	Crude Soyabean Oil	580 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	4030
9	1207 91 00	Poppy seeds	2044

[F. No. 467/2/2011-Cus.V]

with the application in the prescribed format, the applicant may also furnish the details as per the enclosed Annexes relating to Foreign Direct Investment, External Commercial Borrowings, Overseas Direct Investment and Branch Office/ Liaison Office, as applicable, along with an undertaking that they are not under investigation of any agency such as DOE, CBI, etc., a copy of the Memorandum of Association and latest audited balance sheet while applying for compounding of contraventions under FEMA, 1999.

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

5. The directions contained in this circular have been issued under sections 10 (4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

[Annexures are available at our website www.worldtradesScanner.com]

Customs Valuation Exchange Rates

December 2011		Imports	Exports	
Schedule I				
1	Australian Dollar	51.30	49.95	
2	Canadian Dollar	50.35	49.20	
3	Danish Kroner	9.50	9.20	
4	EURO	70.20	68.60	
5	Hong Kong Dollar	6.75	6.65	
6	Norwegian Kroner	9.00	8.70	
7	Pound Sterling	81.65	79.85	
8	Swedish Kroner	7.60	7.40	
9	Swiss Franc	57.30	55.95	
10	Singapore Dollar	40.20	39.35	
11	U.S. Dollar	52.60	51.75	
Schedule II				
1	Japanese Yen	68.30	66.55	

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 82(NT)/28.11.2011)

Commodity Spot Prices in India – 17-20 December 2011

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

(Rs.)					
Commodity	Unit	Market	17-Dec	19-Dec	20-Dec
CER (Carbon Trading)	1 MT	Mumbai	NA	NA	NA
Chana	100 KGS	Delhi	3338	3406	3421
Masur	100 KGS	Indore	3049	3094	3117
Potato	100 KGS	Agra	NA	NA	NA
Potato TKR	100 KGS	Tarkeshwar	NA	NA	NA
Arecanut	100 KGS	Mangalore	NA	NA	NA
Cashewkern	1 KGS	Quilon	NA	NA	NA
Cardamom	1 KGS	Vandanmedu	533.7	533.7	533.7
Coffee ROB	100 KGS	Kushalnagar	NA	NA	NA
Jeera	100 KGS	Unjha	NA	NA	NA
Pepper	100 KGS	Kochi	NA	NA	NA
Red Chili	100 KGS	Guntur	NA	NA	NA
Turmeric	100 KGS	Nzmbad	5363	5268	5263
Guar Gum	100 KGS	Jodhpur	NA	NA	NA
Maize	100 KGS	Nzmbad	1139	1143	1135
Wheat	100 KGS	Delhi	1202.2	1203.1	1207.3
Mentha Oil	1 KGS	Chandausi	1496.2	1498.2	1487.8
Cotton Seed	100 KGS	Akola	NA	NA	NA
Castorsd RJK	100 KGS	Rajkot	4069.5	3995.5	4001
Guar Seed	100 KGS	Bikaner	6236	6325	6555
Soya Bean	100 KGS	Indore	2360	2398	2408
Mustrdsd JPR	20 KGS	Jaipur	679.9	689.9	698
Sesame Seed	100 KGS	Rajkot	6063	6063	6069
Coconut Oil Cake	100 KGS	Kochi	NA	NA	NA
RCBR Oil Cake	1 MT	Raipur	NA	NA	NA
Kapaskhali	50 KGS	Akola	1160	1168.5	1164.2
Coconut Oil	100 KGS	Kochi	8320	8320	8320
Refsoy Oil	10 KGS	Indore	665.7	677.8	680.75
CPO	10 KGS	Kandla	509.7	514.6	515.8
Mustard Oil	10 KGS	Jaipur	719.8	734.6	736.1
Gnutoilexp	10 KGS	Rajkot	948.3	950	980
Castor Oil	10 KGS	Kandla	NA	NA	NA
Crude Oil	1 BBL	Mumbai	4940	4940	4972
Furnace Oil	1000 KGS	Mumbai	NA	NA	NA
Sourcrd Oil	1 BBL	Mumbai	NA	NA	NA
Brent Crude	1 BBL	Mumbai	5458	5458	5489
Gur	40 KGS	Muzngr	NA	NA	NA
Sugars	100 KGS	Kolhapur	2878	NA	NA
Sugarm	100 KGS	Delhi	3105	3125	3130
Natural Gas	1 mmBtu	Hazirabad	165.1	165.1	164
Rubber	100 KGS	Kochi	19957	20053	20155
Cotton Long	1 Candy	Kadi	NA	NA	NA
Cotton Med	1 Maund	Sriganganagar	NA	NA	NA
Jute	100 KGS	Kolkata	2028	2047.5	2068
Gold	10 GRMS	Ahmd	27390	27381	27550
Gold Guinea	8 GRMS	Ahmd	22000	21993	22129
Silver	1 KGS	Ahmd	52250	51527	51913
Sponge Iron	1 MT	Raipur	NA	NA	NA
Steel Flat	1000 KGS	Mumbai	NA	NA	NA
Steel Long	1 MT	Gobindgarh	NA	NA	NA
Copper	1 KGS	Mumbai	387.85	387.85	386.25
Nickel	1 KGS	Mumbai	954	966.2	974.5
Aluminium	1 KGS	Mumbai	105.8	106	104.05
Lead	1 KGS	Mumbai	104.55	102.1	102.55
Zinc	1 KGS	Mumbai	98.9	98	98.25
Tin	1 KGS	Mumbai	995.5	996.25	984.25

(Source: MCX Spot Prices)

Anand Sharma Rules Out Standstill in Tariff at WTO Ministerial

- Says will not Give up Right to Put Export Restrictions on Food
- Calls for Breakthrough in Doha Negotiations “Without Making Any Offers”
- New Grouping of G90 plus IBSA and China for “Friends of Development” Launched

Anand Sharma, Commerce, Industry and Textiles Minister, clearly spelt out India’s position on some of the new ideas that have been proposed in the current WTO round as a possible way forward. Ruling out any freezing of the custom duties at the current levels (Tariff standstill) he stated that this amounted to the developing countries ceding their policy space and being denied any recognition for their autonomous liberalization. Besides unhinging the negotiated formula on tariff reductions it would force the developing countries to take on commitments going much beyond what was envisaged for at the end of the Doha Round.

Similarly on the issue of export restrictions on agricultural products, any dilution of the flexibilities available under the WTO regime for

imposing export restrictions and taxes was unacceptable. Mr. Sharma currently in Geneva for the 8th Ministerial Conference of the WTO, was addressing the Group of 20 developing countries (chaired by Brazil).

Mr Sharma recalled the role G20 has played in the WTO negotiations. He called for continued solidarity and reinvigorated engagement so that the current impasse in the Doha negotiations are broken and the attempts to replace the development centric agenda are thwarted.

He cautioned against the possibility of losing the progress and the balance achieved so painstakingly over the last decade, particularly on the reforms of the agricultural trading system. He urged the global community to not allow this

opportunity to slip away or allow a dilution of the Doha mandate.

While speaking at the meeting of the G33 countries (a coalition of agricultural economies, coordinated by Indonesia) he urged for ushering in much delayed changes in the current agricultural trading regime which negatively impact the livelihood concerns of billions of subsistence farmers in the developing world.

The ministers coordinated their positions ahead of the plenary meet on the important aspects of agricultural trade, including the large trade distorting subsidies doled out by the developed countries, and agreed on preserving the centrality of development as the core agenda. While unequivocally expressing India’s desire to bring this Round to a balanced conclusion, Mr. Sharma underlined the need to keep the negotiating process transparent and inclusive. He also articulated India’s strong commitment to the issues affecting the Least Developed countries, and the small and vulnerable economies, that have hitherto remained marginalized from the global trading regime. Minister Sharma was of the view that the smaller and poorer nations cannot be left behind and thus it was incumbent upon all member states to accord highest priority to the concerns of the Least Developed countries.

Minister Sharma recalled that India has already shown the way with its unilateral grant of duty free market access to a large number of products from the least developed countries as early as in 2008. He urged the WTO members, particularly the developed ones, to follow suit and redeem the promise made to the poorest members of the global community six years ago at Hong Kong. This obligation needs to be fulfilled without any further delay he added.

Addressing the G 33 group of Ministers, he lauded the role of the G 33 in protecting the development dimension of the Round, through its efforts to obtain satisfactory outcomes on certain critical elements of Agriculture negotiations that provide for Special and Differential treatment for the developing countries. He observed that these special and differential provisions balance out the commercial interests of the developed countries, and are essential to protect the livelihood interests of the small and marginal farmers in the developing world for whom agriculture is not an issue of trade but of livelihood and existence.

Minister Sharma addressed a gathering of over 100 country delegates of the G90 developing countries and Brazil, China, India and South Africa. The unique grouping of over 100 countries called the “Friends of development” reaffirmed their commitment to the centrality of development in Doha round and the need to keep negotiations transparent and inclusive. Minister Sharma mentioned that “An overwhelming majority of WTO membership present in this meeting have sent out a message with clarity to take forward the Doha development agenda without deviating or diluting the core of the round”. He expressed concern that “new approaches” were being suggested, risking the multilateral tradition of WTO. He said that the round must ensure “a just and equitable regime which corrects the distortions of history”.

[Source: Ministry of Commerce & Industry, PIB Press Release dated 15th December 2011]

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