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Pak to Announce Negative List for Indian Exports Soon

- Arun Goyal -

Speaking to the Press on 12 February, Commerce Secretary Rahul Khullar said that Pak will announce a negative list for imports from India. Import in this category will be restricted while the residual list will be free. The new system will replace the 1800 items positive list which limited trade with India to only goods in the shopping list. Pak has recently given MFN status to India a cabinet approved gazette notification. India too may announce its own negative list to counter the Pak action.

Commerce Minister Anand Sharma told the press meet that the matter regarding transit trade through Pak Territory covering goods of Central Asia and Near East Origin may be taken up in the SAFTA Commerce Minister's meet in Islamabad on 16th. Mr. Sharma was replying to a question posed by this writer.

Transit trade through land route is key to allowing access to India to the energy resources gas and oil from Central Asia and Near East.

The transit trade matter will be taken up only after formal India-Pak trade of \$10bn takes over from the trade to Pak through Dubai and Singapore. The negative list mechanism will also stabilise by them and the fears to India domination in Pak

will die down.

Mr. Sharma is on a bilateral visit to Pakistan from 13th to 16th February on an invitation from his counterpart Minister Makhdoom Fahim. Over 120 Chief Executives from India will cross the Wagah border by road in a FICCI delegation. Both the Ministers will inspect the progress on the construction of

second gate of the integrated check post at Wagah. The ICDS is much delayed and even now it is not fully functional.

On 11 February, the India show was inaugurated in Lahore by Pakistan Commerce Minister which had over 400 Indian exhibitors displaying the best of Indian industry and services. Another show in Karachi is scheduled.

On 14th February, Sharma will also address the Business Conclave along with Pakistan Commerce Minister organised by Karachi Chamber of Commerce and Industry, CII and FICCI. He will also be meeting the Chief Minister and Governor of Sindh.

On 15th February, an Inter-Ministerial delegation including Commerce Secretary, Secretary IPP, CMD ITPO, senior officers from Ministries of Home Affairs, External Affairs, Finance and Heavy Industries will be in Pakistan for bilateral talks.

The 6th SAFTA Ministerial Council meeting will be held in Islamabad on 16th February.



Pascal Lamy Points to Africa for Food Trade and Production



Director-General Pascal Lamy, in a speech at The Economist Conference "Feeding the World" on 8 February 2012 in Geneva, said "let us get our policy mix right on food production and on trade. We need to ask the difficult questions".

Food prices, their ups and downs, or "volatility" as many now like to say, are but a manifestation of the underlying fundamentals of the food market.

Speech Highlights

Back in 2008, the world faced what it called a "food price crisis". Since then, prices have started to fall, albeit remaining at a higher plateau than previous years because of, amongst other factors, the nutritional transition that the world is undergoing. Food prices fell since 2008 only because a global recession kicked-in to depress demand. In the late '80s nothing was seen as a bigger catastrophe than low prices, and that's when many government support programmes started to kick-in.

Politicians to frame this debate around "price" or "volatility"; after all, high food prices can and have brought governments down.

First, is it safe that the world's agricultural food production remains concentrated in only a handful of countries?

Today, five countries produce 70% of the world's rice, three countries produce 80% of our soybeans, five countries produce 70% of our maize. And this concentration of production is mirrored, if not even accentuated, in international trade. For example, 85% of all soybeans on the international market are exported by only two countries.

Africa – Low Productivity, Low Intra Regional Trade

Africa has 1/7th of the world population, but 1/4th of its under-nourishment! It is also the continent that is experiencing the fastest population growth. Africa is one of the regions of the world with the lowest levels of intra-regional trade in food. When Africa needs food, only 10% of it comes from other African countries, and the rest has to be brought in from elsewhere. Africa is the "missing part of the food security puzzle". It is the continent with the greatest amount of arable land left fallow. If Africa is seen as a food security problem today, it may very well hold the key to global food security tomorrow.

So here is the question then, *what will we do about Africa?* A continent that continues to experience very low yields, much below the global average, for many agricultural commodities. Take maize for instance. The global average is 5 tons per hectare, while the African average is 1.8. There are many reasons for this situation: policies to tax farmers, to split the

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American Jews Object to Khullar's Plan for Iran Export Promotion



"We are alarmed and dismayed by this apparent move to elevate commercial interests over vital security concerns," wrote AJC (American Jewish Committee), a

century old organisation with branches the world over President Robert Elman and Executive Director David Harris in a letter to Indian Ambassador to US Nirupama Rao on 11 February. The full text of the letter to Ambassador Rao follows:

Dear Ambassador Rao:

As you are aware, AJC has been a long-time friend of India and an advocate of increasingly close cooperation between Washington and New Delhi.

In that spirit, we were deeply troubled by recent news reports of Indian efforts to intensify trade relations with Iran at the very moment that Washington and fellow democracies are applying new economic pressures in the banking and energy sectors to persuade Tehran to halt its pursuit of nuclear-weapons capability.

We were particularly struck by the announcement this week, by Commerce Secretary Rahul Khullar, that "a huge delegation" of Indian business representatives would soon travel to Iran to capitalize on opportunities created by European withdrawal from the Iranian market. This suggests that New Delhi is attempting to take advantage of sanctions adopted by like-minded nations for the explicit purpose of preventing nuclear proliferation by a dangerously aggressive regime - and which could, in turn, trigger an escalating arms race - in a highly volatile region.

In light of India's history of support for International Atomic Energy Agency resolutions on Iranian transgressions, and repeated expressions of Indian Government concern about Iran's nuclear ambitions, we are alarmed and dismayed by this apparent move to elevate commercial interests over vital security concerns.

India has asserted that it will only abide by UN Security Council restrictions on trade with Iran, but not go beyond. Yet, as in the recent case of Syria, further measures are today impossible because of a threatened veto by one or two permanent members. We fear that India risks not only the erosion of the latest steps laudably adopted in Washington, Brussels and elsewhere, but also its standing as an admired partner in safeguarding regional and global security.

We thank you for conveying AJC's concerns on this urgent matter to your Government, and look forward to the prospect of discussing it with you at your earliest convenience.

With the assurance of our profound esteem and best wishes, we remain,

Robert Elman, President

David Harris, Executive Director

Editor replies to AJC in open letter

New Delhi

14 Feb 2012

Dear Mr Elman and Mr Harris:

This is the context of your letter to the Indian Ambassador to the United States Ms Nirupama Rao in which you have lodged a protest on promotion of trade with Iran by the Indian government. May I point out the following for your kind consideration as an expert on world trade and WTO with 35 years standing in the field while heading a think tank:

1. India is not violating Security Council resolutions 1737 of 2006, 1803 of 2008 or 1929 of 2010. These cover sanctions relating to nuclear matters. Promotion of normal trade with Iran on energy and food is not the subject matter of the resolutions.

India is deficient in energy, supplies from neighbouring countries will help it feed the growing demand in its industry and agriculture. Similarly, India is now surplus in rice and wheat, it has introduced a free export policy in October, 2011 to allow access to stocks, specially the food deficit countries in its neighbourhood.

We are also running a huge trade deficit, part of it coming from the high import of security goods from US and France. The gap can be bridged when exports match imports, thus the export promotion to Iran is only to keep India afloat in the turbulent times of today.

2. Trade matters are covered by WTO law, the basic principles are described in GATT 1994. Article XI of GATT prohibits restrictions in the course of trade between countries. Thus the Indian Government cannot stop an exporter or importer from trading with Iran. Restrictions can be placed only on grounds of security but there is no law or ruling in India or at the UN which will enable the imposition of trade restrictions of a general nature.

3. In my view, the recent steps of the US government to clamp down on those who are trading with Iran are not compatible with WTO principles of free trade. The EU too is, unfortunately, following in the footsteps of USA and will stop imports of crude from Iran from 1 July to follow the sanctions regime initiated by the US.

DGFT on Sectoral Review Mode for Annual Foreign Trade Policy

DGFT (Director General of Foreign Trade) Anup Pujari is in the middle of annual review of the Foreign Trade Policy (FTP). The Export Promotion Councils and Associations are being called for Sectoral Review of product groups for understanding the issues and options for mid term corrections.

Export details as on 24th January 2012 and expected performance for the whole year up-to 31st March 2012 is sought along with ITC HS Code and countries name to be included in FPS/FMS/MLFPS.

Suggestions for amendment/ improvement in the existing policy/procedure to enhance export competitiveness and reduce the transaction cost/ time are being solicited by the Head of the Trade Regulatory Body.

In today's world of interdependence, US banks and the US dollar will figure in almost every trade transaction since payment leg is necessary to complete the purchase of goods or services. A freeze on Iran through the payment route means a nullification of the trade benefits to India on both the import and export fronts.

As a country with a history of only 20 years of growth, India cannot pay the cost of maintaining the US sanctions, specially when the results of the measure could mean further escalation of the Iran crisis and rise in the price of crude.

Please do use your good offices to impress upon the US government that nuclear proliferation cannot be controlled by isolating Iran. Today, most countries have access to the technology in some form or the other. The international forums designed to handle disputes, namely the UN and the WTO should be used to control proliferation. Disarmament is also another answer.

4. *We condemn the dastardly attack on Israel diplomats in India. These actions only heat up the atmosphere and create instability and disruption in the world. India and the world of Jews have much in common, both have risen in the face of severe discrimination and oppression. Violence, specially against innocents, cannot be justified or countenanced. We must, however, go into the reasons why such actions are taking place and how the measures are justified by large sections of the people. Obviously, reason and trust have given way to feelings of revenge and vindication.*

I believe that the Jews in America must play a part in normalizing relations between communities. Thus your letter to the Indian Ambassador not to conduct trade in energy and food with Iran is not in the right direction, in my opinion.

Arun Goyal

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Dollar-Rupee Rate at NSE Futures

Trade Date	Open Price	High Price	Low Price	Close Price	Daily Settlement Price	Open Interest	No. of Contracts	Value (Rs. lakhs)	RBI Reference rate
14-Feb-12	49.5025	49.5825	49.3750	49.4850	49.4850	1038504	1758694	869972	49.3313
13-Feb-12	49.7950	49.7950	49.2925	49.3800	49.3800	1029665	2607677	1288976	49.3180
10-Feb-12	49.7400	49.9475	49.5800	49.6325	49.6325	1115280	2510012	1250094	49.6445
09-Feb-12	49.4350	49.7225	49.4125	49.7025	49.7025	1015611	2033264	1007592	49.2895
08-Feb-12	49.3000	49.4700	49.1925	49.3875	49.3875	1104313	2457571	1212229	49.0683

[Source: NSE and RBI Website]

WEEKLY INDEX OF CHANGES

Natural Rubber Duty Ceiling at Rs. 49 per kg to Curb Price

Ntfn 04 In exercise of the powers conferred by sub-section (1) 17.01.2012 of section 25 of the Customs Act, 1962 (52 of 1962), (DoR) 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. 21/2002-Customs, dated the 1st March, 2002, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), vide number G.S.R.118 (E) dated the 1st March, 2002, namely:-

In the said notification, -

(1) in the opening paragraph, in the proviso, after clause (m), the following clause shall be inserted, namely :-

“(n) the goods specified against serial number 491C of the said Table on or before the 16th day of January, 2013.”;

(2) in the Table, after S.No.491B and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
“491C.	4001 10	All goods	Rs. 49/- per kg	-	112”

(3) after condition No.111 and the entry relating there to, the following shall be inserted, namely:-

“112 If the duty amount per kg calculated at the rate of 70% *ad valorem*, is more than Rs. 49/- per kg”.

[F.No.354/143/2010-TRU]

Zero Duty Concession for Goods for International Thermonuclear Experimental Reactor (ITER)

Ntfn 05 In exercise of the powers conferred by sub-section (1) 07.02.2012 of section 25 of the Customs Act, 1962 (52 of 1962), (DoR) 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. 39/96-Customs, dated the 23rd July, 1996, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 291(E), dated the 23rd July, 1996, namely:-

In the said notification, in the Table, after S.No.36 and the entries relating thereto, the following S.No. and entries shall be inserted, namely:-

(1)	(2)	(3)
“37.	Machinery, equipment, instruments, components, spares, jigs, fixtures, dies, tools, accessories, computer software, computer hardware, castings, forgings piping, tubing, chemicals, bio-chemicals, refrigerants, raw materials and consumables.	If,- (a) the said goods are imported by authorised works centres of the International Thermonuclear Experimental Reactor (ITER) –India, Institute of Plasma Research, as may be designated by an officer not below the rank of Deputy Secretary to the Government of India in the Department of Atomic Energy; and (b) the importer produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the time of import, in each case, a list of the said goods with their relevant description duly certified by the Project Director, (ITER)-India project, to the effect that - (i) the goods mentioned in the said list are required for the purposes of the ITER –India project; (ii) the said goods shall be used only for the said project.”

[F.No.354/206/2010 –TRU]

Long Range Surface to Air Missile (LR-SAM) Programme – Customs Duty Exemption

Ntfn 06 In exercise of the powers conferred by sub-section (1) 09.02.2012 of section 25 of the Customs Act, 1962 (52 of 1962), (DoR) 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. 39/96-Customs, dated the 23rd July, 1996, published in the Gazette of India, Extraordinary, vide number G.S.R. 291(E), dated the 23rd July, 1996, namely:-

In the said notification, in the Table, after S.No.37 and the entries relating thereto, the following S.No. and entries shall be inserted, namely:-

(1)	(2)	(3)
“38.	Machinery, equipment, instruments, components, spares, jigs, fixtures, dies, tools, accessories, computer software, raw materials and consumables required for the Long Range Surface to Air Missile (LR-SAM) Programme of Ministry of Defence	If,- (a) the said goods are imported by authorized works centres of the Long Range Surface to Air Missile (LR-SAM) Programme, as may be designated by an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Defence; and (b) the authorized works centre produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the time of import,

in each case, a list of the said goods with their relevant description duly certified by the Programme Director, Programme Office LR-SAM, to the effect that -

i) the goods mentioned in the said list are required for the purposes of the LR-SAM;

(ii) the import of the goods mentioned in the said list are authorized by the Ministry of Defence under LR-SAM programme and these goods shall be used only for the purpose of the LR-SAM programme.

Explanation. – Nothing contained in this exemption shall have effect on or after the 25th day of May, 2012.”

[F.No.354/139/2006 –TRU (Pt)]

Long Range Surface to Air Missile (LR-SAM) Exemption of Excise Duty

04-CE In exercise of the powers conferred by sub-section (1) 09.02.2012 of section 5A of the Central Excise Act, 1944 (1 of 1944), 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.64/95-Central Excise, dated the 16th March, 1995 which was published in the Gazette of India, Extraordinary, vide number G.S.R.256(E), dated the 16th March, 1995, namely:-

In the said notification, in the Table, after S.No.29 and the entries relating thereto, the following S.No. and entries shall be inserted, namely:-

(1)	(2)	(3)
“30	Machinery, equipment, instruments, components, spares, jigs, fixtures, dies, tools, accessories, computer software, raw materials and consumables required for the Long Range Surface to Air Missile (LR-SAM) Programme of Ministry of Defence	If,- (i) supplied to the Programme LR-SAM under the Ministry of Defence; and (ii) before clearance of the said goods, a certificate from the Programme Director, Programme LR-SAM to the effect that such goods are intended for the said Programme LR-SAM, is produced to the proper officer. Explanation. – Nothing contained in this exemption shall have effect on or after the 25 th day of May, 2012.”

[F.No.354/139/2006 –TRU (Pt)]

Anti-dumping Duty on Coumarin from China – Final Findings After CESTAT Review Maintains Old Rate

Ntnf 12-ADD 08.02.2012 (DoR) Whereas, in the matter of imports of Coumarin (hereinafter referred to as the subject goods), falling under Tariff Item 2932 21 00 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the said Act), originating in, or exported from, the People's Republic of China (hereinafter referred to as the subject country) and imported into India, the Designated Authority in its final findings vide Notification No.14/17/2009-DGAD, dated the 7th July, 2010, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 7th July, 2010, had come to the conclusion that-

(a) the product under consideration had been exported to India from the subject country below normal values;

(b) the domestic industry had suffered material injury on account of imports from subject country;

(c) the material injury had been caused by the dumped imports of subject goods from the subject country;

and had recommended imposition of definitive anti-dumping duty on the imports of subject goods, originating in, or exported from, the subject country;

And whereas, on the basis of the aforesaid findings of the Designated Authority, the Central Government had imposed definitive anti-dumping duty on the subject goods vide Notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 82/2010-Customs, dated the 20th August, 2010, published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.695 (E), dated the 20th August, 2010;

And whereas, the Designated Authority, pursuant to the order of the Customs Excise &

Service Tax Appellate Tribunal, dated 17th June, 2011, vide its final findings Notification No. 14/17/2009-DGAD dated the 23rd December, 2011, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 23rd December, 2011, had once again come to the conclusion that-

(a) the subject goods had been exported to India from the subject country below normal values;

(b) the domestic industry had suffered material injury on account of subject imports from subject country;

(c) the material injury had been caused by the dumped imports of subject goods from the subject country;

and had recommended the imposition of definitive anti-dumping duty on imports of 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 said Act, read with rules 18 and 20 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, in supersession of Notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 82/2010-Customs, dated the 20th August, 2010, published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.695 (E), dated the 20th August, 2010, except as respects things done or omitted to be done on such supersession, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under the Tariff Item of the First Schedule to the said Act as specified in the corresponding

Stainless Steel Flats – 5 More Grades under Anti-dumping Duty, Corrigendum Notification gives Retrospective Effect

[Corrigendum dated 7th February 2012]

In the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 14/2010-Customs, dated the 20th February, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 95(E), dated the 20th February, 2010:-

(i) at page 12, after the Table, in line 5 omit "Grade 420, Grade 430",

(ii) at page 12, after the Table, in line 7 and 8, for "Duplex Stainless Steel grades 2205 (S31803), 2304 (S32304), EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318 and 1.4833 and Ferritic Grades EN 1.4509 and 1.4512", read "Duplex Stainless Steel grades EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318 and 1.4833 and Ferritic Grade EN 1.4509".

[F.No.354/87/2009-TRU (Pt. 1)]

entry in column (2), originating in the country as specified in the corresponding entry in column (4), and produced by the producer as specified in the corresponding entry in column (6), when exported from the country as specified in the corresponding entry in column (5), by the exporter as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at a rate which is equivalent to difference between the amount mentioned in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9), of the said Table and the landed value of imported goods in like currency as per like unit of measurement:-

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	2932 21 00	Coumarin of all types	People's Republic of China	People's Republic of China	Yinghai (Cangzhou) Aroma Chemical Co. Ltd.	Yinghai (Cangzhou) Aroma chemical Co. Ltd.	14.02	Kg.	US Dollar
2	2932 21 00	Coumarin of all types	People's Republic of China	People's Republic of China	Any combination of	producer and exporter other than at Sl. No. 1 above	14.02	Kg.	US Dollar
3	2932 21 00	Coumarin of all types	People's Republic of China	Any country other than People's Republic of China	Any	Any	14.02	Kg.	US Dollar
4	2932 21 00	Coumarin of all types	Any country other than People's Republic of China	People's Republic of China	Any	Any	14.02	Kg.	US Dollar

2. The anti-dumping duty imposed shall be levied for a period of five years (unless revoked, superseded or amended earlier) from the date of imposition of the provisional anti-dumping duty, that is, 23rd March, 2010 and shall be payable in Indian currency.

Explanation. - For the purposes of this notification,-

(a) "landed value" means the assessable value

as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3,3A, 8B, 9 and 9A of the Customs Tariff Act, 1975;

(b) rate of exchange applicable for the purposes of calculation of 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), in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962) and the relevant date for determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the Customs Act, 1962 (52 of 1962) .

[F.No.354/22/2010 -TRU (Pt-I)]

Export Obligation Period for Import of Silk Extended from Six Months to Nine Months

Sub: Amendment in Appendix - 30 A relating to Export Obligation Period under Advance Authorization/DFIA Schemes.

96-PN(RE) In exercise of powers (Vol.1), 2009-14:-
07.02.2012 conferred under Para 2.4
(DoR) of the Foreign Trade Policy, 2009-14, the Director General of Foreign Trade hereby makes the following amendments in the Handbook of Procedures

SNo.	Import Item(s)	Export Obligation Period from the date of clearance of each import consignment by Customs authority	
		Existing Provisions	Amended Provisions
6)	Silk in any form	6 months	9 months

3. Effect of this Public Notice

Export Obligation Period for import of "silk in any form" is increased from six months to nine months.

Air Guns and Air Pistols Import Free for Registered Shooters

Subject: Import policy of arms and ammunition for Specified Sportspersons / Sport Bodies, amendment thereof.

95-Ntn(RE) In exercise of the powers
09.02.2012 conferred by Section 5 of the
(DGFT) Foreign Trade (Development and Regulation) Act, 1992 read with Para 2.1 of the Foreign Trade Policy, 2009-2014, the Central Government hereby makes the following amendments in the Schedule 1 (Imports) of the ITC (HS) Classifications of Export and Import Items:

2. Existing Import Licensing Note (1) in Chapter 93 of ITC (HS) Classifications of Export and Import Items prior to this amendment is extracted below:

"Import of arms is permitted against a license to renowned shooters/rifle clubs for their own use on the recommendation of Department of Youth Affairs and Sports, Government of India. However, Import of 0.177 bore air guns and air pistols will be free for shooters registered with Rifle Clubs or District/State/National Rifle Association. Free import of 0.177 bore air guns and air pistols will also be allowed to National Rifle Association of India (NRAI) for supplying the same to the eligible State Rifle Association / Clubs and to the eligible shooters. NRAI shall be required to keep appropriate account of the imported weapons."

3. After amendment the Import Licensing Note (1) would read as below:

"Import of arms (including parts thereof) & ammunition is permitted freely to the following sports persons/sports bodies:

Renowned shooters (as defined in Import Licensing Note 3) on the recommendation of National Rifle Association of India (NRAI); National Rifle Association of India (NRAI) for its own use and for transfer to its State/district affiliates by due certification by Sports Authority of India; Sports Authority of India (SAI) or State Sport Authorities of concerned State by self certification and Services Sports Control Board (SSCB), Ministry of Defence. Respective recommending or certifying Bodies will maintain the required records."

4. After the existing Import Licensing Note (3) in Chapter 93 of ITC HS) Classifications of Export and Import Items, Note (4) is added as under:

"Note (4) - Policy for import of 'Air Gun Pellets' is free."

5. The effect of this Notification

The procedure for issue of import license/authorization for import of arms & ammunition by specified sports persons/sports bodies has been dispensed with. NRAI, SAI and SSCB can freely import arms and ammunition for their own use or their affiliates. Renowned Shooter can freely import arms and ammunition for their own use. Import Policy Regime for 'Air Gun Pellets' continues to be 'free'. This notification does not exempt the specified sports persons/sports bodies from the Arms Act, 1959 or Rules thereunder; but merely makes amendments in the Import Policy regime for the specified categories of importers.



RBI Warns Banks to Stop Iran, China, Pak and the like from Opening India Office

Sub: Clarification - Establishment of Project Offices in India by Foreign Entities - General Permission

AP(DIR Srs) Attention of the Authorised
Cir.76 Dealer Category - I (AD
09.02.2012 Category - I) banks is
(RBI) invited to Regulation 4 of
Notification No. FEMA 22

2000-RB dated May 3, 2000, viz., Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000, as amended from time to time, in terms of which, no person, being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran or China, shall establish in India, a branch office or a liaison office or a project office or any other place of business by whatever name called, without the prior permission of the Reserve Bank. Attention of the AD Category - I banks is also invited to the A.P. (DIR Series) Circular No. 37 dated November 15, 2003 which provides the guidelines regarding general permission to a foreign entity for setting up a Project office in India, subject to certain conditions.

2. It is clarified that the general permission accorded in terms of the November 15, 2003 guidelines is subject to the adherence to the provisions of Regulation 4 of Notification No.FEMA 22 /2000-RB dated 3rd May 2000, ibid, alongwith their specified conditions.

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

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

'gross amount' for the purpose of payment of service tax on works contract under the composition scheme, is a legal requirement, only with effect from 07/07/2009 when the *Explanation* became a part of Rule 3(1).

3. The explanation appended to Rule 3(1) with effect from 07/07/2009, categorically says in the proviso that "...nothing contained in this *Explanation* shall apply to a works contract where the execution under the said contract has commenced or where any payment, except by way of credit or debit to any account, has been made in relation to the said contract on or before the 7th day of July, 2009." Where execution of works contract has commenced prior to 07/07/2009 or where any payment (except payment through credit or debit) has been made towards a works contract prior to 07/07/2009, then in those cases 'gross amount' for the purpose of payment of service tax does not include the value of free of cost supplies.

4. The above clarification may be communicated to the field formations and service tax assesses through Trade Notice/ Public Notice. Hindi version to follow.

F.No.354/236/2010-TRU

Free of Cost Services not Included in "Gross Amount" of Works Contract before 7 July 2009

Subject: Meaning of the expression 'gross amount' appearing in Rule 3(1) of the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, as it stood prior to 07th day of July 2009.

150-ST Reference has been received
08.02.2012 from a field formation seeking
(DoR) clarification as to whether 'gross amount', for the purpose of payment of service tax under the Works Contract Composition Scheme, included the value of free of cost supplies, for the period prior to 07/07/2009.

2. The issue has been examined. The meaning of the expression 'gross amount' appearing

in Rule 3(1) of the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, is qualified by the *Explanation* inserted in the said Rule with effect from 07/07/2009. Since the *Explanation* inserted in Rule 3(1) with effect from 07/07/2009 is clarificatory and prospective in nature, inclusion of value of free-of-cost supplies of goods and services in or in relation to the execution of Works Contract [mentioned in the *Explanation* to Rule 3(1) (a) (i) and (ii)] in the

Service Tax on Construction of Flats/Houses – Landowner, Builder, Developer and Contractor are Liable to Pay

Government itself Liable to Pay Service Tax on Construction Services

- Tripartite Business Model
- Taxability of the construction service
- Valuation
- Redevelopment including slum rehabilitation projects
- Taxability
- Investment model
- Conversion Model
- Non requirement of completion certificate / where completion certificate is waived or not prescribed
- Build- Operate - Transfer (BOT) Projects
- Persons liable to pay tax
- Joint Development Agreement Model

Subject: Service tax on construction services.

151-ST Many issues have been referred by the field formations, in the recent past, seeking clarification regarding the levy and collection of service tax on construction services [clauses (zzq),(zzh) of section 65(105) of the Finance Act, 1994], in the light of varying business models. Across the country, divergent business models and practices are being followed in the construction sector. Some of these business models and practices could be region specific.

2. From the issues referred by the field formations, important ones have been identified model wise, examined and clarified as follows:

2.1. Tripartite Business Model (Parties in the model: (i) landowner; (ii) builder or developer; and (iii) contractor who undertakes construction): Issue involved is regarding the liability to pay service tax on flats/houses agreed to be given by builder/developer to the land owner towards the land /development rights and to other buyers.

Clarification: Here two important transactions are identifiable: (a) sale of land by the landowner which is not a taxable service; and (b) construction service provided by the builder/developer. The builder/developer receives consideration for the construction service provided by him, from two categories of service receivers: (a) from landowner: in the form of land/development rights; and (b) from other buyers: normally in cash.

(A) Taxability of the construction service

(i) For the period prior to 01/07/2010: construction service provided by the builder/developer will not be taxable, in terms of Board's Circular No.108/02/2009-ST dated 29.01.2009.

(ii) For the period after 01/07/2010, construction service provided by the builder/developer is taxable in case any part of the payment/development rights of the land was received by the builder/ developer before the issuance of completion certificate and the service tax would be required to be paid by builder/developers even for the flats given to the land owner.

(B) Valuation

(i) Value, in the case of flats given to first category of service receiver, is determinable in terms of section 67(1)(iii) read with rule 3(a) of Service Tax (Determination of Value) Rules,

2006, as the consideration for these flats i.e., value of land / development rights in the land may not be ascertainable ordinarily. Accordingly, the value of similar flats charged by the builder/ developer from the second category of service receivers. In case the prices of flats/houses undergo a change over the period of sale (from the first sale of flat/house in the residential complex to the last sale of the flat/house), the value of similar flats as are sold nearer to the date on which land is being made available for construction should be used for arriving at the value for the purpose of tax. Service tax is liable to be paid by the builder/developer on the 'construction service' involved in the flats to be given to the land owner, at the time when the possession or right in the property of the said flats are transferred to the land owner by entering into a conveyance deed or similar instrument(eg. allotment letter).

(ii) Value, in the case of flats given to the second category of service receivers, shall be determined in terms of section 67 of the Finance Act, 1994.

2.2 Redevelopment including slum rehabilitation projects

Generally in this model, land is owned by a society, comprising members of the society with each member entitled to his share by way of an apartment. When it becomes necessary after the lapse of a certain period, society or its flat owners may engage a builder/developer for undertaking re-construction. Society /individual flat owners give 'No Objection Certificate' (NOC) or permission to the builder/developer, for re-construction. The builder/developer makes new flats with same or different carpet area for original owners of flats and additionally may also be involved in one or more of the following:

(i) construct some additional flats for sale to others;

(ii) arrange for rental accommodation or rent payments for society members/original owners for stay during the period of re-construction;

(iii) pay an additional amount to the original owners of flats in the society.

Clarification: Under this model, the builder/ developer receives consideration for the construction service provided by him, from two categories of service receivers. First category is the society/members of the society, who transfer development rights over the land (including the permission for additional number of flats), to the builder/developer. The second category of

LDC Import Desiccated Coconut Duty Cut Lowered to 12%, Tableware Cut Raised to 48% - Amendment by Corrigendum

[Corrigendum dated 8th February 2012]

In the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 113/2011-Customs, dated the 23rd December, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 894(E), dated the 23rd December, 2011, in Appendix I, in the Table, in column (4),-

(i) against S.No. 31, for the figure and sign "20%", read "12%";

(ii) against S.No. 197, for the figure and sign "40%", read "48%".

F. No. 354/189/2005-TRU (Vol II)]

service receivers consist of buyers of flats other than the society/members. Generally, they pay by cash.

(A) Taxability

(i) Re-construction undertaken by a building society by directly engaging a builder/developer will not be chargeable to service tax as it is meant for the personal use of the society/its members. Construction of additional flats undertaken as part of the reconstruction, for sale to the second category of service receivers, will also not be a taxable service, during the period prior to 01/07/2010;

(ii) For the period after 01/07/2010, construction service provided by the builder/developer to second category of service receivers is taxable in case any payment is made to the builder/ developer before the issuance of completion certificate.

(B) Valuation

Value, in the case of flats given to second category of service receivers, shall be determined in terms of section 67(1)(i) of the Finance Act, 1994.

2.3 Investment model

In this model, before the commencement of the project, the same is on offer to investors. Either a specified area of construction is earmarked or a flat of a specified area is allotted to the investors and as it happens in some places, additionally the investor may also be promised a fixed rate of interest. After a certain specified period an investor has the option either to exit from the project on receipt of the amount invested alongwith interest or he can re-sell the said allotment to another buyer or retain the flat for his own use.

Clarification: In this model, after 01/07/2010, investment amount shall be treated as consideration paid in advance for the construction service to be provided by the builder/developer to the investor and the said amount would be subject to service tax. If the investor decides to exit from the project at a later date, either before or after the issuance of completion certificate, the builder/developer would be entitled to take credit under rule 6(3) of the Service Tax Rules, 1994(to the extent he has refunded the original amount). If the builder/developer resells the flat before the issuance of completion certificate, again tax liability would arise.

2.4 Conversion Model

Conversion of any hitherto untaxed construction /complex or part thereof into a building or civil structure to be used for commerce or industry, after lapse of a period of time.

Clarification: Mere change in use of the building does not involve any taxable service, unless conversion falls within the meaning of commercial or industrial construction service.

2.5 Non requirement of completion certificate / where completion certificate is waived or not prescribed

In certain states, completion certificates have been waived or are considered as not required for certain specified types of buildings. Doubts have been raised, regarding levy of service tax on the construction service provided, in such situations.

Clarification: Where completion certificate is waived or is not prescribed for a specified type of building, the equivalent of completion certificate by whatever name called should be used as the dividing line between service and sale. In terms of the Service Tax (Removal of Difficulty) Order, 2010, dated 22/06/2010, authority competent to issue completion certificate includes an architect or chartered engineer or licensed surveyor.

2.6 Build- Operate - Transfer (BOT) Projects

Many variants of this model are being followed in different regions of the country, depending on the nature of the project. Build-Own-Operate-Transfer (BOOT) is a popular variant. Generally under BOT model, Government or its agency, concessionaire (who may be a developer/ builder himself or may be independent) and the users are the parties. Risk taking and sharing ability of the parties concerned is the essence of a BOT project. Government or its agency by an agreement transfers the 'right to use' and/or 'right to develop' for a period specified, usually thirty years or near about, to the concessionaire.

Clarification: Transactions involving taxable service take place usually at three different levels: firstly, between Government or its agency and the concessionaire; secondly, between concessionaire and the contractor and thirdly, between concessionaire and users, all in terms of specific agreements.

At the first level, Government or its agency transfers the right to use and/or develop the land, to the concessionaire, for a specific period, for construction of a building for furtherance of business or commerce (partly or wholly). Consideration for this taxable service may be in the nature of upfront lease amount or annual charges paid by the concessionaire to the Government or its agency. Here the Government or its agency is providing 'renting of immovable property service' (renting of vacant land to be used for furtherance of business or commerce) and in such cases the concessionaire becomes the service receiver.

In this model, though the concessionaire is undertaking construction of a building to be used wholly or partly for furtherance of business or commerce, on the land provided by the government or its agency for temporary use, he will not be treated as a service provider since such construction has been undertaken by him on his own account and he remains the owner of the building during the concession period.

At the second level, transaction can take place between a concessionaire and the contractor. Where the concessionaire himself does not have

Commodity Spot Prices in India – 11-14 February 2012

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

(Rs.)					
Commodity	Unit	Market	11-Feb	13-Feb	14-Feb
CER (Carbon Trading)	1 MT	Mumbai	NA	NA	NA
Chana	100 KGS	Delhi	3638	3541	3518
Masur	100 KGS	Indore	3060	3076	3075
Potato	100 KGS	Agra	NA	NA	NA
Potato TKR	100 KGS	Tarkeshwar	NA	NA	NA
Areca nut	100 KGS	Mangalore	NA	NA	NA
Cashew kern	1 KGS	Quilon	NA	NA	NA
Cardamom	1 KGS	Vandanmedu	681.4	692.6	706
Coffee ROB	100 KGS	Kushalnagar	NA	NA	NA
Jeera	100 KGS	Unjha	NA	NA	NA
Pepper	100 KGS	Kochi	NA	NA	NA
Red Chili	100 KGS	Guntur	NA	NA	NA
Turmeric	100 KGS	Nzmbad	5150	5163	5163
Guar Gum	100 KGS	Jodhpur	NA	NA	NA
Maize	100 KGS	Nzmbad	1182.5	1179	1170
Wheat	100 KGS	Delhi	1252.5	1253.8	1255.4
Mentha Oil	1 KGS	Chandausi	1709.6	1716.5	1738.8
Cotton Seed	100 KGS	Akola	NA	NA	NA
Castorsd RJK	100 KGS	Rajkot	3918	3943	3943.5
Guar Seed	100 KGS	Bikaner	13304	13994	14584
Soya Bean	100 KGS	Indore	2490	2495	2492.5
Mustrdsd JPR	20 KGS	Jaipur	684.25	685.1	675.55
Sesame Seed	100 KGS	Rajkot	6183	6175	6163
Coconut Oil Cake	100 KGS	Kochi	NA	NA	NA
RCBR Oil Cake	1 MT	Raipur	NA	NA	NA
Kapaskhali	50 KGS	Akola	1233	1218.8	1202
Coconut Oil	100 KGS	Kochi	6942	6916	6812
Refsoy Oil	10 KGS	Indore	701.4	696.6	697.15
CPO	10 KGS	Kandla	519.9	521	521.3
Mustard Oil	10 KGS	Jaipur	736.7	736.5	738.9
Gnutoilexp	10 KGS	Rajkot	1071.7	1075	1075
Castor Oil	10 KGS	Kandla	NA	NA	NA
Crude Oil	1 BBL	Mumbai	4898	4898	4977
Furnace Oil	1000 KGS	Mumbai	NA	NA	NA
Sourcrd Oil	1 BBL	Mumbai	NA	NA	NA
Brent Crude	1 BBL	Mumbai	5824	5824	5789
Gur	40 KGS	Muzngr	NA	NA	NA
Sugars	100 KGS	Kolhapur	2855	2845	2835
Sugarm	100 KGS	Delhi	3056	3040	3029
Natural Gas	1 mmBtu	Hazirabad	123	123	119.9
Rubber	100 KGS	Kochi	18916	18815	18715
Cotton	1 Bales	Rajkot	17300	17280	17220
Cotton Med	1 Maund	Sriganganagar	NA	NA	NA
Jute	100 KGS	Kolkata	2492	2508	2544
Gold	10 GRMS	Ahmd	27967	27838	27745
Gold Guinea	8 GRMS	Ahmd	22463	22360	22285
Silver	1 KGS	Ahmd	55718	55564	55582
Sponge Iron	1 MT	Raipur	NA	NA	NA
Steel Flat	1000 KGS	Mumbai	NA	NA	NA
Steel Long	1 MT	Gobindgarh	NA	NA	NA
Copper	1 KGS	Mumbai	422.7	422.7	417.45
Nickel	1 KGS	Mumbai	1044.4	1034.6	1005.4
Aluminium	1 KGS	Mumbai	110.15	108.85	107.05
Lead	1 KGS	Mumbai	107.65	104.9	102.8
Zinc	1 KGS	Mumbai	104.85	102.95	101.05
Tin	1 KGS	Mumbai	1265.75	1248.25	1230.25

(Source: MCX Spot Prices)

Customs Valuation Exchange Rates

February 2012	Imports	Exports	
Schedule I			
1 Australian Dollar	53.45	52.20	Rate of exchange of one unit of foreign currency equivalent to Indian Rupees
2 Canadian Dollar	50.30	49.00	
3 Danish Kroner	8.90	8.65	
4 EURO	66.00	64.40	
5 Hong Kong Dollar	6.45	6.35	
6 Norwegian Kroner	8.65	8.60	
7 Pound Sterling	78.90	77.15	
8 Swedish Kroner	7.45	7.25	
9 Swiss Franc	54.70	53.35	
10 Singapore Dollar	40.05	39.10	
11 U.S. Dollar	50.20	49.40	
Schedule II			
1 Japanese Yen	65.40	63.65	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees

(Source: Customs Notification 09(NT)/30.01.2012)

exposure to construction sector, he may engage a contractor for undertaking construction of a building on the land, in respect of which right to use has been obtained in his favour, from the Government or its agency. If the concessionaire is himself a builder/developer, this level of transaction may not arise. Where an independent contractor is engaged by a concessionaire for undertaking construction for him, then service tax is payable on the construction service provided by the contractor to the concessionaire.

At the third level, the concessionaire enters into agreement with several users for commercially exploiting the building developed/constructed by him, during the lease period. For example, the user may be paying a rent or premium on the sub-lease for temporary use of immovable property or part thereof, to the concessionaire. At this third level, concessionaire is the service provider and user of the building is the service receiver. The concessionaire may provide to the users, taxable services such as 'renting of immovable property service', 'business support service', 'management, maintenance or repair service', 'sale of space for advertisement', etc. Service tax is leviable on the taxable services provided by the concessionaire to the users.

There could be many variants of the BOT model explained above and implications of tax may differ. For example, at times it is possible that the concessionaire may outsource the management or commercial exploitation of the building developed/constructed by him, to another person and may receive a pre-determined amount as commission. Taxable service here will be business auxiliary service and service tax is leviable on the commission.

(A) Taxability

- (i) the service provided by the Government or its agency to the concessionaire is liable to service tax;
- (ii) the construction services provided by the contractor to the concessionaire would be examined from the point of taxability as to whether the activity is not otherwise excluded;
- (iii) the services provided by the concessionaire to the user of the facility are liable to service tax;

(B) Persons liable to pay tax

Government or its agency and concessionaire are liable to pay tax on the services being provided by them. There could be several other persons liable to pay service tax, depending on the variant of the BOT model followed.

2.7 Joint Development Agreement Model

Under this model, land owner and builder/developer join hands and may either create a new entity or otherwise operate as an unincorporated association, on partnership /joint / collaboration basis, with mutuality of interest and to share common risk/profit together. The new entity undertakes construction on behalf of landowner and builder/developer.

Clarification: Circular 148/17/2011-ST dated 13/12/2011, particularly paragraphs 7, 8, 9 apply *mutandis mutandis* in this regard.

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Pascal Lamy Points to Africa....

land, limited access to credit, a wanting infrastructure, and rich world agricultural subsidies, are prime amongst them. In fact there is no business more complicated than agriculture, contrary to popular perception that services and manufacturing are somehow more difficult.

The Brazilian miracle, ladies and gentlemen, can and should be reproduced. In less than 30 years, Brazil turned itself from a food importer into one of the world's breadbaskets. In those same 30 years, Africa went from being a net food exporting continent to being a net food importer. But there are success stories in Africa too, on which we must build on. Just last week in Addis Ababa I visited the Ethiopian Commodity Exchange and saw how this project, through the greater price transparency that it has brought, is revolutionizing Ethiopian agriculture. Or take Mali's success story in mangos. With Dutch assistance they overcame the problem of refrigerated transport. The outcome now is that Dutch aid has been progressively replaced by Dutch buyers.

Produce Food where the Water is

Let me now come to international trade. International trade plays an important role in global food security. By fostering greater competition, trade allows food to be produced where this can be most efficiently done. With the climate crisis, whose beginnings we are now beginning to witness, it will become imperative that we produce food in the right places, and not where we would be wasting scarce water or other natural resources. As Egyptians like to tell me: if we were to aim for self-sufficiency in food, we would need not one, but many River Niles. And despite what some environmentalists like to say about the "carbon footprint" of international transportation, when the bigger environmental picture is taken into account, it is my firm conviction that trade in food becomes an environmental obligation.

Food must Travel

Trade in food, ladies and gentlemen, is also a moral obligation. International trade allows food to move from countries with a surplus to countries with a deficit. It is a "global transmission belt", if you will. From a purely ethical point of view, it is vital that we allow, and even facilitate, the ability of a country to sell food to another, in particular when that other is suffering from a drought or another natural disaster. Food must travel.

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