Postal Regn.No. DL(C)-01/1251/12-14
Licence to Post without Prepayment U(C)-30/12-14
RNI No. 42906/84

WORLD TRADE SCANNER

ISSN: 0971-8095 Single copy Rs. 20 $2

Vol. XXX No 44 22 - 28 January 2014

Promoted by Indian Institute of Foreign Trade, World Trade Centre, Academy of Business Studies Annual subscription Rs 750

RBI Liberalises Merchanting Trade – Imports may Precede Exports

(Merchanting is trade where goods do not cross the India border, both export and import legs are outside the country but the export and import financial transactions thru India).

Sub: Merchanting Trade Transactions

AP(DIR Srs) Cir.95 17.01.2014 (RBI)

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular Nos.106 & 4 dated June 19, 2003 and July 19, 2003 respectively, containing directions relating to merchanting or intermediary trade transactions. In the light of the recommendations of the Technical Committee on Services/Facilities to Exporters (Chairman: Shri G. Padmanabhan) to further liberalise and simplify the procedure, the existing guidelines for merchanting or intermediary trade transactions have been reviewed. Accordingly in supersession of the existing guidelines, the revised guidelines will come into effect immediately.

2. While handling merchant trade transactions or intermediary trade transactions, AD Category – I bank may keep the following guidelines in view:

i) Goods involved in the merchanting or intermediary trade transactions would be the ones that are permitted for exports / imports under the prevailing Foreign Trade Policy (FTP) of India, at the time of entering into the contract and all the rules, regulations and directions applicable to exports (except Export Declaration Form) and imports (except Bill of Entry) are complied with for the export leg and import leg respectively;

ii) Both the legs of a merchanting or intermediary trade transaction are routed through the same AD bank. The bank should verify the documents like invoice, packing list, transport documents and insurance documents and satisfy itself about the genuiness of the trade.

iii) The entire merchanting or intermediary trade transactions should be completed within an overall period of nine months and there should not be any outlay of foreign exchange beyond four months.

iv) The commencement of merchanting or intermediary trade would be the date of shipment / export leg receipt or import leg payment, whichever is first. The completion date would be the date of shipment / export leg receipt or import leg payment, whichever is the last;

v) Short-term credit either by way of suppliers' credit or buyers' credit will be available for merchanting or intermediary trade transactions including the discounting of export leg LC by an AD bank, as in the case of import transactions ;

vi) AD bank should ensure one-to-one matching in case of each merchanting or intermediary trade transaction and report defaults in any leg by the traders to the concerned Regional Office of RBI on half yearly basis in the format as annexed. The deadline for submission of the report would be 15 calendar days after the close of each half year. In case of repeated defaults i.e. three cases or more in a year, ADs should restrain the traders from entering into any further transaction in merchanting or intermediary trade and consider recommending caution listing of the trader, to the Reserve Bank of India;

3. The merchanting traders have to be genuine traders of goods and not mere financial intermediaries. Confirmed orders have to be received by them from the overseas buyers. Authorised Dealer should satisfy itself about the capabilities of the merchanting trader to perform the obligations under the order. The transactions should result in reasonable profits to the merchanting trader.

4. The inward remittance from the overseas buyer should preferably be received first and the outward remittance to the overseas supplier will be made subsequently. Alternatively, an irrevocable Letter of Credit (LC) should be opened by the buyer in favour of the merchant. On the strength of such LC the merchant in turn may open a LC in favour of the overseas supplier. The terms of payment under both the LCs should be such that payment for import LC is required to be made after receipt of payment under export LC. The export LC should be issued in the name of original merchanting trader in India and import LC should be favouring the original supplier. In case export leg payment is received in advance, AD banks need not insist on opening of export LC.

5. In case advance against the export leg is received by the merchanting trader, the advance payment may be held in a separate deposit / current account in foreign currency or Indian Rupees. The amount required for import leg should be earmarked till the payment of import and should not be made available to the merchanting trader for use, other than for import payment or short-term deployment of fund limited to the import payable, with the same AD for the intervening period. If advance for the import leg is demanded by the overseas seller, the same should be paid against bank guarantee from an international bank of repute;

6. Reporting for merchanting or intermediary trade for compilation of R-return should be done on **gross basis,** against the undernoted codes:

Trade	Purpose Code under FETERS	Description
Export	P0108	Goods sold under merchanting/receipt against export leg of merchanting trade
Import	S0108	Goods acquired under merchanting/payment against import leg of merchanting trade

7. AD Category-I banks may bring the contents of this circular to the notice of their constituents concerned and note the guidelines for strict compliance.

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

Annex

Statement on default in Merchanting Trade Transactions (MTT) for the half year ended 30th June/31st December 20….

Name and Address of the Bank:

SNo.:
AD Code (Part I code):
AD reference No.:
Name & Address of the Merchanting Trader:
Name & Address of the Foreign buyer:
Name & Address of the foreign Supplier:
Commencement Date:
Completion Date:

Export Leg (equivalent to US Dollar)
Amount Realized:
Amount outstanding:
Import Leg (equivalent to US Dollar)
Amount paid:
Amount outstanding:
Foreign Exchange Outlay, if any (No. of days):

Argentina Files WTO Complaint against EU Biodiesel Duties

Argentina and the EU are set to face off once more at the WTO, with Buenos Aires filing a formal complaint last month over Brussels' decision to impose duties on imported Argentine biodiesel. The dispute (DS473) is the third one that the South American country has launched against the EU's biodiesel trade policies in less than two years.

The duties at issue were confirmed by EU member states this past autumn, following a European Commission investigation into whether Argentina's biodiesel producers were selling their product abroad at prices below their normal value - a practice known in trade jargon as dumping.

In its complaint, Buenos Aires claims that Brussels unfairly calculated these final anti-dumping duties - which range from €217 and €246 per metric tonne - by using insufficient and improper data.

Argentina is the world's top supplier of biodiesel; together with Indonesia, the two countries represent 90 percent of the EU's market share of the product. Indonesian producers were also investigated by the European Commission last year, and face anti-dumping duties of their own.

While the EU has said that the duties are necessary to level the playing field for its own producers, Argentina insists that European industry is oversized, and lacks the necessary raw material and vertical integration to be truly competitive.

"Rather than undertaking reforms to improve its own competitiveness, European industry has sought and found an administrative - and completely arbitrary - response from Brussels, one that closes the European market to efficient biodiesel producers such as Argentina," the Argentine Foreign Ministry said, warning against the financial impact that the duties would have on its own domestic industry.

Under WTO rules, parties to a dispute must conduct consultations for a minimum of 60 days in an effort to resolve their differences. If this fails, the complainant may then request that a panel be established to hear the case.

EU Takes Aim at Brazilian "Tax Advantages" in WTO Dispute

The EU filed a formal WTO complaint against Brazil in late December, targeting a series of tax measures that it claims provide unfair advantages to the South American country's manufacturing sector.

In the request for consultations (DS472) - the first stage of WTO dispute settlement proceedings - the EU highlighted a series of tax measures and charges that Brazil has imposed in the automotive sector over the past two years.

This began in September 2011 with a 30 percent tax increase on motor vehicles, with an exemption for domestically produced cars and trucks. This was then followed by a new tax regime called "Innovar Auto," launched in 2012 and set to expire in 2017. The EU also flagged tax measures affecting the electronics and technology industry, along with goods produced in Free Trade Zones, and tax advantages that Brasilia provides for exporters.

Brussels claims that these measures impose a higher tax burden on imported goods than on their domestic equivalents, while conditioning tax advantages to the use of locally produced goods. These policies have, the EU says, harmed their exporters while providing Brazilian producers

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Japan Fixes 0.2 ppm MRL for Shrimps, 0.01 ppm Standard Relaxed

Marine Products Export Development Authority Chairman Ms. Leena Nair on 21 January said that the Ministry of Health, Labour & Welfare has officially notified the MRL for Ethoxyquin. The Maximum Residue Limit (MRL) has been fixed at 0.2 ppm in crustaceans including farmed shrimp. This ends the 18 month long battle by MPEDA, with the support of Ministry of Commerce & Industry and Embassy of India, Tokyo. In its meeting of 29th November 2013, the committee of the Japanese Ministry of Health, Labour & Welfare has approved to fix a Maximum Residue Limit (MRL) of 0.2 ppm in crustaceans including farmed shrimp. The MRL was notified on 2nd December 2013 for public comments in Japan, besides was also placed in WTO.

It may be recalled that the import inspection authorities of Japan had suddenly enforced the default level of 0.01ppm for Ethoxyquin in shrimps from India and Vietnam without any reason in August 2012. The issue was immediately taken up with the Japanese Ministry of Health, Labour and Welfare (MHLW), METI and Ministry of Foreign Affairs, Japan by Ministry of Commerce & Industry, MPEDA and Embassy of India, Tokyo citing the lack of scientific reasoning behind their action. Subsequently, then Minister of Health, Labour & Welfare referred the matter to the Food Safety Commission (FSC) under Cabinet Secretariat to asses and recommend Accepted Daily Intake (ADI) of Ethoxyquin in shrimps. The issue was also taken up at almost all bilateral meetings between India and Japan including at the Prime Minister's level. Subsequently, the subcommittee of Food Safety Commission fixed the ADI for Ethoxyquin as 0.0083 mg / kg body weight in its meeting on 19th November 2013.

Meanwhile, the imports of shrimp from India has shown an increase of 20.10% in quantity and 61.79% in value on an year on year basis for the period January –November 2013 compared to 2012. The increased intake in the country is attributed to short supply of shrimps from other major shrimp farming countries due to the Early Mortality Syndrome (EMS) disease and increased confidence in Indian farmed shrimp, especially the white leg (Litopenaeus vannamei) variety. The total shrimp imports upto November 2013 is 29153 tons worth 29651 million Yen. India stands at third position in shrimp imports to Japan during 2013. The first position is occupied by Vietnam, followed by Indonesia. However, India became the largest supplier of frozen shrimp to Japanese market since September 2013. Overall seafood imports from India also showed an increase of 44.15% in value during the same period, though the quantity showed a slight decline of 0.17%.

WEEKLY INDEX OF CHANGES

Refined Oil Duty Hiked to 10% from 7.5%

Ntfn 02 20.01.2014 (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, 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. 12/2012-Customs, dated the 17th March, 2012 which was published in the Gazette of India, Extraordinary, vide G.S.R. 185(E), dated the 17th March, 2012, namely:-

In the said notification, in the Table,-

(i) against S.No. 56, for the entry in column (4), the entry "10%" shall be substituted;

(ii) against S.No. 58, for the entry in column (4), the entry "10%" shall be substituted;

(iii) against S.No. 59, for the entry in column (4), the entry "10%" shall be substituted;

(iv) against S.No. 63, for the entry in column (4), the entry "10%" shall be substituted;

(v) against S.No. 66, for the entry in column (4), the entry "10%" shall be substituted;

(vi) against S.No. 69, for the entry in column (4), the entry "10%" shall be substituted;

(vii) against S.No. 71, for the entry in column (4), the entry "10%" shall be substituted.

[F. No. 354/203/2012-TRU]

Customs Notification on Import of Prohibited Goods for Export Production under Para 4.4.1(b) of HoP

Ntfn 01 17.01.2014 (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, being satisfied that it is necessary in the public interest so to do, hereby exempts materials imported into India against an Advance Authorisation issued in terms of paragraph 4.1.3 of the Foreign Trade Policy meant for export of a prohibited item in terms of paragraph 4.4.1 (b) of the Handbook of Procedures Volume 1(hereinafter referred to as the said authorisation) from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 to 1975) and from the whole of the additional duty, safeguard duty and anti-dumping duty leviable thereon, respectively, under section 3, 8B and 9A of the said Customs Tariff Act, subject to the following conditions, namely:-

(i) that the said authorisation, issued by the Regional Authority, is produced before the proper officer of customs at the time of clearance for debit;

(ii) that the said authorisation bears the name and address of the importer, the description and other specifications of the imported material and the description, quantity and value of exports of the resultant product;

(iii) that the imported material corresponds to the description and other specifications, where applicable, mentioned in the said authorisation and the value and quantity thereof are within the limits specified in the said authorization;

(iv) that the export is made subject to pre-import condition under notified Standard Input Output Norms (SION) or under prior fixation of norms in terms of Para 4.4.2 of Handbook of Procedures Volume 1;

(v) that the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent. per annum from the date of clearance of the said materials:

(vi) that the imports under the said authorisation and the subsequent exports for fulfilling the export obligation are undertaken only through the seaports or airports or Inland Container Depots or Land Customs Stations which are specified in the Table below:-

Table

SNo.	EDI- enabled Port/ ICD/LCS	Located at
1.	Seaport	Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Kakinada, Kandla, Kolkata, Krishnapatnam, Ennore (Tamilnadu), Karaikal (Union territory of Puducherry), Magdalla, Mangalore, Marmagoa, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Paradeep, Pipavav, Tuticorin, Visakhapatnam
2.	Airport	Ahmedabad, Bangalore, Chennai, Cochin, Coimbatore, Delhi, Hyderabad, Indore, Jaipur, Kolkata, Mumbai, Trivandrum, Visakhapatnam
3.	Inland Container Depot	Agra, Ahmedabad, Bangalore, Bhilwara, Bhiwadi, Bhusawal, Chettipalayam (Tamilnadu), Chheharata (Amritsar), Coimbatore, Dadri, Daulatabad (Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Hyderabad, Irugur Village (Tamilnadu), Irungattukottai (SIPCOT Industrial Park, Kattrambakkam Village, Sriperumbudur Taluk), Jaipur, Jallandhar, Jodhpur, Kanpur, Karur, Kattupalli Kota, Loni (District Ghaziabad), Ludhiana, Mandideep (District Raisen), Marripalem Village (in Edlapadu Taluk of District Guntur), Miraj, Moradabad, Nagpur, Nasik, Patli (Gurgaon), Pithampur (Indore), Raipur, Rewari, Talegaon (District Pune), Tirupur, Tuticorin, Vadodara, Waluj (Aurangabad)
4.	Land Customs Station	Jogbani, Petrapole, Raxaul

(vii) that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within ninety days from the date of clearance of imported materials by exporting the resultant product (specified in the said authorization),-

a) which is manufactured in India using the material imported against the said authorisation; and

b) in respect of which the facility under rule 18 (rebate of duty paid on materials used in manufacture) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 has not been availed;

(viii) that the Authorization Holder fulfills the export obligation, including the stipulated value addition;

(ix) that nothing contained in the provisions of Para 4.28 of Handbook of Procedures Volume 1shall be applicable in relation to the said authorization;

(x) that at the time of export the authorisation holder gives an undertaking to the effect that the resultant product, being exported against the said authorization, which is otherwise prohibited for export, has been manufactured from the material already imported under the said authorisation and the said undertaking contains the details of the imports and exports made under the said authorisation;

(xi) that the said authorization shall not be transferred and the imported material shall be subject to actual user condition and shall not be sold or transferred for any purpose, or by any means, including job work;

(xii) that the importer produces evidence of discharge of the export obligation to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of sixty days of the expiry of period allowed for fulfillment of export obligation, or within such extended period as the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow.

2. Where the materials are found defective or unfit for use, the said materials may be re-exported back to the foreign supplier within thirty days from the date of clearance of the said material or such extended period, not exceeding a further period of thirty days, as the Commissioner of Customs may allow:

Provided that at the time of re-export the materials are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, as the materials which were imported.

Explanation. – For the purpose of this notification, -

(i) "Foreign Trade Policy" means the Foreign

Trade Policy 2009-2014 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification of the Government of India in the Ministry of Commerce and Industry, Department of Commerce No. 1 (RE – 2012) /2009-2014 dated the 5th June, 2012 as amended from time to time;

(ii) "Handbook of Procedures Volume 1" means the Handbook of Procedures Volume 1, 2009-14, published in the Gazette of India, Extraordinary, Part I, Section 1 *vide* public notice of the Government of India in the Ministry of Commerce and Industry, Department of Commerce, No.01 (RE - 2012)/2009-2014, dated the 5th June, 2012 as amended from time to time;

(iii) "Manufacture" has the same meaning as assigned to it in paragraph 9.36 of the Foreign Trade Policy;

(iv) "Materials" means raw materials, consumables, fuel and packaging materials required for manufacturing of the resultant product;

(v) "Regional Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant an authorisation including a duty credit scrip under the said Act.

[F.No.605/27/2013-DBK]

No Stock Control under ECA for Export of Rice, Oil and Oilseeds

The Commerce and Industry Minister Anand Sharma has welcomed the Order issued by Department of Consumer Affairs to exempt stocks of edible oil, edible oilseeds and rice meant for export from the stock holding limit under the Essential Commodities Act. The exporters have been demanding that they should not be subjected to stock holding limit prescribed under the Essential Commodities Act, if they have merchandize stocks of such commodities meant for exports.

The DGFT had taken up this matter with the Department of Consumer Affairs. The Department of Consumer Affairs have issued Removal of (Licensing requirements, Stock limits and Movement Restrictions) on Specified Foodstuffs Order, 2002 on 9th January 2014.

This will address the long felt need of such exporters and reduce their transaction cost.

[Ministry of Consumer Affairs, Food and Public Distribution Order dated 9th January 2014]

In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Removal of (Licensing requirements, Stock limits and Movement Restrictions) on Specified Foodstuffs Order, 2002, namely:-

1. (1) This Order may be called the Removal of (Licensing requirements, Stock limits and Movement Restrictions) on Specified Foodstuffs (Amendment) Order, 2014.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Removal of (Licensing requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order, 2002, in clause 7, the existing Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:-

"Explanation 2: If a wholesaler or retailer or dealer having Importer-Exporter Code Number issued by the Directorate General of Foreign Trade is able to demonstrate that the whole or part of his or her stocks in respect of edible oil, edible oilseeds and rice are meant for exports, then, the stocks meant for exports shall be excluded for the purpose of calculation of stock limits".

[F. No.11/1/2012-ECR&E]

EOU Procedural Reforms Notified – Import Permission from Administrative Agency Continues!

[Office Memorandum dated 2nd January 2014]

Sub: Recommendations of the Committee on Review and Revamp of EOU Scheme.

The undersigned is directed to refer to the above mentioned subject and to say that a Committee was constituted by the Government to Review and Revamp of Export Oriented Unit (EOU) Scheme with a mandate to suggest suitable steps to make the scheme more vibrant and attractive for investors, develop a synergy between the EOU scheme and SEZ scheme to make them complementary to each other and aligning the EOUs to make them more globally competitive.

2. The recommendations submitted by the Committee were subsequently examined in consultation with line ministries. Based on such consultation, the following measures are taken to implement the accepted recommendations:

Validity of the period of Letter of Permission (LOP) issued to EOU

LoP issued to an EOU will have an initial validity for a period of 2 years to enable the Unit to construct the plant and install the machinery. The next extension of one year may be given by the DC for valid reasons to be recorded in writing. Subsequent extension of one year may be given by the UAC subject to condition that two-thirds of activities including construction, relating to the setting up of the Unit are complete and a Chartered Engineer's certificate to this effect is submitted by the Unit. Subsequent extension, if necessary, will be granted by the Board of Approval.

Aligning duration of goods and services in EOU with the term of LOP

At present, capital goods are required to be installed or otherwise used by the EOU, within a fixed period from the date of import or procurement thereof and other goods are to be used in connection with the production or packaging of goods within a period of three years. In case of failure to use within above stated period, extension is required. It has now been decided that the period of usage of goods should be co-terminus with the period of LOP. This would do away with the current practice of obtaining multiple extensions for goods and LOP separately.

Setting up warehousing facilities outside EOU premises and outside the jurisdiction of DC

EOUs which intend to have their warehouses near to the port of export to reduce lead time for delivery of goods overseas and to address unpredictability of supply orders will now be permitted to set up such warehouses subject to the provisions related to export warehousing as given in notification No. 46/2001-Central Excise(N.T.) dated 26.6.2001 and the CBEC Circular No. 581/18/2001-CX dated 29.6.2001 as amended.

Sharing of facilities among EOU/STP/ EIITP/SEZ Unit

In order to allow optimal utilization of infrastructure facilities it has been decided that sharing of facilities among EOUs may be considered by the UAC on case-to-case basis and the recommendations be sent to the BoA for final approval. While accepting such proposals, the NFE obligations of the Units shall not be altered. However, sharing of facilities between EOUs and SEZs Units should not be permitted.

Inter-Unit transfer (IUT) of goods & services

In order to facilitate a group of EoUs which sources inputs centrally to obtain bulk discount, reduce cost of transportation and other logistics cost and to maintain effective supply chain, IUT of goods and services will be permitted on a case to case basis by the UAC.

Further, the procedure for Inter-Unit Transfer (IUT) of finished goods will be clarified by CBEC in order to bring uniformity in the practices and procedure adopted by various field offices.

Self-warehousing and self-certification of goods imported/ procured by EOUs

The scheme of self-warehousing and self-certification was introduced vide Circular No. 19/ 2007- Cus. dated 3.5.2007 dispensing with the requirement for physical verification of imported/ indigenously procured duty-free goods before issuing re-warehousing certificate by the proper officer in respect of Units set up under EOU/ E1ITP/STP/BTP scheme having physical export turnover of Rs.15 Crore and above in the preceding financial year and having a clean track record. In order to extend self-warehousing and self-certification facility to more Units, it has been decided to reduce the limit of physical turnover from Rs 15 Crore to Rs 10 Crore.

Rationalization of reports/ returns to be filed by EOUs

EOUs submit Quarterly Performance Report (QPR) and Annual Performance Report (APR) to the Development Commissioners and monthly return ER-2 to Central Excise. In order to reduce multiplicity of these reports, a common return to

DoC and DoR would reduce paperwork for the EOUs. It has, therefore, been decided that a single common report/return may be devised which may serve the purpose for DoC as well as DoR. A joint group of DoC and DoR including Director General of Systems, CBEC will he formed to devise a proforma exhaustively capturing all the data and figures relating to export, import, DTA sale, deemed export sale, IUT, sale of goods as such, destruction, payment of duty etc. and devise simplified records to be maintained by EOUs.

Extension of time for submitting shipping bill for export made under self-sealing / self-certification

It has been decided to increase the mandatory requirement to submit Shipping Bill within 24 hrs to 48 hrs as it is sometimes difficult to reach jurisdictional Central Excise office within 24 hrs from the port of export.

3. The above issues with the approval of Competent Authority

[No. 1/10/2010-EOU]

Another Five Years for Anti-dumping Duty on Nonyl Phenol from Chinese Taipei in Review

Ntfn 05(ADD) 16.01.2014 (DoR)

Whereas, the designated authority, *vide* notification No. 15/1007/2012-DGAD, dated the 9th August, 2012, published in Part I, Section I of the Gazette of India, Extraordinary had initiated a review in the matter of continuation of anti-dumping duty on imports of Nonyl Phenol (hereinafter referred to as the subject goods) falling under Tariff item 2907 13 00 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in or exported from, Chinese Taipei (hereinafter referred to as the subject country), imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 94/2007 dated the 22nd August, 2007 published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary, *vide* G.S.R. No. 562 (E), dated the 22nd August, 2007.

And whereas, the Central Government had extended the anti-dumping duty on the subject goods, originating in or exported from the subject country upto and inclusive of the 21st August, 2013 *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 39/2012 –Customs (ADD) dated the 24th August, 2012, published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary, vide G.S.R No. 650 (E), dated the 24th August, 2012.

And whereas, in the matter of review of anti-dumping duty on import of the subject goods, originating in or exported from the subject country, the designated authority *vide* its final findings, No. 15/1007/2012-DGAD dated the 8th November, 2013, published in Part I, Section 1, of the Gazette of India, Extraordinary, has come to the conclusion that,-

(i) The subject goods from subject country are entering the Indian market at dumped prices;

(ii) The subject goods continue to be exported to India at dumped prices despite the existing anti dumping duties and there is a likelihood of its continuation should the existing antidumping duties are allowed to cease;

(iii) The injury to the domestic industry is likely to continue in the event of withdrawal of anti dumping duty from the subject countries;

(iv) The situation of domestic industry continues to be fragile and therefore should the present anti dumping duties from the subject country be withdrawn, injury to the domestic industry is likely to recur; and

(v) The anti dumping duties are required to be extended and modified,

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

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), and exported from the countries as specified in the corresponding entry in column (5), and produced by the producers as specified in the corresponding entry in column (6), and exported by the exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (8) in the currency as specified in the corresponding entry in column (10) and as per the unit of measurement as specified in the corresponding entry in column (9) of the said Table.

Table

SNo.	Tariff Item	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	2907 13 00	Nonyl Phenol	Chinese Taipei	Chinese Taipei	M/s China Man-made Fibre Corporation	M/s China Man-made Fibre Corporation	163.62	MT	US Dollar
2	2907 13 00	Nonyl Phenol	Chinese Taipei	Chinese Taipei	M/s Formosan Union Chemical Corporation	M/s Formosan Union Chemical Corporation	207.18	MT	US Dollar
3	2907 13 00	Nonyl Phenol	Chinese Taipei	Chinese Taipei	Any combination of producer/exporter (other than in Sl. No. 1 and 2 above)		364.48	MT	US Dollar
4	2907 13 00	Nonyl Phenol	Chinese Taipei	Any country other than Chinese Taipei	Any	Any	364.48	MT	US Dollar
5	2907 13 00	Nonyl Phenol	Any country other than Chinese Taipei	Chinese Taipei	Any	Any	364.48	MT	US Dollar

Get Discharge Certificate Quickly under VCES

Subject: Clarification regarding issue of Discharge Certificate under VCES and availment of CENVAT credit.

176-ST 20.01.2014 (DoR)

Trade and Industry has sought clarification as to whether the first installment of tax dues paid under Voluntary Compliance Encouragement Scheme (VCES), 2013 would be available as Cenvat Credit immediately after payment or Cenvat credit can be availed only after payment of tax dues in full and receipt of Acknowledgement of Discharge in form VCES-3.

2. The issue has been examined. As per VCES, under Section 108 (2) of the Finance Act, 2013, a declaration made under Section 107 (1) shall become conclusive only upon issuance of acknowledgement of discharge under Section 107 (7). Further, in terms of Rule 7 of the Service Tax VCES Rules 2013, the acknowledgement of discharge in form VCES-3 shall be issued within a period of 7 working days from the date of furnishing of details of payment of tax dues in full along with interest, if any, by the declarant.

3. It would be in the interest of VCES declarants to make payment of the entire service tax dues at the earliest and obtain the discharge certificate within 7 days of furnishing the details of payment. As already clarified in the answer to question No.22 of FAQ issued by CBEC dated 08.08.2013, eligibility of CENVAT credit would be governed by the CENVAT Credit Rules, 2004.

4. Chief Commissioners are also advised that upon payment of the tax dues in full, along with interest, if any, they should ensure that discharge certificate is issued promptly and not later than the stipulated period of seven days.

F. No. B1/19/2013-TRU (Pt)

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

3. The anti-dumping duty imposed under this notification shall be paid in Indian currency.

Explanation.- For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[F.No.354/117/2007-TRU]

Anti-dumping Duty on Caustic Soda from China Extended for One More Year upto 25 Dec 2014

Ntfn 03(ADD) 16.01.2014 (DoR) Whereas, the designated authority vide notification No. 15/23/2013-DGAD, dated the 19th December, 2013,

published in Part I, Section 1 of the Gazette of India, Extraordinary, dated the 19th December, 2013 had initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the 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 said rules), in the matter of continuation of anti-dumping duty on Caustic Soda, falling under Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, People's Republic of China, imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue),No. 137/2008-Customs, dated the 26th December, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 889 (E), dated the 26th December, 2008 and has requested for extension of anti-dumping duty for a further period of one year, in terms of sub-section (5) of Section 9A of the said Customs Tariff Act;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the said Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following further amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 137/2008-Customs, dated the 26th December, 2008 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 889 (E), dated the 26th December, 2008 namely: -

In the said notification, after Paragraph 2, the following paragraph shall be inserted, namely: -

"3. Notwithstanding anything contained hereinabove, this notification shall remain in force up to and inclusive of the 25th day of December, 2014.".

F.No.354/92/2011-TRU

Implementation of SC Decision on Fiat India Case – CBEC Clarification

Subject – Implementation of decision of Hon'ble Supreme Court in case of M/s Fiat India ltd.

979-CBEC 15.01.2014 (DoR) Attention is invited to the judgment of Hon'ble Supreme Court dated 29th August, 2012 in case of Fiat India Ltd [2012-TIOL-58-SC-CX or 2012 (283) E.L.T 161 (S.C)] (hereinafter referred to as the FIAT judgment). References have been received from trade and field formations seeking clarification on implementation of the judgment. The facts in the case of M/s Fiat India Ltd were that the cars were sold at a price substantially lower than the cost of the manufacture and such sales continued for a period of five years. The company admitted that the purpose of such pattern of sale was to achieve market penetration. The Hon'ble Supreme Court held that in such circumstances revenue could reject the transaction value declared under section 4 and invoke the provisions of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 to assess Central Excise duty. Following clarifications are issued in this regard -

Transaction Value below manufacturing cost and profit

2. The first issue is whether the declared transaction value can be rejected in all cases where the transaction value is lower than the manufacturing cost and profit. The Hon'ble Supreme Court has not ruled that transaction value can be rejected in all cases where the declared value is lower than the manufacturing cost and profit. At paragraph 66 in the FIAT judgment, the Hon'ble Court has declined to hold its earlier judgment in case of Collector of Central Excise, New Delhi Vs Guru Nanak Refrigeration Corpn [2003(153) ELT 249 (SC)] *per-in curiam*, distinguishing it on the basis of the facts of the case, though the transaction value in case of M/s Guru Nanak Refrigeration Corpn was less than the manufacturing cost and profit. The Hon'ble Supreme Court has cautioned against drawing general conclusions and inferences quoting the truism stated by Lord Halsbury that "a case is only an authority for what it actually decides and not for what may seem to follow logically from it."

2.1 Further, in paragraph 50, the Hon'ble Supreme Court has cited two instances where a manufacturer may sell goods at a price lower than the cost of manufacture and profit and yet the declared value can be considered as normal price. These instances are when the company wants to switch over its business or where a manufacturer has goods which could not be sold within a reasonable time. The Hon'ble Court has further held that these examples are not exhaustive. Therefore, mere sale of goods below the manufacturing cost and profit cannot be taken as the sole basis for rejecting the transaction value.

Verification of payment of duty

3. The second issue is regarding the procedure to be adopted by the field officers to identify cases where the ratio of the judgment would apply. It may be noted that, under the self-assessment procedure, there is a legal obligation on the assessee to correctly assess and pay the duty in terms of the Central Excise Act, 1944 read with the Valuation Rules, 2000. Verification of this aspect may be conducted by the Central Excise officer during the audit of units. Aspects such as the percentage of loss at which

Anti-dumping Duty on Caustic Soda from Korea RP Extended upto 25 Dec 2014

Ntfn 04(ADD) 16.01.2014 (DoR) Whereas, the designated authority vide notification No. 15/23/2013-DGAD, dated the 19th December, 2013, published in Part I, Section 1 of the Gazette of India, Extraordinary, dated the 19th December, 2013 had initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the 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 said rules), in the matter of continuation of anti-dumping duty on Caustic Soda, falling under Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, Korea RP, imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue),No. 95/2011-Customs, dated the 3rd October, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 739 (E), dated the 3rd October, 2011and has requested for extension of anti-dumping duty for a further period of one year, in terms of sub-section (5) of Section 9A of the said Customs Tariff Act;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the said Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 95/2011-Customs, dated the 3rd October, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 739 (E), dated the 3rd October, 2011, namely: -

In the said notification, in paragraph 2, for the figures, letters and words "25th December, 2013", the figures, letters and words "25th December, 2014" shall be substituted.

F.No.354/92/2011-TRU

Tariff Value of Gold Up US$15 per 10 gms; Silver US$25/kg; Brass Scrap US$55/MTs

Palm Oils and Palmolein Tariff Value Down from US$14/MTs to US$26/MTs

02-Cus(NT) 15.01.2014 (DoR) In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S.O. 748 (E), dated the 3rd August, 2001, namely:-

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

"Table-1

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value US $ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	877
2	1511 90 10	RBD Palm Oil	897
3	1511 90 90	Others – Palm Oil	887
4	1511 10 00	Crude Palmolein	899
5	1511 90 20	RBD Palmolein	902
6	1511 90 90	Others – Palmolein	901
7	1507 10 00	Crude Soyabean Oil	944
8	7404 00 22	Brass Scrap (all grades)	3995
9	1207 91 00	Poppy seeds	3195

Table-2

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value (US $)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	407 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	663 per Kilogram

Table-3

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value (US $ Per Metric Tons)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	1816

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

Exchange Rates for Customs Valuation

Rupee Rises to 62.20 for Customs Valuation on Imports w.e.f. 17 January 2014

03-Cus(NT) 16.01.2014 (DoR) In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in super session of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.1/2014-CUSTOMS (N.T.), dated the 2nd January, 2014 *vide* number S.O.17(E), dated the 2nd January, 2014, except as respects things done or omitted to be done before such super session, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or *vice versa* shall, ***with effect from 17th January, 2014*** be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SNo.	Currency	Imprted Goods Current	Imprted Goods Previous	Exported Goods Current	Exported Goods Previous
(1)	(2)	(3)			
		(a)		**(b)**	
Schedule I *– Rate of exchange of one unit of foreign currency equivalent to Indian rupees*					
1.	Australian Dollar	55.05	55.95	53.70	54.45
2.	Bahrain Dinar	168.30	168.80	159.10	159.55
3.	Canadian Dollar	57.05	58.55	55.75	57.50
4.	Danish Kroner	11.45	11.60	11.10	11.25
5.	EURO	85.05	86.05	83.05	84.20
6.	Hong Kong Dollar	8.00	8.05	7.90	7.90
7.	Kuwait Dinar	224.60	225.40	211.60	212.95
8.	Newzeland Dollar	52.10	51.60	50.65	50.30
9.	Norwegian Kroner	10.20	10.35	9.90	10.05
10.	Pound Sterling	102.15	103.85	99.90	101.55
11.	Singapore Dollar	48.95	49.50	47.90	48.40
12.	South African Rand	5.85	6.10	5.50	5.70
13.	Saudi Arabian Riyal	16.90	16.95	16.00	16.05
14.	Swedish Kroner	9.70	9.75	9.40	9.45
15.	Swiss Franc	68.70	70.25	67.05	68.55
16.	UAE Dirham	17.30	17.30	16.35	16.40
17.	US Dollar	62.20	62.35	61.20	61.35
Schedule II *– Rate of exchange of 100 units of foreign currency equivalent to Indian rupees*					
1.	Japanese Yen	59.55	59.45	58.15	58.05
2.	Kenya Shilling	74.00	73.80	69.85	69.40

[F.No.468/01/2014-Cus.V]

sale has taken place, the period for which such loss making price has prevailed, reasons for sale at such loss making price, whether such sales are contrary to the standard and accepted business practices, and whether such sale is leading to erosion of capital of the company, may be looked into. In addition, due care may be taken at the level of the Commissioner to see whether the case at hand is similar to the facts and circumstances of the FIAT case.

3.1 Calculations of manufacturing cost may be carried out using CAS-4 standards. Information submitted by the manufacturer, duly certified by a Chartered or Cost Accountant should normally be accepted. Only where a decision to investigate a case has been taken at the level of the Commissioner and it is considered necessary in the interest of investigation, steps such as ordering Cost Audit of the Unit or summoning of the Costing data should be undertaken.

Period of application

4. The third issue is whether the judgment can be applied for periods prior to the date of the judgment ie 29-8-2012, invoking the extended period of limitation. Under the provisions of valuation law, in a case where price is not the sole consideration for the sale, money value of anyadditional consideration flowing directly or indirectly from the buyer to the assessee is added to the transaction value in terms of rule 6 of the Central Excise Valuation Rules, 2000. However, in the FIAT judgment, sale of cars at an abnormally lower price to penetrate the market has been considered by the Hon'ble Supreme Court as constituting extra-commercial consideration, even when there was no additional consideration of money value flowing directly or indirectly from the buyer to the seller. For the period prior to the date of the judgment, in cases where a show cause notice has been issued on the grounds of the FIAT judgment alone, there may not be a case for invoking the extended period of limitation. In such cases, only the normal period of limitation will apply.

4.1 For the period after the date of the judgment, i.e from 29- 8-2012 onwards, if there is a sale in the circumstances similar to the case of M/s FIAT and yet transaction value of goods is declared as the correct assessable value, then such declaration would amount to wilful misstatement of the assessable value.

5. The contents of this Circular may be brought to the notice of the trade/exporters by issuing suitable Trade / Public Notices. Suitable Standing Orders / Instructions may be issued for the guidance of the assessing officers. Difficulties faced, if any, in implementation of the Circular may please be brought to the notice of the Board at an early date.

F.No. 6/7/2012-CX-1

Type Approval Certificates for Vehicles, Eqpts and Parts Accepted from 51 Listed Agencies

Subject: Type Approval Certificate issuing agencies under Policy Condition number 7 and 9 of Chapter 87 of ITC(HS) 2012

12-Pol.Cir 15.01.2014 (DGFT) Reference is invited to the policy conditions No.7 & 9 of Chapter 87 of ITC (HS), 2012 Schedule 1 (Import Policy) and to the Policy Circular No. 26 (RE-2003)/2002-2007 dated 9th February, 2004. The Type Approval Certificates may be accepted from countries as enlisted at Annexure-A, which are Contracting Parties to the 1958 Agreement, formally titled **"Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions".**

2. The list of International accredited agencies for issuance of Type Approval Certificate / COP as notified by United Nations Economic and Social Council dated 15th February, 2013 is at Annexure - I (page 318-365) of the document which can be accessed at: http://www.unece.org.fileadmin/DAM/trans/main/wp29/wp29regs/updates/ECE-TRANS-WP.29-343-Rev.21.pdf.

This issues with the approval of the DGFT.

[List of Contracting Parties to the 1958 Agreement is available at our website www.worldtradescanner.com]

US Farm Support Still Largely Food Stamps, New Data Shows

Payments that help poor households buy food continued to make up the bulk of US agriculture spending in 2011, according to new US data submitted to the WTO last week. Forms of support believed to be most trade-distorting were at their third-lowest levels in over a decade.

With the total notified support standing at US$139 billion, nearly US$103 billion went to schemes such as the Supplemental Nutrition Assistance Program (SNAP), better known as food stamps. With the economic recovery still rocky, many in 2011 faced unemployment and poverty, leading them to lean more on the social safety net.

The scale and size of the food stamp programme has been one of the most contentious topics in Washington lawmakers' ongoing attempts to design a new US Farm Bill. Democrats have sought to shield the scheme from cuts that Republican lawmakers have insisted upon. A final bill is likely to reduce expenditures on SNAP.

Trade-distorting support, or "amber" box payments in WTO jargon, has fluctuated in recent years. However, it remains well under the low levels of even the late 1990s, when the Uruguay Round Agreement on Agriculture persuaded the US Congress to reform farm policy.

The formal limit on "amber" payments is US$19.1 billion, with 2011 figures falling well shy of that at US$4.65 billion. Dairy and sugar continue to receive the bulk of such support, with these commodities seeing slight increases from 2010 levels.

Minimally trade distorting support, or "green" box payments, continue to grow. Aside from domestic food aid, environmental payments and disaster relief saw the biggest uptick, reaching US$125 billion. Other categories, such as general services, contracted slightly.

US spending on overall trade-distorting support would be capped at US$14.5 billion under the long-running Doha Round of trade talks, which would set a ceiling on the sum of amber, blue, and de minimis payments. This sum would have been US$14.37 billion in 2011, according to the new figures.

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with unfair advantages.

For their part, Brazilian officials say that their policies are in line with WTO obligations, with Foreign Minister Luiz Alberto Figueiredo insisting that his government has "solid arguments" in its favour.

Some of the EU's largest car manufacturers have launched or expanded their manufacturing operations in Brazil in order to take advantage of the tax system, a fact that analysts say could pose difficulties for Brussels. BMW, for instance, has publicly spoken out in support of the Brazilian "Inovar Auto" regime in the past.

The complaint comes as the EU and Mercosur- a group of which Brazil is a member - continue their efforts to wrap-up their long-running trade negotiations. The talks, which also involve Argentina, Paraguay, Uruguay, and Venezuela, have proven famously difficult since their launch nearly 15 years ago. Officials say that this new dispute is unlikely to have any ramifications on the EU-Mercosur process.

The EU is one of Brazil's main trading partners, accounting for one-fifth of the South American country's total trade in 2012. Brazil, meanwhile, is the EU's eighth largest trading partner, making up just over 2 percent of the bloc's total trade.

Parties to a WTO dispute have 60 days to conduct consultations to resolve their differences. If this fails, the complainant may then request that a panel be established to hear the case.

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; Fax: 91-11-2324 0230
Email:academy.delhi@gmail.com; Website: worldtradescanner.com
This issue contains 8 pages in all