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. XXVI No 44 27 January-02 February 2010

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

Annual subscription Rs 650

Indonesia-Thailand Hit by Zero Duty in China-ASEAN FTA

On 1 January this year the deal took effect, tariffs immediately dropped to zero on about 90 percent of all goods traded between China and six ASEAN countries - Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand. As a result, the average tariff on ASEAN goods imported into China has fallen from 9.8 percent to 0.1 percent, while the average tariff on Chinese goods imported into ASEAN countries now stands at 0.6 percent, down from 12.8.

But critics argue that some ASEAN producers will be suffocated by the flood of cheap Chinese imports ushered in by the drop in tariffs. Some analysts predict that losses for industries in ASEAN countries like Indonesia and Thailand will be upwards of US$ 3 billion per year.

Thousands of workers staged a rally in the Indonesian city of Bandung earlier this month to protest the deal and call for a delay in its implementation.

According to analysis from the Ikatan Sarjana Ekonomi Indonesia, an Indonesian research group, the new trade deal could lead to total losses of US$ 3.8 billion per year for seven Indonesian industries - petrochemicals, textiles, leather products, electronics, ceramics, foods and beverages, and steel and iron products.

The Indonesian government reacted, although only at the eleventh hour, by asking for an additional two years of tariff protections for 228 products.

The four other ASEAN members - Burma, Cambodia, Laos and Vietnam - will have an additional five years to reduce their tariffs.

The new China-ASEAN trade area is the largest in the world in terms of the number of people - 1.9 billion - who live inside it. The total volume of trade in the China-ASEAN zone is roughly US$ 4.3 trillion annually, making it the third-largest such area in the world after the European Union and NAFTA.

ASEAN has been on a tear recently when it comes to negotiating free trade deals. In addition to the pact with China, the bloc has also inked trade agreements with Australia, New Zealand and Japan. A separate deal with India also took effect at the beginning of this year. (Talks toward a regional deal with the EU were begun in 2007 but were put on hold last March after nearly two years of little progress. Instead, Brussels has now begun negotiating bilateral agreements with each ASEAN country).

De Gucht as New EU Trade Commissioner Backs Doha

The European Union's trade commissioner-designate told Members of the European Parliament on 12 January that he is "quite confident" that a Doha Round trade deal can be struck this year or next, and that concluding the round is a top priority.

The remarks came during a three-hour question-and-answer session in Brussels that marked the first morning of confirmation hearings for the 26 incoming European commissioners.

Outlining his goals for EU trade policy, Karel De Gucht, the former Belgium minister of foreign affairs, said that strengthening the multilateral trading system is at the top of his list.

Yet De Gucht rejected the notion of changing the mandate for the WTO's current round of negotiations, which were launched in 2001.

Revising the WTO agenda would "cost time and make things more difficult," he said, when asked by one parliamentarian if the mandate for the talks should be updated to address global challenges like climate change and the financial crisis.

De Gucht added that WTO members have agreed on "90 percent of the topics under negotiation," and blamed the United States, China and India for the most recent major setback in the talks. Nonetheless, he expressed confidence that a Doha deal could be struck.

'No' to carbon border taxes

De Gucht took a dim view on carbon border taxes, which have been championed in some corners of Europe. These unilateral measures - tariffs imposed on imports from a country that has not comparably offset the greenhouse gas associated a given good's production - are fiercely opposed by developing countries, which warn that they run counter to multilateral trade rules.

China and India bristled during the Copenhagen climate conference last month, when an American negotiator suggested that carbon border taxes would help level the economic playing field for firms based in countries that adopt ambitious emission targets. French president Nicolas Sarkozy is also a firm supporter of the measures.

However, De Gucht said carbon border taxes should be avoided because they risked triggering a "trade war." He said that governments need to adopt an approach "that fits with market laws," seeming to imply that he does not think that carbon border taxes would comply with WTO rules.

If confirmed, De Gucht will succeed Catherine Ashton as the EU's top trade official. Ashton left the trade commissioner post last month, after she was nominated to become the European Union's first 'High Representative of Foreign Affairs and Security Policy', a post created under the freshly ratified Lisbon Treaty.

The parliamentary hearings are set to wrap up on 19 January, and a vote is expected on 26 January 26. The EU Parliament must accept or reject the entire suite of designated commissioners; they cannot refuse individual nominations.

US, EU in Consultation with Philippines on Liquor Tariffs

Taking the first step in the WTO's dispute settlement process, the United States requested formal consultations with the Philippines on Monday, alleging violations of national treatment in the Philippines' tax scheme on distilled spirits.

The central issue is the permissibility of Section 141 of the Philippines Internal Revenue Code, a specific tax on alcohol and tobacco products. The US alleges that the tax section and implementing regulations violate Article III.2 of the General Agreement on Tariffs and Trade (GATT), which, among other things, forbids parties from subjecting other member nations' products to taxes or other internal charges in excess of those applied to domestic products.

The US joined a similar consultation regarding Section 141 between the Philippines and the European Union last year. In December, the EU requested that a WTO panel hear that dispute, as the consultations in Manila last October did not lead to a "satisfactory resolution of the matter." Brussels renewed that request this week.

In 2009, the Philippines implemented Section 141 to tax distilled spirits produced from the "sap of nipa, coconut, cassava, camote, or buri palm or from the juice of, syrup or sugar of the cane" at 13.59 pesos (US$ .29) per proof litre, while all other distilled spirits carried taxes of between 146.97 and 587.87 pesos (US$ 3.01-12.78) per proof litre. The EU also alleges that the Philippines' tax regulations refer to categories as 'local distilled spirits' and 'imported distilled spirits'.

The US is one of the world's largest exporters of spirits, the USTR website announced, its distilled spirits exports averaging more than US$ 1 billion per year from 2006 to 2008. But the US has had little success in the Philippines, where its spirits account for only 5 percent of consumption.

Manila responds

Representatives of the private sector in the Philippines cite a different reason for US difficulty in establishing a foothold in their domestic market.

Manila counters the EU and US claims by arguing that the spirits receiving favourable tax rates are not comparable to the spirits that are imported.

World Bank Ranks Countries on Ease of Trading

Germany is now the best country in the world at handling the movement of goods across borders, according to a new study from the World Bank, while conflict-ridden Somalia ranks last.

Those findings come from the Logistics Performance Index (LPI), the World Bank's second such report, which was released on 15 January in Berlin. The LPI measures the ease of shipping and trade logistics on a national basis, providing a way for countries to evaluate their own performance in trade logistics as well as identify areas for future improvement.

The LPI is based on a 2009 global survey of nearly one thousand international logistics operators, mainly freight forwarders and express carriers, who provided feedback on the ease of importing and exporting in the countries where they operate. They rated quality of infrastructure, efficiency of clearance processes, logistics competence, timeliness, and cost, among other characteristics. This information was then combined with quantitative logistics chain performance data from each country to generate the LPI rankings for 155 nations.

The report ranked Germany in the lead and Somalia in last place. The top four countries have been reshuffled since the first report in 2007, when Singapore was the leader, but the countries themselves have all remained in the top four slots: Germany and Singapore, as well as Sweden and the Netherlands, in that order. Somalia's fall in the rankings was substantial, from 127th to 155th, due to its heavily disrupted infrastructure.

The top LPI scores all went to high-income economies, whereas the low scores are dominated by low-income nations. However, a country's income is not a perfect predictor of its ability to manage the logistics of trade. Some of the other characteristics that could lower a country's LPI ranking include capacity constraints, landlocked status, quality of public sector institutions, and unpredictability of the supply chain, the study found.

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Government Signs Revised DTAA with Finland

A revised Agreement and Protocol between India and Finland for Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (DTAA) was signed by Sh. S.S.N.Moorthy, Chairman, CBDT on behalf of Government of India and Ms Terhi Hakala, the Ambassador of Finland to India, on behalf of Government of Finland, on 15 January.

As per the revised Agreement, withholding tax rates have been reduced on dividends from 15 percent to 10 percent, and on royalties and fees for technical services from 15 or 10 percent to a uniform rate of 10 percent. Lowering of withholding tax will promote greater investments, flow of technology and technical services between the two countries.

The revised Agreement also expands the ambit of Article concerning Exchange of Information to provide effective exchange of information in line with current international standards. The Article inter-alia provides that a Contracting State shall not deny furnishing of the requested information solely on the ground that it does not have any domestic interest in that information or such information is held by a bank etc. An Article for Limitation of Benefits to the residents of the contracting countries has also been included to prevent misuse of the DTAA.

Other features of the revised Agreement are:-

a) Provisions regarding Service PE has been included in the Article concerning PE.

b) Paragraph 2 to Article 9 has been included to increase the scope for relieving double taxation through recourse to Mutual Agreement Procedure (MAP).

c) A new Article on assistance in collection of taxes has been added to ensure assistance in collection of taxes when such taxes are due under the domestic laws and regulation.

d) The time test for Independent Personal Service has been extended from 90 days or more in the relevant fiscal year to 183 days or more in any period of 12 months commencing or ending in the fiscal year concerned.

The revised DTAA will enter into force after completion of internal processes in both the countries.

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
22-Jan-10	46.2500	46.2950	46.0550	46.1550	46.1550	494197	2638887	1217926	46.1700
21-Jan-10	46.0700	46.1725	45.9275	46.0850	46.0850	465225	3166639	1457894	45.9700
20-Jan-10	45.8825	46.0150	45.8500	45.9625	45.9625	393244	3233912	1485489	45.9500

[Source: NSE and RBI Website]

Dumping Investigation Initiated on Glass Fibre and Articles from China

[F.No. 14/28/2009-DGAD dated 8th January 2010]

Subject: Initiation of anti-dumping investigation concerning imports of certain glass fibre and articles thereof, originating in or exported from the China PR

Whereas M/s. Owens Corning India Limited – Mumbai and M/s. OCV Reinforcement Manufacturing Limited, Hyderabad (herein after referred to as applicants) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 (herein after referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the Rules), alleging dumping of Glass fibre and articles thereof, originating in or exported from the China PR (herein after referred to as "subject country") and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods.

1. Product under Consideration

Product under consideration in the present petition is Glass fibre and articles thereof, including glass rovings, glass chopped strands, glass chopped strands mats. Specifically excluded from the scope of the product under consideration are glass wool, glass yarn, glass woven fabrics and chopped strands of a kind generally treated with polyeurathene or acrylic emulsion meant for thermoplastic applications.

Glass fibre articles are made from extremely fine fibres of glass. Glass fibre articles are essentially a reinforcement material. Various uses for glass fibre articles include thermal insulation, electrical insulation, reinforcement of various materials, tent poles, sound absorption, heat and corrosion resistant fabrics, high strength fabrics, pole vault poles, arrows, bows and crossbows, translucent roofing panels, automobile bodies, hockey sticks, surfboards, boat hulls, and paper honeycomb. The subject goods is classified under chapter 70 of the Customs Tariff Act at subheading no. 7019. The customs classification is however, is for reference purpose only and will have no binding on the scope of the present investigation.

2. Like Article

The applicant has claimed that there are no known differences in subject goods produced by the petitioner and exported from China PR. Both products have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. The goods produced by the domestic industry are comparable to the imported goods from China PR in terms of essential product properties. The goods offered by the domestic industry are like article to the goods imported from China PR.

3. Domestic Industry Standing

The application has been jointly filed by M/s. Owens Corning (India) Limited, Mumbai and OCV Reinforement manufacturing Limited, Thimmapur, Hyderabad. The application has been supported by M/s. Goa Glass Fibres Limited. It is noted that Owens Corning (India) Limited and OCV Reinforement Manufacturing Limited are related to each other and have related entities in a number of countries outside India having manufacturing facilities for production of the product under consideration and other types of glass fibres. It is noted that such related company in China PR has exported very small volume (less than 0.05% of production by the domestic industry) of the product under consideration during the investigation period. The petitioners have claimed that these subject goods have been cleared after the investigation period. On the basis of information available on record, and considering that the volume of exports made by the related company are very insignificant, the Authority determines that the petitioner companies are eligible to file the present petition within the meaning of Rule 2(b) and Rule 5 of the Rules.

There is no other producer of product under consideration in India. It is noted that (a) production of the applicant constitutes a major proportion in Indian production; (b) domestic producers expressly supporting the application account for more than 50 percent of production of the like product produced by the domestic industry; and (c) the application has been made by or on behalf of the domestic industry. The Authority after examining the information on record, and having considered the fact of exports by petitioners' related entities in the light of scope of Rule 2(b), determines that the applicant constitutes domestic Industry within the meaning of the Rule 2 and the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

4. Country Involved

The country involved in the present investigation is China PR.

5. Normal Value

The applicant have claimed that China PR is a non market economy and proposed that Korea RP should be considered as appropriate surrogate country for China PR. The applicants have furnished information relating to prices in domestic market in Korea RP and determined normal value in China as per prices prevailing in Korea RP. The Authority hereby invites comments from all interested parties in accordance to para 7 of Annexure I about appropriateness of Korea RP as surrogate country for China PR. Separate normal value is determined for each type of the product and average normal value is also determined for the product concern as a whole. There is sufficient prima facie evidence with regard to normal value claimed by the petitioners.

6. Export Price

Export price of the subject goods from the subject countries has been determined by considering transaction-wise import data collected from Secondary Sources. Adjustments have been made on account of ocean freight, marine insurance, commission, and port expenses etc. in the exporting country to arrive at ex-factory export price. There is sufficient prima facie evidence with regard to export price claimed by the petitioners.

7. Dumping Margin

Normal value and export price have been compared at ex-factory level, which shows significant dumping margin in respect of the subject country. There is sufficient evidence that the normal value of the subject goods in China is significantly higher than the ex-factory export price indicating, prima facie, that the subject goods are being dumped by exporters from China into the Indian market.

8. Injury and Causal Link

The applicant has furnished information on various parameters relating to material injury. Analysis of the information shows that imports from subject country have increased in the period of investigation in absolute term as also in relation to production and consumption in India. Various economic parameters like the loss in market share, significant decline in the profitability of the domestic industry, significant deterioration in return on investment and cash profit, prima facie, indicate collectively and cumulatively that the domestic industry have suffered material injury on account of dumped imports of subject goods from China PR.

9. Initiation of Anti Dumping Investigations

The Designated Authority, in view of the foregoing paragraphs, finds that sufficient prima facie evidence of dumping of the subject goods from the China PR, injury to the domestic industry and causal link between the dumping and injury exist. The Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of the Rules 5 of the said Rules, to determine the existence, degree and effect of any alleged dumping and to recommend the amount of anti-dumping duty which, if levied, would be adequate to remove the injury to the domestic industry.

10. Period of Investigation (POI)

The Period of Investigation for the purpose of the present investigation is April 2008 – Sept 2009 (18 months). The injury investigation period will, however, cover the period 2005-06, 2006-07, 2007-08 and the POI.

11. Submission of Information

The exporters in the subject country, Govern-

ments through the Embassies, the importers in India known to be concerned with this investigation and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Designated Authority at the following address:

The Designated Authority,
Directorate General of Anti Dumping & Allied Duties, Ministry of Commerce & Industry,
Department of Commerce, Government of India, Room No. 243, Udyog Bhavan,
New Delhi – 110011.

As per Rule 6(5) of Rule supra, the Designated Authority is also providing opportunity to the industrial users of the article under investigation and to representative consumer organizations, who can furnish information relevant to the investigation regarding dumping, injury and causality. Any other interested party may also make its submissions relevant to the investigation within the time limit set out below.

12. Time Limit

Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however required to submit the information within forty days from the date of the letter addressed to them separately. With regard to sending the comments on the appropriateness of Korea RP as surrogate country for China PR as mentioned in para 5 of this notification, the interested parties are required to send the comments within 14 days from the date of notification.

13. Submission of Information

In terms of Rule 6(7) of the Rules, the interested parties are required to submit non-confidential summary of any confidential information provided to the Authority and if in the opinion of the party providing such information, such information is not susceptible to summarization, a statement of reason thereof, is required to be provided. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Designated Authority may record findings on the basis of facts available and make such recommendations to the Central Government as deemed fit.

14. Inspection of Public File

In terms of Rule 6(7), the Designated Authority maintains a public file. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by interested parties.

Dumping Investigation Initiated on Seamless Steel Tubes from China

[F.No. 14 /55/2009-DGAD dated 12th January 2010]

Subject: Initiation of anti-dumping investigation concerning imports of seamlesstubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron), whether hot finished or cold drawn or cold rolled, of an external diameter not exceeding 273 mm or 10", originating in or exported from China PR.

Whereas M/s ISMT Ltd., Pune. (hereinafter referred to as the applicant) has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), alleging dumping of seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron), whether hot finished or cold drawn or cold rolled, of an external diameter not exceeding 273 mm or 10", (hereinafter referred to as subject goods), originating in or exported from China PR, (hereinafter referred to as subject country) and requested for initiation of Anti-Dumping investigation for levy of anti dumping duty on import of the subject goods. The application is supported by M/s Maharastra Seamless Ltd. and Jindal Saw Ltd.

2. AND WHEREAS, the Authority finds sufficient prima facie evidence of dumping of the subject goods from the subject country and injury to the domestic industry and causal link between the dumping and injury exists, the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of Rule 5 of the said Rules, to determine the existence, degree and effect of any alleged dumping and to recommend the amount of anti-dumping duty which, if levied, would be adequate to remove the injury to the domestic industry.

Product under Consideration

3. The product under consideration in the present investigation is seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron), whether hot finished or cold drawn or cold rolled, of an external diameter not exceeding 273 mm or 10", The product under consideration includes boiler & line pipes used in hydrocarbon industry and casing & tubing of a kind used in drilling for oil and gas exploration.

4. Seamless tubes are used where strength, resistance to corrosion, microstructure and product life is very crucial. Casing/tubing are used in extraction of Crude Oil and Gas from sea as well as from earth. Line pipes are used in hydrocarbon and processing industry. Boiler pipes are used in Boilers, Heat Exchangers, Super Heaters and Condensers, and in mechanical, structural and general engineering industry, Railways etc.

5. Seamless Pipes and Tubes are classified under Customs sub-heading No. 73.04 of Chapter 73 of the Customs Tariff Act, 1975. The classification is however, indicative only and in no way binding on the scope of the present investigations.

Domestic Industry and Standing

6. The application has been filed by M/s. ISMT Limited, Pune and supported by M/s. Maharastra Seamless Limited and M/s. Jindal Saw Limited. M/s Bharat Heavy Electrical Limited (BHEL) and M/s Remi Metals Ltd. are the other known producers of the product under consideration in India It is noted that M/s Bharat Heavy Electrical Limited (BHEL) and M/s Jindal Saw Limited have imported the product under consideration from the subject country in the period of investigation. BHEL has substantially consumed the product captively and has even purchased the same from other Indian Producers. The Authority has considered BHEL as ineligible domestic industry. However, the volume of imports made byM/s Jindal Saw Limited are however quite low and in view of that the Authority has considered M/s Jindal Saw as eligible domestic industry. It is noted that (a) production of the applicant constitutes a major proportion in Indian production; (b) domestic producers expressly supporting the application account for more than 50 percent of production of the like product produced by the domestic industry; and (c) the application has been made by or on behalf of the domestic industry. The Authority after examining the information on record determines that the applicant (with or without exclusion of M/s Jindal Saw Limited constitutes domestic Industry within the meaning of the Rule 2 and the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

Country Involved

7. The country involved in the present investigation is China PR.

Like Article

8. The applicant has claimed that there are no known significant differences in subject goods produced by the domestic industry and exported from China PR. Both products have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. The goods produced by the domestic industry are comparable to the goods imported from China PR in terms of essential product properties. The domestic product is technically and commercially substitutable to the imported product. Therefore, for the purpose of present investigation, subject goods produced by the applicant are being treated as “Like Article” to the subject goods imported from China PR within the meaning of the Rules.

Normal Value

9. The applicant has claimed that China PR should be treated as non-market economy and therefore the normal value should be determined in accordance with the provisions of Para 7 and 8 of Annexure-I of the Rules. The applicant

has submitted that normal value could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not available to them. Further, they claimed that price from market economy third country to other countries, including India, cannot be relied upon for the reasons (a) the relevant information is not publicly available, (b) summary customs information cannot be relied upon for the reason that the product under consideration does not have dedicated customs classification, (c) the investigations being conducted by other investigating authorities (Europe, USA and Canada) clearly establishes that the Chinese producers are resorting to dumping in major global markets and thus export price from other countries would also be suppressed. The applicant has therefore, claimed normal value based on cost of production in India, including selling, general & administration expenses and reasonable profit. The applicant has further provided address of a few producers of the subject goods in USA and submitted that the Designated Authority may seek cooperation from the producers in USA during the course of the proposed investigation. Authority hereby invites comments from all interested parties in accordance with Para 7 and 8 of Annexure I to the Rules.

Export Price

10. Export price of the subject goods from the subject country has been determined by considering transaction wise import data collected from the DGCI&S. Price adjustments have been made on account of ocean freight, inland freight, marine insurance, commission, and port expenses in the exporting country to arrive at ex-factory export price.

Dumping Margin

11. Normal value and export price have been compared at ex-factory level in respect of the subject country. There is sufficient evidence that the normal value of the subject goods in China PR, so arrived is significantly higher than the ex-factory export price indicating, prima facie, that the subject goods are being dumped by exporters from subject country into the Indian market and the dumping margin is estimated to be above *de minimis*.

Injury and Causal Link

12. The applicant has furnished information on various parameters relating to material injury. Analysis of the information shows that imports have increased in absolute terms as also in relation to production & consumption in India. Imports of the product under consideration are significantly undercutting the domestic prices and the effect of such imports was to prevent price increases which otherwise would have occurred to a significant degree. On the basis of the information provided with regard to various economic parameters relating to the domestic industry, it is seen that the performance of the domestic industry materially deteriorated, inter-alia, and collectively & cumulatively in terms of production, capacity utilization, domestic sales values & volume, profits, return on investments, cash flow, inventories and market share. In addition to material injury, the applicant has claimed threat of material injury on the grounds of significant difference in the domestic and imported product price, ability of the subject exporters to ship significantly higher volumes, current investigations being conducted by other countries. There is sufficient evidence that the injury to the domestic industry has been caused by dumped imports from China PR to justify initiation of an anti-dumping investigation in terms of the Rules.

Initiation of Antidumping Investigation

13. The Designated Authority, in view of the foregoing paragraphs, initiates anti-dumping investigations into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject Country.

Period of Investigation

14. The Period of Investigation for the purpose of the present investigation is 1st April 2008 – 30th June 2009 (15 months). The injury investigation period will, however, cover the period 2005-06, 2006-07, 2007-08 and the POI.

Submission of Information

15. The known exporters in the subject Country, their Government through the Embassy in India, the importers in India known to be concerned with this investigation and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Designated Authority at the following address:

The Designated Authority,
Directorate General of Anti Dumping & Allied Duties, Ministry of Commerce & Industry,
Department of Commerce, Government of India, Room No. 240, Udyog Bhavan,
New Delhi – 110107.

16. As per Rule 6(5) of Rule supra, the Designated Authority is also providing opportunity to the industrial users of the article under investigation and to representative consumer organizations, who can furnish information relevant to the investigation regarding dumping, injury and causality. Any other interested party may also make its submissions relevant to the investigation within the time limit set out below.

Time Limit

17. Information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than 40 Days (forty days) from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however required to submit the information within 40 Days(forty days)from the date of the letter addressed to them separately. If no information is received within the prescribed time limit or the submitted information is incomplete, the Designated Authority may record it's findings on the basis of the facts available on record in accordance with the Rules. It may be noted that no request, whatsoever, shall be entertained for extension in the prescribed time limit.

Submission of Information

18. In terms of Rule 6(7) of the Rules, the interested parties are required to submit non-confidential summary of any confidential information provided to the Authority and if in the opinion of the party providing such information, such information is not susceptible to summarization, a statement of reason thereof, is required to be provided. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Designated Authority may record findings on the basis of facts available and make such recommendations to the Central Government as deemed fit.

Inspection of Public File

19. In terms of Rule 6(7), the Designated Authority maintains a public file. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by interested parties.

The Definition of 'Party' under Indo-ASEAN FTA Amended – Concession only for My, Th and Sg As of Now

07-Cus(NT)
19.01.2010
(DoR)

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government hereby makes the following amendments in the Customs Tariff [Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India] Rules, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), vide number G.S.R. 937 (E), [vide notification No. 189/2009-Customs (N.T), of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs, dated the 31st December, 2009] dated the 31st December,2009, namely:-

In the Customs Tariff [Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India] Rules, 2009,-

(a) in rule 2, for clause (j), the following shall be substituted namely:-

"(j) "**party**" means India or an ASEAN Member State specified in Annexure IV annexed to these rules and "**parties**" means India and ASEAN Member States collectively, as specified in the said Annexure annexed to these rules;".

(b) after **Annexure III**, the following Annexure shall be **added**, namely:-

"**Annexure-IV**
[see rule 2(j)]

SNo.	Name of the Country
1.	Malaysia
2.	The Republic of Singapore
3.	The Kingdom of Thailand"

[F. No. 467/68/2004-Cus.V/ICD]

Indo-Korea CEPA General Duty Raised

Ntfn 04
15.01.2010
(DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.**152/2009-Customs, dated the 31st December, 2009** which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), vide number G.S.R. 943 (E), dated the 31st December, 2009, namely:-

In the said notification, in the Table, in column (4),-

(i) for the entry "4.69%", wherever it occurs, the entry "4.75%" shall be substituted;

(ii) for the entry "7.03%", wherever it occurs, the entry "7.13%" shall be substituted.

(iii) for the entry "9.37%", wherever it occurs, the entry "9.5%" shall be substituted.

(iv) for the entry "11.71%", wherever it occurs, the entry "11.87%" shall be substituted.

(v) for the entry "14.06 %", wherever it occurs, the entry "14.25%" shall be substituted.

(vi) for the entry "18.74%", wherever it occurs, the entry "19%" shall be substituted.

(vii) for the entry "23.43%", wherever it occurs, the entry "23.75%" shall be substituted.

(viii) for the entry "28.11%", wherever it occurs, the entry "28.5%" shall be substituted.

(ix) for the entry "32.8%", wherever it occurs, the entry "33.25%" shall be substituted.

(x) for the entry "37.48%", wherever it occurs, the entry "38%" shall be substituted.

(xi) for the entry "42.17%", wherever it occurs, the entry "42.75%" shall be substituted.

(xii) for the entry "65.59%", wherever it occurs, the entry "66.5%" shall be substituted.

(xiii) for the entry "93.7%", wherever it occurs, the entry "95%" shall be substituted.

F.No.354/107/1996-TRU

CBEC Specified Services Eligible for Refund on Export

Refund of Post Manufacture Services Tax also Allowed

CA Certificate in 41/2007-ST

Subject: Problems faced by exporters in availing refund of excess credit.

120-ST
19.01.2010
(DoR)

CENVAT Credit Rules, 2004 permit taking of credit of inputs and input services which are used for providing output services or output goods. In order to zero-rate the exports, Rule 5 of CENVAT Credit Rules, 2004 provides that such accumulated credit can be refunded to the exporter subject to stipulated conditions. Notification No. 5/2006-CE (NT) dated 14.03.2006 provides the conditions, safeguards and limitations for obtaining refund of such credit.

2. It has been represented by the exporters of services (mainly the call centres or the BPOs) that they are facing difficulties in getting refund under the said notification. In order to ascertain the causes for such delay a number of meetings were held with the refund sanctioning authorities. During these meetings the officers pointed out the following legal/procedural impediments partly responsible for such delays:

(a) The major reason causing delay in granting refunds as well as rejecting the claims is that as per the wordings of the notification, refund is permitted of duties/taxes paid only on such inputs/input services which are either **used in** the manufacture of export goods or **used in** providing the output services exported. As against this, the phrases used in the CENVAT Credit Rules permit credit of services used "*whether directly or indirectly, in or in relation to the manufacture of final product"* or *"for providing output service*". The field formations tend to take the view that for eligibility of refund, the nexus between inputs or input services and the final goods/services has to be closer and more direct than that is required for taking credit. Many refund claims are being rejected on this ground.

(b) Even if a nexus is considered acceptable, the officers processing the refund claims find it difficult to co-relate goods or services covered under a particular invoice with a specific consignment of export goods or specific instance of export of service.

(c) As per the notification, the claims are to be filed quarterly. For large exporters, the procurement of inputs/input services in a quarter is substantial resulting in each refund claim being accompanied with hundreds of invoices. Verification of these documents with corroborative documents showing exports (such as export invoices, bank certificates, shipping bills) consumes a long time;

(d) Though the notification prescribes that refund claims should be filed quarterly in a financial year, it is not clear whether the refund is eligible only of that credit which is accumulated during the said quarter or the accumulated credit of the past period can also be refunded; and

(e) In certain cases, the invoices accompanying the refund claim are incomplete in as much as either the description of service or its classification is not mentioned. In some cases, even the name of the receiver of the inputs/input services is also not mentioned.

3. The matter has been examined. At the outset it is necessary to understand that the entire purpose of Notification No. 5/2006-CX (NT) is to refund the accumulated input credit to exporters and zero-rate the exports. Accumulated credit and delayed sanction of refund causes cash flow problems for the exporters. Therefore, the sanctioning authorities are directed to dispose of the refund claims expeditiously based on the following clarifications to the issues raised in paragraph 2 above.

3.1 Use of different phrases in rules and notification [para 2(a)]

3.1.1 The primary objection indicated by the field formations is that the language of Notification No. 5/2006-CX (NT) permits refund only for such services that are used in providing output services. In other words, the view being taken is that to be eligible for refund, input services should be directly used in the output service exported. As regards the extent of nexus between the inputs/input services and the export goods/services, it must be borne in mind that the purpose is to refund the credit that has already been taken. There cannot be different yardsticks for establishing the nexus for taking of credit and for refund of credit. Even if different phrases are used under different rules of CENVAT Credit Rules, they have to be construed in a harmonious manner. To elaborate, the definition of input services for manufacturer of goods, as given in

Valuation of Polymers Withdrawn

The following Standing Order was issued by Commissioner of Customs (Import) Jawaharlal Nehru Custom House on 7th January 2010.

Sub: Guidelines for Valuation of Polymers and their Products, under the Provisions of the Customs Act, 1962.

Ref: (i) Valuation Alert No. 03/2009 dt. 26.03.2009 issued from F. No. VAL/TECH/56/2008 by DG, Valuation, Mumbai.

(ii) Letter of DG (Valuation) vide F. No. VAL/TECH/56/2008 dt. 10.12.2009

SO-02
07.01.2010

The Standing Order No. 12/2009 dt. 31.03.2009 and 25/2009 dt. 28.05.2009 was issued based on the Alert No. 03/2009 dt. 26.03.2009 (Ref (i) above). In pursuance of the representation of the Trade, the DG (Valuation) vide reference (ii) above has conveyed the following:-

(a) The matter has been re-examined by the Directorate in view of the various representations from trade/industry associations and reports from the field formations.

(b) After due consideration, it has been decided not to interfere with the S.O. No. 7493/99 dated 03.12.1999 issued by Commissioner of Customs, Mumbai and the same may continue. Therefore Valuation Alert No. 3/2009 dated 26.03.2009 issued by this Directorate is rescinded.

(c) The Provisional assessment may be finalized accordingly.

2. In light of above directions by DG (Valuation) the Standing Order No. 12/2009 dt. 31.03.2009 and 25/2009 dt. 28.05.2009 is hereby withdrawn.

3. The assessment of the subject goods shall be made in compliance to the above directions of the DG (Valuation) with immediate effect and until further directions from DG (Valuation).

F.No. S/26-Misc.- 1321/2007-08 Gr. II C & D

Rule 2 (l) (ii) of CENVAT Credit Rules, 2004, includes within its ambit all services used "*in or in relation to the manufacture of final products*" and includes services used "*directly or indirectly*". Similarly Rule 2 (l) (i) of CENVAT Credit Rules also gives wide scope to the input services for provider of output services by including in its ambit services "*used....for providing an output service*". Similar is the case for inputs.

3.1.2 Therefore, the phrase, "*used in*" mentioned in Notification No. 5/2006-CX (NT) to show the nexus also needs to be interpreted in a harmonious manner. The following test can be used to see whether sufficient nexus exists. In case the absence of such input/input service adversely impacts the quality and efficiency of the provision of service exported, it should be considered as eligible input or input service. In the case of BPOs/call centres, the services directly relatable to their export business are renting of premises; right to use software; maintenance and repair of equipment; telecommunication facilities; etc. Further, in the instant example, services like outdoor catering or rent-a-cab for pick-up and dropping of its employees to office would also be eligible for credit on account of the fact that these offices run on 24 x 7 basis and transportation and provision of food to the employees are necessary pre-requisites which the employer has to provide to its employees to ensure that output service is provided efficiently. Similarly, since BPOs/call centres require a large manpower, service tax paid on manpower recruitment agency would also be eligible both for taking the credit and the refund thereof. On the other hand, activities like event management, such as company-sponsored dinners/picnics/ tours, flower arrangements, mandap keepers, hydrant sprinkler systems (that is, services which can be called as recreational or used for beautification of premises), rest houses etc. *prima facie* would not appear to impact the efficiency in providing the output services, unless adequate justification is shown regarding their need.

3.2 One-to-one co-relation between inputs and outputs and scrutiny of voluminous record [para 2(b) & (c) above]

3.2.1 Similar problem of co-relation and scrutiny of large number of documents was being faced in another scheme [Notification No. 41/ 2007-ST dated 06.10.2007] which grants refund of service tax paid on services used by an exporter after the goods have been removed from the factory. In Budget 2009, the scheme was simplified by making a provision of self-certification [Notification No. 17/2009-ST] whereunder an exporter or his Chartered Accountant is required to certify the invoices about the co-relation and the nexus between the inputs/input services and the exports. The exporters are also advised to provide a duly certified list of invoices. The departmental officers are only required to make a basic scrutiny of the documents and, if found in order, sanction the refund within one month. The reports from the field show that this has improved the process of grant of refund considerably. It has, therefore, been decided that similar scheme should be followed for refund of CENVAT credit under notification No. 5/2006-CE (NT). The procedure prescribed herein should be followed in all cases including the pending claims with immediate effect.

3.2.2 Procedure: The exporter should, alongwith the refund claim, file a declaration containing the following details:

(Rs. in lakh)

Details of goods/services exported on which refund of input credit is claimed

1. SNo.:
2. Details of shipping bill/ Bill of export/export documents etc.:

   No.:

   Date:

   Date of export order:

   Goods/ service exported:
3. Details of input credit on which refund claimed

   Invoice No., date and Amount:

   Name of service provider/ supplier of goods:

   Service tax/ Central Excise Regn. No. of service provider/ supplier of goods:

   Details of service/ goods provided with classification under FA 1994/ Central Excise Tariff:

   Service tax/ Central Excise duty payable:

   Date and details of payment made to service provider:
4. Documents attached to evidence the amount of service tax paid:
5. Total export during the period for which refund is claimed:
6. Total domestic clearances during the period for which refund is claimed:
7. Total amount of input credit claimed as refund:

The declaration should be certified by a person authorized by the Board of Directors (in the case of a limited company) or the proprietor/ partner (in case of firms/partnerships) if the amount of refund claimed is less than Rs.5 lakh in a quarter. In case the refund claim is in excess of Rs.5 lakh, the declaration should also be certified by the Chartered Accountant who audits the annual accounts of the exporter for the purposes of Companies Act, 1956 (1 of 1956) or the Income Tax Act, 1961 (43 of 1961), as the case may be.

The Assistant or Deputy Commissioner may, after verification of the fact that the input credit has been correctly claimed, sanction the refund on the basis of the declaration. In case there is a doubt about the correctness of the claim of CENVAT credit on any service, the undisputed amount may be refunded and the balance claim may be decided after following the dispute settlement process.

3.3 Quarterly refund claims [para 2(d) above]

As regards the quarterly filing of refund claims and its applicability, since no bar is provided in the notification, there should not be any objection in allowing refund of credit of the past period in subsequent quarters. It is possible that during certain quarters, there may not be any exports and therefore the exporter does not file any claim. However, he receives inputs/input services during this period. To illustrate, an exporter may avail of Rs.1 crore as input credit in the April – June quarter. However, no exports may be made in this quarter, so no refund is claimed. The input credit is thus carried over to the July-September quarter, when exports of Rs.50 lakh and domestic clearances of Rs.25 lakh are made. The exporter should be permitted a refund of Rs.66 lakh (as his export turnover is 66% of the total turnover in the quarter) from the Cenvat credit of Rs.1 crore availed in April-June quarter. The illustration prescribed under para 5 of the Appendix to the notification should be viewed in this light. However, in case of service providers exporting 100% of their services, such disputes should not arise and refund of CENVAT credit, irrespective of when he has taken the credit, should be granted if otherwise in order. Such exporters may be asked to file a declaration to the effect that they are exporting 100% of their services, and, only if it is noticed subsequently that the exporter had provided services domestically, the proportional refund to such extent can be demanded from him.

3.4 Incomplete invoices [para 2(e) above]

In case of incomplete invoices, the department should take a liberal view in view of various judicial pronouncements by Courts. It had earlier been prescribed in circular No.106/09/2008-ST dated 11.12.2008 that the invoices/challans/ bills should be complete in all respect. This circular was issued with reference to notification No.41/2007 dated 06.10.2007 as specific services eligible for refund under the notification has been specified. Thus, a stricter requirement exists under the said notification for ascertaining the actual service which has been used in the export of goods. In the case of refund under Rule 5, (i) so far as the nature of the service which has been received by the exporter can be ascertained; (ii) tax paid therein is clearly mentioned; and (iii) other details as required under rule 4(a) are mentioned, the refund should be allowed if the input service has a nexus with the service/ goods exported as discussed earlier. In any case, the suggested Chartered Accountant's certificate should clearly bring out the nature of the service and this will assist the officer in taking a decision.

4. The instructions contained in this circular should be implemented with immediate effect and the pending claims may be disposed of accordingly. It is expected that with the clarifications provided and liberalization of procedure, most of the impediments to smooth and expeditious disposal of exporters' claims for refund of accumulated credit would be removed. The Board, therefore, expects that the concerned refund sanctioning authorities should decide all claims of exporters within 30 days of their receipt as has been prescribed in notification No. 17/ 2009-ST. Any lapse in this regard would be viewed seriously. In case of any doubt, an immediate reference may be made to the Board.

F.No.354/268/2009-TRU

92 Sports Goods for Competitions Notified under Zero Duty

Ntfn 05 19.01.2010 (DoR) In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. **146/94-Customs, dated 13th July, 1994** , published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.575 (E), dated the 13th July, 1994, namely:-

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

(i) against serial number 1,-

(a) in column (2), for item (a) and the entry relating thereto, the following shall be substituted, namely:-

"(a)Sports goods, sports equipments, sports requisites, including synthetic playing surfaces, fitness equipments, sports medicine, sports apparel";

(b) in column (3), for item (a) and the entries relating thereto, the following shall be substituted, namely:-

"(a) The said goods are imported into India by,-

1. Sports Authority of India or Sports Authority of concerned State, for use in a national or international championship or competition, to be held in India or abroad or for the purposes of training, or

2. a National Sports Federation for its own use or for the use of its State/ District Affiliate Associations, in a national or international championship or competition, to be held in India or abroad or for the purposes of training , under a certificate issued by the Sports Authority of India, or

3. the Services Sports Control Board in the Ministry of Defence for their own use or for use in a national or international championship or competition, to be held in India or abroad or for the purposes of training, under a certificate issued by the Services Sports Control Board.";

(ii) against serial number 2, in column (2),-

(a) in item **I**, after sub-item (12), the following sub-items shall be inserted, namely:-

"(13) Target Boss
(14) Bow string
(15) Clicker
(16) Fletching Jig
(17) Fletches
(18) Chest Guard
(19) Arrow Rest
(20) Arrow Quiver
(21) Nock";

(b) in item **II**, after sub-item (6), the following sub-items shall be inserted, namely:-

"(7) Spikes
(8) Cross Bar
(10) Pole Vault
(11) Cross Bar (high Jump)
(12) Hurdles
(13) Take off Board
(14) Pole Vault Upright
(15) Spring Board
(16) Starting Blocks";

(c) in item **IV**, after sub-item (2), the following sub-item shall be inserted, namely:

"(3) 24-second electronic device";

(d) in item **VI**, after sub-item (7), the following sub-items shall be inserted, namely:-

"(8) Teeth Guard
(9) Punching pad
(10) Breast Guard for Ladies
(11) Bandage
(12) Scoring Device";

(e) in item **IX**, after sub-item (2), the following sub-items shall be inserted, namely:-

"(3) Football Shoes
(4) Shin Guard";

(f) in item **X**, after sub-item (14), the following sub-items shall be inserted, namely :-

"(15) Scoring System
(16) Mushroom
(17) Beat Board
(18) Spare Bars
(19) Crash Mats
(20) Acrobatic Tumbling Mat
(21) Floor Exercise Mat
(22) Rhythmic Apparatus Ball
(23) Rope, Clubs & Ribbon
(24) Palm Guard";

(g) in item **XII**, after sub-item (3), the following sub-items shall be inserted, namely:-

"(4) Hockey Sticks
(5) Goal Post
(6) Turf cleaning Machine
(7) Ball Throwing Machine";

(h) in item **XIV**, after sub-item (5), the following sub-items shall be inserted, namely:-

"(6) Crash Mat
(7) Scoring System";

(i) in item **XV**, after sub-item (9), the following sub-items shall be inserted, namely:-

"(10) 12 Bore Gun
(11) 38/.357 revolver/pistol
(12) Rifles 7.62/.308 or any caliber upto 8mm
(13) Electronic Target scoring system
(14) Clay birds";

(j) in item **XVII**, after sub-item (4), the following sub-items shall be inserted, namely:-

"(5) Lane Rope
(6) Resuscitators
(7) Life Jackets
(8) Portable Starting Blocks
(9) Stop Watch";

(k) after item **XXII**, the following shall be **added**, namely:-

"XXIII.EQUESTRAIN

(1) Saddle
(2) Bridle
(3) Stirrup Leather
(4) Stirrup Iron
(5) Bits
(6) Jumping Set

XX1V.KABBADI

(1) Mats
(2) Shoes

XXV. KARATE

(1) Karate Mat
(2) Kit

XXVI. LAWN TENNIS

(1) Rackets
(2) Balls
(3) Shoes
(4) Racket String/ Gut

XXVII. *LAWN BOWLING*

(1) Balls
(2) Jack

XXVIII. ROWING

(I) Fixed Purt
(2) Shoes
(3) Row Balls
(4) Assorted tools
(5) Carbon fibre oars and sculls
(6) Ruttons and sleeves for oars
(7) Material for boat repair

XXIX. RUGBY

(1) Balls
(2) Shoes

XXX .SEPAK TAKRAW

(I) Balls

XXXI. SOFTBALL

(I) Bat (slugger)
(2) Catcher kit
(3) Balls
(4) Umpire Kit
(5) Left hand gloves
(6) Home Plate Rubber
(7) Mitt
(8) Chest Guard
(9) Leg Guard
(10) Hard Tow Shoe
(11) Face Mask
(12) Helmets

XXXII. SQUASH

(I) Racket
(2) Balls";

(iii) against serial number 2, in column (3), after item (b) and the entries relating thereto, the following shall be inserted, namely:-

"(c) Arms and Ammunition shall be subject to the Licensing conditions imposed by Directorate General of Foreign Trade and approvals by the Ministry of Home Affairs.";

(iv) after serial number 9 and the entries relating thereto, the following serial number and entries shall be added, namely:-

(1)	(2)	(3)
"10	(i) The following Anti-doping and dope testing related equipment, namely :- (ii) (1) Gas Chromatograph (2) Gas Chromatograph-NPD (3) Gas Chromatograph-FID (4) Gas Chromatograph-C-Isotope Ratio Mass Spectrometer (5) Gas Chromatograph-high resolution Mass Spectrometer (6) Liquid Chromatograph	(a) The said goods are imported into India by National Dope Testing Laboratory in the Ministry of Youth Affairs and Sports; and (b) the importer, at the time of clearance of the goods, produces a certificate to the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the

(7) Liquid Chromatograph- Mass Spectrometer
(8) Elisa processor
(9) Immuno Assay Analyser
(10) Blood cell counter and other Hematology analysers
(11) DNA/EPO analysing equipments Including cameras and other accessories
(12) Computer and software other accessories for operating the dope testing related equipment
(13) Auxiliary equipment for laboratory use like centrifuges; electronic balances; fume hoods; gas generators; gas supply systems including regulators, pipes and other lab wares
(14) Laboratory safety equipment including access control systems;
(ii) Chemicals used for sample processing for dope testing ; and
(iii) Pure drug standards and its metabolites; spiked drug standards in urine/blood; Synthetic standards.

case may be, from an officer not below the rank of a Director in the Ministry of Youth Affairs and Sports indicating-
(i) the name and address of the importer and the description, quantity and value of the said goods; and
(ii) that the said goods are required in relation to anti-doping and dope testing ."

[F.No.354/77/2009-TRU]

Procurement Certificates under EOU Scheme – Re-warehousing Certificate Must

The following Public Notice was issued by the Commissioner of Customs (Export) Jawaharlal Nehru Custom House on 7th January 2010.

Sub: Procedure for verification of the Procurement Certificates received from Central Excise/Customs Authorities and Monitoring of the receipt of Re-warehousing Certificates in respect of the imports cleared under EOU Scheme.

01-PN 07.01.2010

The facility of duty exemption is available to the EOUS/ STPS/EHTP as per the Letter of Permission (LOP) issued by the Development Commissioner. However, the quantity and items of goods of such class and of such description eligible for duty exemption are to be restricted as per the particulars mentioned in each Procurement Certificate(PC) issued by the Central Excise or Customs Authorities. Hence, it becomes necessary to verify the genuiness of the PCs received from the concerned authorities as they amount to special Authorizations based on which the duty exemption is allowed. Instances have come to notice that items that were not mentioned in the LOP were also issued under the cover of the Procurement Certificates. Further, the import details, many a time, do not correspond with the material particulars mentioned in the PCs in terms of description and quantity. It appears that the common perception that there is no revenue implication in respect of the clearance made under EOU scheme has led to laxity in terms of the procedures to be followed and caution to be exercised. Therefore, it is decided that a random percentage check of PCs will be conducted as to verify their genuiness from the concerned issuing authorities. In case of first time importers under EOU scheme the verification of PC will be compulsory. However, to facilitate the smooth clearance of the imports under the EOU scheme, the Procurement Certificates issued from jurisdictional Central Excise/Customs Authorities, recommending for duty free import to the EOUs, will be accepted by hand only if they are brought in sealed cover. Fax copy of the P.C. also will be entertained under special circumstances. The same will also be cross verified with the copy received by registered post.

2. Though the import of goods are allowed without payment of duty on the basis of the particulars in the Procurement Certificate, the fulfillment of the conditions of duty exemption under EOU will become complete only when Re-warehousing Certificates (RWCs) are received from the concerned jurisdictional Central Excise Authorities. The Board vide Circular No. 14/98 dated 10.03.1998 had prescribed maximum period of 90 days from the date of issuance of Procurement Certificate (PC) for the submission of the RWC. Also the Board vide Circular No.07/06-Cus dated13.01.2006 and Circular No. 19/2007-Cus dated 03.05.2007 has prescribed the procedure to be followed for Re-warehousing of goods imported and/ or procured indigenously by EOU/EHTP/STP/BTP units.

3. There are basically two procedures in place for warehousing/ bonding of duty free imported goods at the premises of the EOU. The first procedure relates to warehousing by the Customs/Central Excise Officer concerned and this applies to the majority of the EOUs. The second procedure is newly introduced with effect from 3-5-2007 and is specific to EOUs that have an export turnover of Rs.15 Crores or above and a clean record as confirmed by the jurisdictional Commissioner of Customs /Central Excise. This procedure envisages self-bonding/warehousing by the EOUs own nominated /authorized person. In general, the warehousing procedure is as follows:-

(a) The Deputy /Assistant Commissioner of Customs at the port of import will send the import documents regarding dispatch of the imported goods to the Deputy/Assistant Commissioner or Superintendent of Customs and Central Excise in charge of the EOU. This is done in terms of the Warehoused Goods (Removal) Regulations, 1963.

(b) The EOU must give intimation regarding the arrival of the goods to its jurisdictional Deputy/ Assistant Commissioner or Superintendent of Customs and Central Excise and furnish the following documents:

(i) Copy of Into –Bond Bill of Entry
(ii) Invoice
(iii) Packing list
(iv) Certificate of Origin
(v) Bill of Lading
(vi) Import permission from Development Commissioner
(vii) Any other document, as may be required by the Deputy/ Assistant Commissioner / Superintendent

(c) Upon receipt of intimation regarding the arrival of the imported goods at the EOU, the Bond Officer will first inspect the packages and their marks and numbers to ensure these are intact and there is no scope for shortages, etc. Thereafter, the goods will be inspected to confirm that their quantity, description etc. tallies with the Bill of Entry and transit documents. In case of any discrepancy the matter will be informed to the Superintendent/ Assistant Commissioner for necessary action.

(d) In case there is no discrepancy, the goods will be warehoused and suitable endorsement made on the Bill of Entry including the serial number of the Bond Register. The Inspector will also make suitable entries in the Register of Bill of Entry and Bond Register.

(e) The Deputy /Assistant Commissioner of Customs /Central Excise (or the Superintendent of Customs /Central Excise, wherever authorized) will suitably endorse the Bill of Entry with the warehousing certificate. This marks the formal warehousing of the goods. The stack cards in the warehouse will also be suitably endorsed.

(f) The EOU will certify on the reverse of the Duplicate Bill of Entry that the goods are warehoused as per the Bill of Entry, which is then to be returned to the Deputy /Assistant Commissioner (EOU) at the port of import along with the warehousing certificate.

(g) Superintendent of Customs/ Central Excise will issue warehousing certificate to Deputy/Assistant Commissioner of Customs (EOU) at the port of import by registered A. D. post.

(h) Triplicate copy of Bill of Entry will be returned to the EOU.

(i) The Quadruplicate copy of the Bill of Entry will be kept with the Deputy/Assistant Commissioner's office for record.

3.1 The warehousing procedure detailed above shall also apply to capital goods (jigs, moulds, dies etc.) that are produced /manufactured in-house by the EOUs for use within the unit. For this purpose the value of such capital goods would be assessed as per the computed value method in terms of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 which means accounting for the raw material captively consumed in their manufacture. Further, such goods would be liable to duty as applicable in case of clearance outside the unit or de-bonding or exit from EOU scheme as per instructions issued by CBEC in this regard. The Board has also instructed that the warehousing (including re-warehousing) shall be

done by the Customs/Central Excise officers within 1 day.

3.2 As regards self-bonding /warehousing procedure by the EOUs that have an export turnover of Rs.15 Crores or above and a clean record (as determined by the jurisdictional Commissioner of Customs/Central Excise), the following procedure shall be followed:

(a) The EOU shall intimate the particulars of the person(s) authorised for examination and certification of re-warehousing to the jurisdictional Deputy/assistant Commissioner of Customs/ Central Excise.

(b) On arrival of the imported goods at EOU, the authorised person shall verify number, quantity, weight, description, value, rate and amount of duty etc. with what is mentioned in the Bill of Entry.

(c) If no discrepancy is found upon verification, the authorized person shall warehouse the goods after making suitable entry in the account/ register containing details of Bill of Entry for warehousing, date of receipt and warehousing, description of goods including marks and number, quantity, value, rate and amount of duty and affix his/her signature.

(d) The authorised person shall endorse certificate of warehousing on all copies of the Bill of Entry after which the goods can be used by the EOU for the intended purpose. The format of the certificate of warehousing is enclosed as Annexure-A to this Public Notice.

(e) In case of manual Bill of Entry, the EOU shall within one working day of arrival of goods send Duplicate and Triplicate copies of Bill of Entry duty endorsed with certificate of warehousing to the jurisdictional Superintendent of customs /Central Excise who shall countersign with relevant entries on the said Bill of Entries. Thereafter, the jurisdictional Superintendent of Customs/Central Excise shall send Duplicate copy of Bill of Entry to the port of import along with warehousing certificate, within one working day, and return Triplicate copy of Bill of Entry to the EOU for its records. Warehousing certificate and a photocopy of Triplicate copy of Bill of Entry shall be kept in the office of jurisdictional Superintendent of Customs/Central Excise for record.

(f) In case of electronic Bill of Entry (EDI), the EOU shall within one working day of arrival of goods, send Duplicate copy of Bill of Entry duly endorsed with certificate of warehousing to the jurisdictional Superintendent of Customs / Central Excise and retain Triplicate copy for his record. The jurisdictional Superintendent of Customs/Central Excise shall countersign the Duplicate copy of Bill of Entry and issue re-warehousing certificate. The jurisdictional Superintendent of Customs/Central Excise shall send warehousing certificate, within one working day, to port of import and return Duplicate copy of Bill of Entry to the unit for its record. Warehousing certificate and a photocopy of Duplicate Bill of Entry shall be kept in the office of the jurisdictional Superintendent of Customs/ Central Excise for record.

(g) Ten percent of the consignments, subject to minimum of two, received in a month will be randomly selected, spread over the entire month, for verification by Bond Officer of the EOU after the receipt of ARE-3 and manual or electronic Bill of Entry, as the case may be. A report of verification and warehousing details shall be furnished by the officer in respect of consignments selected for verification in all copies of ARE-3 or Bill of Entry.

3.3 It is also provided that in the event of any discrepancy in the goods found during examination, the EOU must immediately inform the jurisdictional Superintendent of Customs /Central Excise. In such cases, self-warehousing/bonding procedure shall not be followed.

3.4 The warehousing of the goods is being confirmed on the basis of only the re-warehousing certificate issued by the Superintendent of Customs/Central Excise in charge of the EOU. A typical re-warehousing certificate contains the following details :

(a) Importers name

(b) CHA name

(c) Name of Customs/Central Excise Commissionerate

(d) B-17 Bond No. and date

(e) Description of Goods

(f) Address of EOU

(g) Entry reference in Bond register

(h) Whether shortage/discrepancy notice

(i) Procurement certificate no. and date

4. In spite of the time-limit of 90 days prescribed by the Board's Circular No. 14/98-Cus dated 10.03.1998, RWCs are not yet submitted by the Exporters operating under the EOU scheme. In the absence of RWCs, the Jurisdictional Central Excise Authorities on being advised by the Customs are under obligation to issue Demand Notices to the concerned EOUs to safeguard the interest of revenue This office from time to time has been reminding the concerned Central Excise/Customs Authorities to issue and forward the RWCs if goods were already warehoused properly, or to issue Demand Notice to the concerned EOU. However, it seems that the desired response is not forthcoming. It also appears that the EOUs have also become oblivious to the fact that it is their responsibility to produce the RWC from the concerned authorities regarding the duty free imported materials failing which they will be liable for payment of customs duties but for the exemption contained in the EOU Notification issued by the Board. As a result of the negligence of the EOUs, more than 7000 RWCs are pending in this Custom House. The list of the defaulting EOUs against whom RWCs are pending is enclosed as Annexure- 'B' to this Public Notice. Therefore, the EOUs are required to take up the matter urgently with the concerned authorities and submit the pending RWCs, in respect of the goods for which they had claimed duty exemption, on or before 28th February 2010 failing which SCNs will be issued against them for recovery of government revenue. No unit having a pendency of more than 10 RWC of more than 6 months age will be allowed duty free clearance except with the approval of ADC/JC for one time clearance beyond which they will be required to execute a full B.G covering the duty of the materials intended to be imported. No duty exemption will be allowed until the authenticity of the warehousing of the goods is proved by the concerned EOUs by way of submitting the required RWCs.

5. To facilitate the exporters operating under EOU to close their RWCs pendencies, it has also been decided to accept now onwards by hand the RWCs submitted by the EOUs / their authorized CHAs only in cases where the same are brought in sealed cover from Jurisdictional Central Excise/Customs authorities and entries in the Transit Allowance Register(TAR)/Procurement Certificate Register(PCR) may be closed accordingly. The signature on the PC & RWC shall be verified with the specimen signature. In case of unusual deviation, PC/RWC may be verified prior to any further action. Further, it is also decided that the entries in TA Register, for previous pendencies will be closed upon receipt of either of the copies of pending RWCs duly certified by jurisdictional Central Excise/Customs Authority in Sealed Cover or a Certified Copy of the pending RWC authenticated by the Authorized Signatory of the unit submitted alongwith original copy of the RWC, forwarded to the unit from Central Excise/Customs.

6. The details of B/E wise duty free imports made under the strength of the PC by the Export Oriented Units shall be regularly entered in the Transit Allowance Register (TAR)and Procurement Certificate Register(PCR) of the EOU Section. On receipt of the RWC, corresponding entry in the Transit Allowance Register (TAR) and Procurement Certificate Register (PCR) shall be closed after verification of the details in the register and those in the RWC.

7. Since the genuineness of the PC & RWC are to be verified to safeguard Govt. Revenue, all the Commissioners of Central Excise / Customs are hereby requested to forward name, designation and specimen signature of the authorities whose signatures are appearing on the Procurement Certificate /RWC. In case of change of the authority, the same may also be intimated to this office.

8. Difficulty, if any faced in the implementation of this Public Notice, may be brought to the notice of the undersigned immediately.

Annexure-A

Certificate of Warehousing

I…….. as per the permission of self bonding/warehousing granted by the Commissioner of Central Excise/Customs vide File No——— do hereby certify that the consignment arrived at …… AM/PM on the day of …….. 20—. The goods have been examined by me and found to conform in all respect to the details given in the bill of entry invoice, and these good shave been warehoused under entry No……. dated of the register maintained in the unit.

Place:

Date:

Signature & Stamp
(Name & Designation of the
Authorized Person)

[F.NO. S/26-Misc-327 /2009-VIIU JCH]

Foreigner in India can Operate Tax Paid Salary Account Outside India

Sub: Remittance of Salary - Relaxation

AP(DIR Srs) Cir.26 14.01.2010 (RBI)

Attention of Authorised Dealer Category – I banks is invited to A. P. (DIR Series) Circular No. 17 dated September 20, 2003 and sub-regulation 8 of Regulation 7 of Notification No. FEMA 10/2000-RB dated May 3, 2000 viz. Foreign Exchange Management (Foreign Currency Account by a person resident in India) Regulation, 2000, in terms of which a national of a foreign state resident in India, being an employee of a foreign company or a citizen of India employed by a foreign company outside India, and in either case on deputation to the office/ branch/ subsidiary/ joint venture in India of such foreign company, may open, hold and maintain a foreign currency account with a bank outside India and receive the salary payable to him by credit to such account subject to the conditions mentioned therein, which inter alia, include that the amount to be credited to such account shall not exceed 75 per cent of the salary accrued to or received by such person from the foreign company.

2. The Government of India, has since liberalised the above facility by notifying in the Gazette of India published in part II, Section 3, Sub-section (i) dated November 23, 2009 vide G.S.R. 838 (E) [Notification No. FEMA 199/2009-RB dated September 30, 2009], as indicated below:

(i) A citizen of a foreign state, resident in India, being an employee of a foreign company or a citizen of India, employed by a foreign company outside India and in either case on deputation to the office /branch / subsidiary /joint venture in India of such foreign company may open, hold and maintain a foreign currency account with a bank outside India and receive the whole salary payable to him for the services rendered to the office/branch/subsidiary/joint venture in India of such foreign company, by credit to such account, provided that income-tax chargeable under the Income-tax Act,1961 is paid on the entire salary as accrued in India.

(ii) A citizen of a foreign state resident in India being in employment with a company incorporated in India may open, hold and maintain a foreign currency account with a bank outside India and remit the whole salary received in India in Indian Rupees, to such account, for the services rendered to the Indian company, provided that income-tax chargeable under the Income-tax Act, 1961 is paid on the entire salary accrued in India.

3. A copy of the Notification is annexed.

4. Authorised Dealer 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 Section 10(4) and Section 11(1) of the FEMA 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

Customs Valuation Exchange Rates

January 2010		Imports	Exports
Schedule I			
1	Australian Dollar	41.90	40.60
2	Canadian Dollar	45.15	44.00
3	Danish Kroner	9.15	8.85
4	EURO	67.95	66.20
5	Hong Kong Dollar	6.10	5.95
6	Norwegian Kroner	8.15	7.90
7	Pound Sterling	75.65	73.85
8	Swedish Kroner	6.55	6.35
9	Swiss Franc	45.60	44.40
10	Singapore Dollar	33.65	32.75
11	U.S. Dollar	47.20	46.30
Schedule II			
1	Japanese Yen	51.60	50.35

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

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

(Source: Customs Notification 186(NT)/29.12.2009)

Commodity Spot Prices in India – 21-23 January 2010

These commodity prices are taken from Multi Commodity Exchange of India (Mumbai) at 6 pm every day. The weekly prices of commodities from different cities of India will be given in the order of Harmonized System classification.

Commodity Spot Prices covers price movements of 55 commodities (agricultural products and metals) provided on Multi Commodity Exchange of India on a daily basis. This Commodity Spot Prices Table focuses on price movements from 21-23 January.

(Rs.)

Commodity	Unit	Market	21-Jan	22-Jan	23-Jan
CER (Carbon Trading)	1 MT	Mumbai	767	757	763.5
Chana	100 KGS	Delhi	2332	2313	2318
Masur	100 KGS	Indore	3850	3778	3737
Potato	100 KGS	Agra	NA	NA	NA
Potato TKR	100 KGS	Tarkeshwar	NA	NA	NA
Arecanut	100 KGS	Mangalore	9375	9450	9442
Cashewkern	1 KGS	Quilon	310	312	313
Cardamom	1 KGS	Vandanmedu	1071.3	1073	1084.7
Coffee ROB	100 KGS	Kushalnagar	61.6	61.5	62.8
Jeera	100 KGS	Unjha	12863	12563	12504
Pepper	100 KGS	Kochi	13621	13378	13449
Red Chili	100 KGS	Guntur	5634	5638	5638
Turmeric	100 KGS	Nzmbad	10063	10063	10063
Guar Gum	100 KGS	Jodhpur	4950	4800	4850
Maize	100 KGS	Nzmbad	901.5	901.5	901.5
Wheat	100 KGS	Delhi	1420.8	1417.5	1412.1
Mentha Oil	1 KGS	Chandausi	644.2	650.4	650.8
Cotton Seed	100 KGS	Akola	1321	1307	1314
Castorsd RJK	100 KGS	Rajkot	2864.5	2822	2818
Guar Seed	100 KGS	Jodhpur	2370	2278	2322
Soya Bean	100 KGS	Indore	2186	2155	2150
Mustrdsd JPR	20 KGS	Jaipur	582.1	580	570.9
Sesame Seed	100 KGS	Rajkot	6130	6125	6138
Coconut Oil Cake	100 KGS	Kochi	1092	1092	1092
RCBR Oil Cake	1 MT	Raipur	5429	5640	5760
Kapaskhali	50 KGS	Akola	1144.8	1138.8	1144.5
Coconut Oil	100 KGS	Kochi	5252	5200	5200
Refsoy Oil	10 KGS	Indore	461.2	458.55	457.6
CPO	10 KGS	Kandla	350.6	348.3	348.1
Mustard Oil	10 KGS	Jaipur	522.3	512.2	506.5
Gnutoilexp	10 KGS	Rajkot	682.4	682	680
Castor Oil	10 KGS	Kandla	595	587.5	585.7
Crude Oil	1 BBL	Mumbai	3572	3497	3442
Furnace Oil	1000 KGS	Mumbai	30105	29960	29960
Sourcrd Oil	1 BBL	Mumbai	3595	3610	3610
Brent Crude	1 BBL	Mumbai	3472	3381	3308
Gur	40 KGS	Muzngr	1095.5	1118	1103.3
Sugars	100 KGS	Kolhapur	3714	3790	3825
Sugarm	100 KGS	Delhi	3945	4104	4109
Natural Gas	1 mmBtu	Hazirabad	252.5	258.1	268.7
Rubber	100 KGS	Kochi	13940	13718	13613
Cotton Long	1 Candy	Kadi	26010	26220	26170
Cotton Med	1 Maund	Abohar	2502	2515	2504.5
Jute	100 KGS	Kolkata	2685	2685	2685
Gold	10 GRMS	Ahmd	16553	16430	16462
Gold Guinea	8 GRMS	Ahmd	13243	13144	13183
Silver	1 KGS	Ahmd	27507	27150	26728
Sponge Iron	1 MT	Raipur	17320	17245	17210
Steel Flat	1000 KGS	Mumbai	31300	30990	30740
Steel Long	1 MT	Bhavnagar	27040	26880	26520
Copper	1 KGS	Mumbai	339.85	333.95	340.7
Nickel	1 KGS	Mumbai	864.4	863.7	852
Aluminium	1 KGS	Mumbai	102.5	101.5	101.1
Lead	1 KGS	Mumbai	104.45	103.8	102.8
Zinc	1 KGS	Mumbai	112.55	110	107.3
Tin	1 KGS	Mumbai	822.75	821.5	816

(Source: MCX Spot Prices)

Reserve Bank of India, Foreign Exchange Department, Central Office, Mumbai- 400 001

[Ref: Notification No.FEMA. 199 /2009-RB dated: September 30, 2009]

Sub: Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Second Amendment) Regulations, 2009

In exercise of the powers conferred by clause (b) of Section 9 and clause (e) of sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following amendment in the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000, (Notification No. FEMA 10/ 2000-RB dated 3rd May, 2000), namely:-

1. Short title and commencement

(i) These Regulations may be called the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Second Amendment) Regulations, 2009.

(ii) These Regulations shall come into force from the date of their publication in the Official Gazette.

2. Amendment to the Regulations

In the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000, (Notification No. FEMA. 10/2000-RB dated 3rd May, 2000), in Regulation 7, for sub-regulation (8) the following shall be substituted, namely:

"(8) (i) A citizen of a foreign State, resident in India, being an employee of a foreign company or a citizen of India, employed by a foreign company outside India and in either case on deputation to the office /branch /subsidiary /joint venture in India of such foreign company may open, hold and maintain a foreign currency account with a bank outside India and receive the whole salary payable to him for the services rendered to the office/branch/subsidiary/joint venture in India of such foreign company, by credit to such account, provided that income-tax chargeable under the Income-tax Act,1961 is paid on the entire salary as accrued in India.

(ii) A citizen of a foreign State resident in India being in employment with a company incorporated in India may open, hold and maintain a foreign currency account with a bank outside India and remit the whole salary received in India in Indian Rupees, to such account, for the services rendered to such an Indian company, provided that income-tax chargeable under the Income-tax Act, 1961 is paid on the entire salary accrued in India."

WORLD TRADE SCANNER

BIG's WEEKLY INDEX OF CHANGES

India Rules Out Curbs on Soybean Futures Trading to Cool Prices

India, Asia's biggest soybean meal exporter, ruled out curbs on futures trading in the oilseed to cool prices and stop a decline in livestock feed shipments.

India's soybean processors and exporters want curbs on futures trading after meal exports slumped 41 percent in the three months through December on increased local oilseed prices. Prices rose after output declined in South America, Khatua said.

Soybean meal prices gained 2.1 percent in Chicago last year, while beans gained 26 percent in India, making exports less competitive, according to the nation's soybean processor association. India may miss its target to export 4 million metric tons of soybean meal in the year to September as farmers and traders hold back beans in anticipation of higher prices, the group said in November.

Regulators should increase the margin traders need to pay on soybean futures and halt trading on Saturdays to align the local market with global exchanges and help cool prices, the Solvent Extractors Association of India said Jan. 20.

Sugar Ban

Separately, Khatua said India will likely allow trading in sugar futures from September.

The regulator extended a ban on futures trading in sugar for nine months to September as the nation's output is expected to lag domestic demand for a second year. The ban was first imposed in May after prices jumped, forcing the nation to import sugar for the first time in three years.

Sugar more than doubled in New York last year after a drought damaged crops in India and excess rains hampered harvests in Brazil, the world's biggest producer.

Cont'd..522

The report stresses the importance of efficient, 'friendly' logistics to trade and growth in a country.

"Countries with better logistics performance can grow faster, become more competitive and increase their level of investment," said Bernard Hoekman, World Bank Trade Department Director. "Our research shows that increasing logistics performance in low-income countries to the middle-income average could boost trade by around 15 per cent and benefit all firms and consumers through lower prices and better quality services."

Many of the countries that have jumped in the rankings are developing nations that introduced reforms based on the 2007 LPI report findings. These countries are encouraged to implement comprehensive reforms rather than address each issue of their trade logistics separately, because as the report points out, "a trade supply chain is only as strong as its weakest link."

Developing countries that improve their trade logistics systems stand to make significant gains, Bank officials say.

Owned, Edited, Published and Printed by Arun Goyal and Printed at Mercury Printers, 602 Choori Walan, Delhi
Published from 24/4866, Sheeltara House, Ansari Road, New Delhi 110002. (INDIA) Phone: 2328 1314, 3018 3435-37; Fax: 3018 3438
Email: academy@vsnl.in, academy.delhi@gmail.com; Website: worldtradescanner.com