

Brazil Retaliates against US in Cotton Dispute – Cross Retaliation on 102 Products Notified

Brazil has announced that it will impose retaliatory tariffs worth US\$591 million on 102 US products. The move is part of Brazil's retaliation against Washington for failing to bring its cotton subsidies into compliance with WTO rules.

The list of US goods exports, which was made public and notified to the WTO on Monday 8 March, mainly comprises luxury goods such as tyres, automobiles, cosmetics, toiletries, and certain foods. Brasilia's levies also include 14 percent duties on pharmaceuticals and 100 percent duties on cotton-based products. The new tariffs are set to take effect 30 days after they were announced.

The retaliation begins another sparring phase in the eight-year dispute over Washington's subsidies on cotton. The WTO's Dispute Settlement Body ruled in 2005 that the US' direct subsidies and a loan guarantee programme violate the country's commitments at the WTO. In response to Washington's failure to comply with the ruling, the WTO later awarded Brazil the right to retaliate with trade sanctions.

Goods for now, but more to come

The list notified to the WTO this week focuses exclusively on retaliation against US goods. However, the global trade body has also given Brazil permission to impose sanctions on US intellectual property, and Brasilia has indicated that it intends to make use of that opportunity.

The WTO Dispute Settlement Understanding states that if it is not 'practical' or 'effective' for a complainant country to retaliate in the same sector or same agreement in which a violation occurred, the country can seek to retaliate under another agreement - or 'cross-retaliate'.

In August, a WTO arbitration panel authorised Brazil to cross-retaliate by suspending US intellectual property rights under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The panel also gave Brazil permission to withhold services concessions under the General Agreement on Trade in

Services (GATS).

After a public consultation process starting March 23, Brasilia plans to release a list of intellectual property sanctions, which could amount to an additional US\$238 million.

Brazil's strategy of delaying both the implementation of this tariff list and the suspension of IP rights will keep US firms on their toes and could compel lobbies outside the cotton sector to push for the US to bring its cotton subsidies into compliance with WTO rules.

But Brasilia could stand to lose in a trade spat with the Washington. Because of perceived threats to US economic security, the Office of the US Trade Representative could return Brazil's IP classification from 'watch list' to 'priority watch list', say some Brazilian officials who fear that such a move could greatly deter investors. Additionally, some have speculated that the US could suspend the more than US\$2.5 billion in trade privileges that it offers Brazil under its Generalized System of Preferences (GSP).

Negotiated solution still a possibility

Although negotiations have thus far failed to resolve the long-running dispute, some observers say that the looming spectre of potentially damaging trade restrictions could spur renewed engagement on the diplomatic front.

Hillary for Resolution

The Obama administration also says it wants a swift resolution.

"We will be presenting ideas because...the Brazilian action doesn't come into effect for 30 days. So there is time for us to try to resolve this in a peaceful and productive way without any further action," Secretary of State Hillary Clinton said on visit to Brazil. She announced that the US would submit an alternative proposal.

Another possible route out of the dispute could take the form of financial compensation from the US. Potential examples include a US-supported fund for Brazilian producers to invest in technology, and eliminating US import restrictions on Brazilian meat, orange juice, and ethanol.

OECD Says G20 Fighting Protectionism

The world's biggest economies introduced fewer measures to restrict trade flows in late 2009 and early 2010 than in the preceding year, according to a new report on trade and investment protectionism from the WTO, the United Nations, and the Organization for Economic Cooperation and Development (OECD).

But despite the "relatively muted" trade and investment policy response to the global recession, the report warned that the threat of increased protectionism remained very real, due to record unemployment levels and the uncertain economic recovery. It noted that "prolonged periods of job losses and unemployment" have driven protectionist measures in the past.

Released to governments and the public on 8 March, the report by officials from the WTO, the OECD, and the UN Conference on Trade and Development monitored the trade and investment policies of members of the Group of 20 leading industrialised and developing nations from September 2009 to mid-February 2010. The first such report, released last fall, examined policies in the year to September 2009.

At summits in Pittsburgh and London last year, G-20 leaders pledged to refrain from raising new barriers to investment or to trade in goods and services. The report shows that several G-20 countries did so anyway. The policies ranged from run-of-the-mill tariff increases in some cases to the launching of several anti-dumping investigations (although fewer in 2009 than in 2008). A few governments introduced more restrictive procurement practices, such as 'buy domestic' requirements, and non-tariff barriers (some of them rather exotic, such as an Indonesian rule stipulating that only Indonesian citizens based in the country have the right to import and sell alcoholic beverages there). Some 1,489 notifications of non-tariff barriers under the Agreement on Technical Barriers on Trade were notified to the WTO secretariat in 2009, compared to 1,272 in 2008.

However, the report took pains to underline the limited scope of the trade-restricting measures. The WTO secretariat estimates that the import restrictions introduced between September 2009 and mid-February 2010 cover 0.7 percent of total imports by G-20 countries (0.4 percent if fuel was removed from the calculation), compared to 1.3 percent in the year to October 2009. The report emphasised that the resulting reduction in trade was "considerably less," apart from the case of some prohibitive restrictions. And many of the restrictions focused on minerals, metals, and textile products, sectors that tended to be relatively protected to begin with. The report noted that several governments took steps to increase openness to trade and investment flows.

The report also found no "open discrimination against foreign investors," and "no major measure" to reduce access to G-20 markets in terms of services trade. However, it pointed to potential discriminatory effects arising from emergency government support to the financial and automobile sectors. "Emergency measures have politicised processes of firm exit and restructuring, and government holdings acquired as part of the crisis response may jeopardise governments' impartiality in policy making and law enforcement," it warned.

The previous edition of the report had also concluded that governments had been successful at containing protectionist pressures, but warned that crisis-related measure risked

artificially altering market competition and investment decisions, with the threat of "chronic trade distortions."

The new report outlined a sequence for governments to begin unwinding crisis-related measures, "when it is judged timely to do so." Protectionist border measures should go first, ideally with multilateral coordination, followed by behind-the-border policies that discriminate between domestic and foreign goods or firms. Then, sector-specific measures should be tackled, particularly those that support capital rather than labour. Specific consumption subsidies should be next, with generic consumption measures like temporary cuts to value-added tax (VAT) rates last to go.

Data: trade recovering, but joblessness casts shadow

In addition to lengthy annexes detailing trade and investment measures taken by each country, along with descriptions of financial sector bailouts and general stimulus measures, the 85-page report provides data on trade volumes, GDP growth, and unemployment for G-20 members.

World merchandise trade is recovering from a 12 percent drop in 2009 that returned trade volumes to levels last seen in 2006, it shows, attributing much of the improvement to China and other East Asian countries. In December, world merchandise trade rose by 4.8 percent over the preceding month.

In the last quarter of 2009, developing countries in Asia, including China, enjoyed fast export and import growth, of 10 percent and 9.1 percent, respectively. Industrialised countries saw imports rise by 3.9 percent, while exports rose by 4.1 percent. But their export performance was variable: US and Japanese exports increased by around 8 to 9 percent, while Europe's grew by only 2 percent. Africa - which was hit especially hard in 2009 by the drop in prices of the commodities that make up the bulk of its exports - saw both imports and exports decline in the final quarter of the year.

While the report concluded that G-20 governments' attempts to catalyse more trade finance had met with considerable success, with the cost of trade finance in China, India, and Brazil almost half of what it was a year ago, credit remained hard to come by for small traders, particularly in Africa.

As for investment, foreign direct investment flows fell from US\$1.7 trillion in 2008 to US\$1 trillion in 2009, although there was a moderate pickup in the second and third quarters of the year.

Despite the positive developments, the WTO, the OECD, and UNCTAD stressed that there were clouds on the horizon. The economic recovery was fragile, and that large-scale un-

employment could give rise to protectionist pressures. Some 27 million people around the world lost their jobs in 2009, taking the number of jobless to over 200 million and the global unemployment rate to its "highest level ever."

They urged G-20 governments to "remain vigilant in opposing protectionism," to devise exit strategies from crisis-related measures that had potential to distort trade, and to "work diligently and quickly" to conclude the long-struggling Doha Round trade talks. A Doha agreement, they suggested, would "strengthen the multilateral trading system and to improve multilateral market access."

Levels of concern vary

Despite its warnings about the future, the WTO-OECD-UNCTAD report was fairly relaxed about the extent of protectionism that governments have introduced thus far. This view is shared by some analysts, such as Patrick Messerlin at the Groupe d'Economie Mondiale and the Institut d'Etudes Politiques in Paris, who believe that the current level of protectionism is modest, and that excessive warnings about it would weaken economists' credence in the event of a serious trade war.

Simon Evenett, the director of Global Trade Alert, a service that provides real-time monitoring of protectionist policies along with their likely victims, is considerably less sanguine. He argues that the report's assessment did not adequately reflect a wide range of government measures, often falling outside the jurisdiction of WTO rules, that served to distort production and trade.

These include subsidies to manufacturing industry and government procurement. The most recent report by the Global Trade Alert, released last month, noted that since September 2009, several major trading nations had taken "taken far-reaching measures that discriminate against foreign commercial interests," often slipping unnoticed under the media radar screen. China, for example, had introduced a new accreditation procedure for firms wanting to bid for high-tech state contracts, and the US House of Representatives had approved further 'Buy America' provisions. Russia, a G-20 country that is not part of the WTO, has introduced a raft of tariff increases and industrial support measures.

According to the Global Trade Alert report, discriminatory measures against foreign commercial interests are above even generously defined historical trends (though below 1930s levels) in every major trading nation except Brazil and Canada.

Asked about the report's estimate that a mere 0.7 percent of G-20 imports stood to be affected by increased protection, he said "They've looked at a small number of measures and got a small number. No surprise."

Dollar-Rupee rate at NSE Futures

Trade Date	Open Price	High Price	Low Price	Close Price	Daily Settlement Price	Open Interest	No. of Contracts	Value (Rs. lakhs)	RBI Reference rate
15-Mar-10	45.5650	45.7300	45.5650	45.6925	45.6925	442796	2897759	1322908.19	45.5800
12-Mar-10	45.6200	45.6200	45.4400	45.4925	45.4925	440636	2683597	1221455.33	45.4500
11-Mar-10	45.4900	45.6900	45.4900	45.6650	45.6650	458918	2819506	1285458.79	45.4700
10-Mar-10	45.6200	45.6200	45.4400	45.4675	45.4675	477899	2920707	1329247.96	45.4100

[Source: NSE and RBI Website]

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WEEKLY INDEX OF CHANGES

Duty Reduction on Milk Powder, Butter and Butter Oil

- Basic Customs Duty Reduced to Nil from 5% on Milk Powder
- Quota Increased on Milk Powder
- Basic Customs Duty Reduced on Butter and Butter Oil Quota of 15,000 MT to Nil from 30%

Ntfn 33
12.03.2010
(DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the

Ministry of Finance (Department of Revenue), No. **21/2002-Customs, dated the 1st March, 2002** which was published in the Gazette of India, Extraordinary, vide number G.S.R.118 (E), dated the 1st March, 2002, namely:-

In the said notification, in the Table,-

(i) for **S. No 3** and the entries relating thereto, the following shall be **substituted**, namely:-

S.No.	Chapter or Heading No. or sub-heading No.	Description of goods	Standard rate	Additional duty rate	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
"3.	0402 10 or 0402 21 00	Goods upto an aggregate of thirty thousand metric tonnes of total imports of such goods in a financial year.	Nil	-	1".

(ii) after **S.No. 3AA** and the entries relating thereto, the following S.No. and the entries shall be **inserted**, namely:-

S.No.	Chapter or Heading No. or sub-heading No.	Description of goods	Standard rate	Additional duty rate	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
"3AB.	0405	White Butter, Butter oil, Anhydrous Milk Fat upto an aggregate of fifteen thousand metric tonnes of total imports of such goods in a financial year.	Nil	-	1."

[F.No.354/20/2010-TRU]

Duty Free Concessions for LCAP Extended upto 1 January 2019

Ntfn 32
11.03.2010
(DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, 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**, G.S.R. 291(E), dated the 23rd July, 1996, namely:-

In the said notification, in the TABLE, against **S.No.18**, in column (3), -

i. for the words and letters "duly certified by the Senior Manager" the words and letters "duly certified by the Senior Manager or the Assistant Director" shall be substituted.

ii. in the *Explanation*, for the words, letters and figures, "the 28th day of March 2010", the words, letters and figures, "the 1st day of January, 2019" shall be substituted.

[F. No. 354/76/2006-TRU]

Dumping Investigation Initiated on Polypropylene from Korea, USA and Taiwan

[Ref: No.14/26/2009-DGAD dated 10th February 2010]

Subject: Initiation of Anti-Dumping Duty investigation concerning imports of Polypropylene originating in or exported from Korea RP, Taiwan and USA

M/s Reliance Industries Ltd. has filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on

Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter referred to as the AD Rules) for initiation of Anti-Dumping Duty investigation concerning imports of 'Polypropylene (i.e., homo-polymers and co-polymers of Propylene)' (hereinafter also referred to as the subject goods)

Corrigendum to Notification No. 21/2010-Cus.

[Correct at page 14 of Big's Easy Reference Customs Tariff 2010-11]

In the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. **21/2010-Customs, dated the 27th February, 2010**, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) vide number G.S.R. 134(E), dated the 27th February, 2010, at page 115,-

(i) in line 20, for "(iaf)", read "(iag)";

(ii) in line 21, for "(iag)", read "(iah)".

[M.F. (D.R.) Corrigendum F.No. 334/1/2010-TRU, dated 02.03.2010]

originating in or exported from Korea RP, Taiwan and USA (hereinafter referred to as the subject countries).

2. AND WHEREAS, the Authority finds that sufficient evidence of dumping of the subject goods originating in or exported from the subject countries, 'injury' to the domestic industry and causal link between the alleged dumping and 'injury' exist to justify initiation of an anti-dumping investigation; the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of the Rules 5 of the AD Rules, to determine the existence, degree and effect of any alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the 'injury' to the domestic industry.

Domestic Industry & 'Standing'

3. The Application has been filed by M/s Reliance Industries Ltd. on behalf of the domestic industry. Apart from M/s Reliance Industries Ltd. there are two other producers, namely M/s Haldia Petrochemicals Ltd. and M/s Reliance Petroleum Ltd. of the subject goods in India, who have supported the application. As per the evidence available on record, the production of M/s Reliance Industries Ltd. accounts for a major proportion of the total domestic production of the like article and is more than 50% of Indian production of the like article. The application thus satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules.

Further, M/s Reliance Industries Ltd. is proposed to be treated as "domestic industry" within the meaning of Rule 2(b) of the AD Rules.

Product under consideration

4. The product under consideration is 'Polypropylene (i.e., homo-polymers and co-polymers of propylene)'. The subject goods are classified under Custom Headings 39021000 and 39023000. The Customs classification is indicative only and is in no way binding on the scope of the present investigation. The subject goods are used as woven sacks for cement, food-grains, sugar, fertilizer, bags for fruits & vegetables, TQ & BOPP films, containers etc.

Like Articles

5. The applicant has claimed that the subject

goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the applicant. The two are technically and commercially substitutable and hence should be treated as 'like article' under the AD Rules.

Therefore, for the purpose of the present investigation, the subject goods produced by the applicant in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

Countries involved

6. The countries involved in the present investigation are Korea RP, Taiwan and USA.

Normal Value

7. The applicant has constructed the normal values in respect of subject countries stating that neither they were able to get any documentary evidence or reliable information with regard to domestic prices of the subject goods in the subject countries nor the same are available in the public domain. The Authority has prima-facie considered the normal value of subject goods in subject countries on the basis of constructed values as made available by the applicants for the purpose of this initiation.

Export Price

8. The applicant has claimed export prices on the basis of data obtained from Infodrive India Pvt. Ltd. Kolkata. Price adjustments have been allowed on account of Ocean freight, marine insurance, port handling and port charges etc. to arrive at the net export price. There is sufficient evidence of the export prices of the subject goods from the subject countries to justify initiation of an antidumping investigation.

Dumping Margin

9. The applicant has provided sufficient evidence that the normal values of the subject goods in the subject countries are significantly higher than the net export prices, prima-facie indicating that the subject goods originating in or exported from the subject countries are being dumped, to justify initiation of an antidumping investigation.

Injury and Causal Link

10. The applicant has furnished evidence regarding the 'injury' having taken place as a result of the alleged dumping in the form of increased volume of dumped imports, price underselling, price suppression and decline in profitability, return on capital employed and cash flow for the domestic industries. There is sufficient evidence of the 'injury' being suffered by the applicant caused by dumped imports from subject countries to justify initiation of an antidumping investigation.

Period of Investigation

11. The period of investigation (POI) for the purpose of present investigation is 1st July 2008 to 30th June 2009 (12 months). The injury investigation period will however cover the peri-

ods April 2005-March 2006, April 2006-March 2007, April 2007-March 08, April 2008-March 2009 and the POI. For threat of material injury, the data beyond the POI would also be examined.

Submission of information

12. The known exporters in the subject countries and their Governments through their Embassies/Economic and Cultural Centre in India, importers and users in India known to be concerned and the domestic industry are being informed separately to enable them to file all information relevant in the form and manner prescribed. Any other interested party may also make its submissions relevant to the investigation within the time-limit set out below and write to:

The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties, Ministry of Commerce & Industry,
Department of Commerce Room No.243,
Udyog Bhawan,
New Delhi -110107.

Time limit

13. Any information relating to this investigation should be sent in writing so as to reach the Authority at the above address not later than 40 days from the date of publication of this notification. If no information is received within the prescribed time limit or the information received is incomplete, the Authority may record their findings on the basis of the 'facts available' on record in accordance with the AD Rules.

Authorised Operations in SEZs Considered as Automatically Approved

[Instruction No. 50 – No. F.5/1/2010-SEZ dated 15th March 2010]

Sub: Consolidated list of default authorized operations which can be undertaken by the developer/ approved co-developer by default from the date of notification.

50-SEZ-Cir In continuation of this
15.03.2010 Department's communication
No C.8/4/2009-SEZ dated 4th
September, 2009, it has been decided to further expand the list of default authorized operations with the approval of Commerce Secretary. Accordingly a consolidated list of authorized operations is enclosed as Annexure - I. The DC's/UAC's may allow Developer/approved Co-developers duty free goods and services for these default authorized operations from the date of

Submission of Information on Non-Confidential basis

14. All interested parties shall provide a confidential and non-confidential summary in terms of Rule 7 (2) of the AD Rules for the confidential information provided as per Rule 7 (1) of the AD Rules. The non-confidential version or non-confidential summary of the confidential information should be in sufficient detail to provide a meaningful understanding of the information to the other interested parties. If in the opinion of the party providing information, such information is not susceptible to summary; a statement of reason thereof is required to be provided.

Notwithstanding anything contained in para above, if the Authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalised or summary form, it may disregard such information.

Inspection of Public File

15. In terms of rule 6(7) any interested party may inspect the public file containing non-confidential versions of the evidence submitted by other interested parties.

Non-cooperation

16. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Governments as deemed fit.

notification of the SEZ. These authorized operations will, however, continue to be subject to the various guidelines issued by Government from time to time. Approval Committees while approving goods and services for such default operation may look into the actual requirement of the SEZs for such operations.

2. For other authorized activities, not contained in the enclosed list, Developer/co-developer will have to obtain prior approval of Board of Approval through the concerned DC.

Annexure - I

Authorized Activities which can be Undertaken by the Developer/Approved Co-Developer by Default from the Date of Notification

(A) For All Types of SEZs

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Roads with Street lighting, Signals and Signage 2. Water treatment plant, water supply lines (dedicated lines up to source), sewage lines, storm water drains and water channels of appropriate capacity. 3. Solid and liquid waste collection, treatment and disposal plants including pipelines and other necessary infrastructure for sewage and garbage disposal, Sewage | <ol style="list-style-type: none"> 4. Electrical, Gas and Petroleum Natural Gas Distribution Network including necessary sub-stations of appropriate capacity, pipeline network etc. 5. Telecom and other communications facilities including internet connectivity 6. Rain water harvesting plant 7. Fire protection system with sprinklers, fire and smoke detectors |
|---|--|

8. Landscaping and water bodies
9. Boundary wall
10. Office space for Development Commissioner, Customs, Security and State Governments staff.
11. Security offices, police posts, etc, at entry, exit and other points within and along the periphery of the site.
12. Effluent treatment plant and pipelines and other Infrastructure for Effluent treatment
13. Common Data centre with inter-connectivity
14. Play ground
15. Bus bays
16. Wi Fi/Wi Max Services
17. Drip and Micro irrigation systems
18. Parking including Multi-level car parking (automated / manual)
19. Recreational facilities such as Indoor/Outdoor games, gymnasium/Employee's restroom in processing area
20. Employee welfare facilities like Crèche, Medical center and other such Facilities
21. Air conditioning of processing area
22. Construction of all type of Buildings in processing area
23. Power (including power back up facilities) for captive use only
24. Access control and Monitoring system
25. Space for Banks/ATMs
26. Warehouses
27. Cafeteria/ Canteen for staff in processing area
28. Weigh Bridges
29. Library
30. Fuel storage and distribution system

31. Fire station and Police Station buildings and equipments

(B) IT/ITES/EH&SW, Biotechnology/Gems and Jewellery SEZ/Handicrafts/Nonconventional Energy including solar energy equipments [in addition to those listed at (A)]

1. One First-Aid post or 10-bedded Clinic/Poly clinic/Pharmacy/ Medical Center

(C) Sector Specific Special Economic Zones or one or more Services or in a port or airport [in addition to those listed at (A)]

1. First-Aid post or 20-bedded Clinic/Poly clinic/ Pharmacy/ Medical Center, one hospital (up to 50 bed) (in the non-processing area only)
2. One Primary School (in the non-processing area only).

(D) Special Economic Zones for Free Trade and Warehousing [in addition to those listed at (A)]

1. One First-Aid post or 10-bedded Clinic/Poly clinic/Pharmacy/ Medical Center

(E) Multi Product Special Economic Zones [in addition to those listed at (A)]

1. First-Aid post(s) and/or 20-bedded Clinic(s)/ Poly clinic(s)/Pharmacy(s)/ Medical Center(s), one hospital (up to 50 bed) (in the non-processing area only).
2. One Primary School (in the non-processing area only).
3. Power (including power back up facilities) subject to power guidelines.

Note: "For IT/ITES/EHS, Bio-technology, Gems & Jewellery, Handicrafts sector, Non-Conventional Energy including solar energy equipments/ cell and Stand alone FTWZs SEZs of 100 Hectares or more also, the above guidelines for Multi product SEZs shall be applicable ".

Washing of Imported Scrap in SEZ is Ok

[Instruction No. 48 – No. C-6/10/2009-SEZ dated 10th March 2010]

Sub: Employment of washing process in the manufacture of agglomerates etc from imported plastic waste and scrap –reg.

48-SEZ-Cir I am directed to refer to your
10.03.2010 letter No. KASEZ/IA-1690/97
Vol.,I dated 24.11.2009 and

letter No.KASEZ/IA/G-64/98/Vol.I dated 22.02.2010 on the above subject and to say that the views of the Department are as follows.

The imported scrap is tested to meet the eligibility requirements. Hence, washing process has no bearing on the eligibility of scrap and unit can use such processes to remove impurities which may get added to the scrap during its collection and transportation and washing is a permissible activity. However, the washing process must meet the State Pollution Control Board's standards.

Guidelines on Free Trade Warehousing Zones (FTWZ)

[Instruction No. 49 – No. D-12/4/2010-SEZ dated 12th March 2010]

Sub: Clarifications on FTWZ issues.

49-SEZ-Cir A meeting was held under the
12.03.2010 chairmanship of Additional
Secretary (SEZ) to discuss

issues relating to Free Trade Warehousing Zones (FTWZ). Based on the decisions taken in the meeting, the following guidelines are laid down in respect of FTWZ:

i) **No approval for procurement of service "Rental" of immovable property** for office outside the Special Economic Zone/FTWZ can be given.

ii) Regarding **Licencing requirement**, it is clarified that in terms of Rule 27 of SEZ Rules, **a unit in SEZ/FTWZ can import all types of goods except prohibited items.** However, in terms of Rule 26 of SEZ Rules, if any permission is required for import under any other law, the same shall be allowed with the approval of BOA. In respect of prohibited items, Instruction No.47 dated 4th March, 2010 shall apply.

iii) Regarding **permissibility of diesel in the FTWZ**, it is clarified that Rule 27 of SEZ Rules permits a developer to procure all types of goods including consumables for authorized operations. Hence diesel is permitted for authorized operations in the processing area including material handling equipment.

iv) There are **no limitation on Units set up in FTWZs** located in Sector Specific SEZs to carry out Trading and Warehousing Activities in respect of any product.

v) Trading and Warehousing units located within FTWZ can carry out **DTA to FTWZ and FTWZ to DTA transactions.**

vi) Requests for **allowing cutting, polishing, blending** etc. as part of authorised operation of a FTWZ unit can be considered by the Approval Committee on a case to case basis based on the merits of the case.

SEZ Units can Export and Import Prohibited or Restricted Goods Prior Approval of BOA Must

[Instruction No. 47 – No. C-4/1/2010-SEZ dated 4th March 2010]

Subject: Procurement, Import and Export of Prohibited and Restricted Goods.

47-SEZ-Cir As per present Foreign Trade
04.03.2010 Policy, SEZ units cannot
export "prohibited items of

exports". However, they do not require any permission to export "restricted items of export". To appreciate perspective and the background of this Policy, interactions with the O/o DGFT revealed that prohibitions on exports is imposed keeping the National requirements in view. Therefore, SEZ units should not be permitted to procure these items from domestic area and export the same.

References have been received from units to permit them to import raw materials to make such finished products whose export, at present, is prohibited. Since inputs were not procured from Domestic Area, their suggestion was that the policy on prohibition of exports should not apply to them. In terms of the provisions of the Foreign Trade Policy, an item whose import is restricted can be imported under Customs Bond for export, export of imported logs/timber is not prohibited. Hence, these exceptions in the Foreign Trade Policy are, at par, with the sugges-

tion of the units.

Keeping the above in view, it has been decided that SEZ units should be permitted:

(i) to export prohibited items, provided they import raw-material for the same. However, each such case will be placed before BOA for approval so that views of DGFT, DoR and others can be considered before taking a decision.

(ii) In respect of items which are prohibited for import, SEZ units will be permitted to import the same provided they export goods made out of the same. As in the case of exports, each such case will be placed before BOA for consideration and approval.

(iii) In respect of supply of Restricted Items by a DTA unit to SEZ Developer/Unit, the DTA unit can supply such items to a SEZ Developer or unit for setting up infrastructure facility or for setting up of a unit. It can also supply raw material to SEZ unit for undertaking a manufacturing operation except refrigeration, cutting, polishing and blending. However, it will require prior approval of BOA.

Free Trade on China Border Now Allowed only to Trade Pass Holders

Subject: Indo – China Border Trade.

48-PN(RE) In exercise of powers
05.03.2010 conferred under paragraph 2.4
(DGFT) of the Foreign Trade Policy,
2009-14, the Director General
of Foreign Trade hereby makes the following
amendments in the Public Notice No. 20(RE-
2006)/2004-2009 dated 13th June, 2006.

1. The existing part of paragraph 1 i.e. "In terms of the provisions contained in the Foreign Trade Policy, import/export of the following locally produced commodities by the people living along both sides of Indo – China Border as per the

prevailing customary practice will be allowed freely" is amended to read as "In terms of the provision contained in the Foreign Trade Policy, Import/Export of the following commodities by residents of border districts who are issued trade passes, as per the prevailing customary practice will be allowed freely".

2. The list of items stipulated for import/export and Paragraphs 2 & 3 of the Public Notice No. 20(RE-2006)/2004-2009 dated 13th June, 2006 remain unaltered.

3. This issues in public interest.

Dish Ends of Alloy Steel SION Amended

Subject:- Amendment/modification in SION S. No. C-1808.

43-PN(RE) In exercise of the powers
22.02.2010 conferred under Paragraph 2.4
(DGFT) of the Foreign Trade Policy,
2004-09 and Paragraph 1.1 of
the Handbook of Procedures (Vol.1), the Direc-
tor General of Foreign Trade hereby makes the
following amendments/corrections in the Hand-
book of Procedures, (Vol.2), 2009-2014, as
amended from time to time.

2. In the statement of Standard Input Output Norms (SION) as contained in the Handbook of Procedures (Vol.2), 2009-2014, as amended from time to time, amendments/corrections/ modification at appropriate places as mentioned in ANNEXURE "A" to this Public Notice are made.

This issues in the public interest.

Annexure "A" To The Public Notice No. 43 (RE-2010)/2009-2014 dated: 22.2.2010

Engineering Products
Amendments/Corrections/Modification

SION at Sl. No. C-1808

SION	Export item	Quantity	Import item	Quantity
C-1808	Dish Ends (Ellipsoidal or Circular Shape) made of Non-Alloy/Alloy/ Stainless Steel	1 Kg.	1. Non- Alloy/Alloy/ Stainless Steel Plates/ Coils of relevant grade	1.1 Kg./kg. content of the Steel in the export product

Multi Product Exporters Can Obtain RCMC from FIEO

Subject: Amendment of Para 2.63 (iii) of HBP Vol.I regarding RCMC

44-PN(RE) In exercise of power conferred
22.02.2010 under Paragraph 2.4 of the
(DGFT) Foreign Trade Policy 2009-
2014, the Director General of
Foreign Trade hereby makes the following
amendment in 2.63 (iii) of the Handbook of
Procedure (Vol .I) relating to Registering Au-
thorities issuing RCMC.

Para 2.63 (iii) In case an export product is

not covered by any Export Promotion Council/ Commodity Board, etc. RCMC in respect thereof is to be obtained from FIEO. Further, in case of multi product exporters, not registered with any EPC, where main line of business is not discernible, the exporter has an option to obtain RCMC from Federation of Indian Exporters Organization (FIEO).

This issues in public interest.

Memorandum of Procedure for Channeling Transactions through Asian Clearing Union (ACU)

1. Introduction
2. Handling of ACU Transactions
3. Eligible Instruments of Payment
4. ACU Dollar Accounts and ACU Euro Accounts
5. Mechanism for settlement through the Union
6. Applicability of Foreign Exchange Regulations
7. Eligible Payments
8. Ineligible Payments
9. Rate of Exchange for U.S. Dollar and Euro
10. Hours of business
11. Minimum and Multiple amounts for transactions with Reserve Bank
12. Procedure for business with Reserve Bank
13. Transactions between AD Category-I banks and Reserve Bank for Account of Correspondent Banks

Chapter I – General Provisions

Chapter II – Operations

Chapter III – Organization and Administration

Chapter IV – Miscellaneous Provisions

Chapter V – Final Provisions

AP(DIR Srs) Attention of Authorised Dealer
Cir.35 Category-I (AD Category – I)
17.02.2010 banks is invited to the
(RBI) Memorandum containing
detailed procedural

instructions for channeling transactions through Asian Clearing Union (ACU) (Memorandum ACM) issued in April, 2003 and other relevant instructions issued from time to time.

2. In view of the changes effected in the settle- ment system in ACU mechanism, as decided in the 37th ACU Board Meeting held in June, 2008, the Memorandum ACM containing Memorandum of Procedure for channeling transactions through Asian Clearing Union (ACU) has been updated. The revised Memorandum ACM is annexed.

3. AD Category-I banks may bring the con- tents of this circular to the notice of their con- stituents 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 is without prejudice to permissions/ approvals, if any, required un- der any other law.

[Full Text of Revised Memorandum of ACM is available at www.worldtradesScanner.com]

Export Credit of USD 15mn to Benin

Sub: Exim Bank's Line of Credit of USD 15 million to the Government of the Republic of Benin

AP(DIR Srs) Export-Import Bank of India
Cir.41 (Exim Bank) has concluded an
05.03.2010 Agreement dated October 19,
(RBI) 2009 with the Government of
the Republic of Benin making

available to the latter, a Line of Credit (LOC) of USD 15 million (USD Fifteen million) for financ- ing eligible goods, machinery, equipment and services including consultancy services from India for the purpose of (a) purchase of railway equipment, (b) purchase of agricultural equip- ment and (c) conducting feasibility study for setting up a cyber city in Benin. The goods and services including consultancy services from India for exports under this Agreement are those which are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this Agree- ment. Out of the total credit by Exim Bank under this Agreement, the goods and services of the value of at least 85 per cent of the contract price shall be supplied by the seller from India, and the remaining 15 per cent goods and services (other than consultancy services) may be pro- cured by the seller for the purpose of Eligible

Contract from outside India.

2. The Credit Agreement under the LOC is effective from February 16, 2010 and date of execution of Agreement is October 19, 2009. Under the LOC, the last date for opening of Letters of Credit and Disbursement will be 48 months from the scheduled completion date(s) of contract(s) in case of project exports and months (October 18, 2015) from the execution date of the Credit Agreement in case of supply contracts .

3. Shipments under the LOC will have to be declared on GR / SDF Forms as per instructions issued by Reserve Bank from time to time.

4. No agency commission is payable under the above LOC. However, if required, the exporter may use his own resources or utilize balances of his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer Category- I (AD Category-I) banks may allow such remittance after realization of full payment of contract value subject to compliance with the prevailing instructions for payment of agency commission.

5. AD Category-I banks may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's office at Centre One, Floor 21, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 or log on to www.eximbankindia.in.

6. 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.

Export Credit of USD 25mn to Congo

Sub: Exim Bank's Line of Credit of USD 25 million to the Government of the Democratic Republic of Congo

AP(DIR Srs) Export-Import Bank of India (Exim Bank) has concluded Cir.37 an Agreement dated August 27, 2009 with the 25.02.2010 Government of the Democratic Republic of Congo (RBI) making available to the latter, a Line of Credit (LOC) of USD 25 million (USD twenty five million) for financing

eligible goods, machinery, equipment and services including consultancy services from India for the purpose of installation of hand pumps and submersible pumps in the Democratic Republic of Congo. The goods and services including consultancy services from India for exports under this Agreement are those which are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this Agreement. Out of the total credit by Exim Bank under this Agreement, the goods and services of the value of at least 85 per cent of the contract price shall be supplied by the seller from India, and the remaining 15 per cent goods and services (other than consultancy services) may be procured by the seller for the purpose of Eligible Contract from outside India.

2. The Credit Agreement under the LOC is effective from January 20, 2010 and date of execution of the Agreement is August 27, 2009. Under the LOC, the last date for opening of Letters of Credit and Disbursement will be 48 months from the scheduled completion date(s) of contract(s) in

Customs Valuation Exchange Rates

March 2010	Imports	Exports	
Schedule I			
1 Australian Dollar	42.20	40.90	
2 Canadian Dollar	44.95	43.65	
3 Danish Kroner	8.60	8.30	
4 EURO	63.75	62.05	
5 Hong Kong Dollar	6.00	5.90	
6 Norwegian Kroner	7.95	7.70	
7 Pound Sterling	72.65	70.75	
8 Swedish Kroner	6.55	6.35	
9 Swiss Franc	43.60	42.35	
10 Singapore Dollar	33.25	32.35	
11 U.S. Dollar	46.65	45.70	
Schedule II			
1 Japanese Yen	51.45	50.00	

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

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

(Source: Customs Notification 17(NT)/24.02.2010)

Commodity Spot Prices in India – 12-15 March 2010

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

Commodity Spot Prices covers price movements of 55 commodities (agricultural products and metals) provided on Multi Commodity Exchange of India on a daily basis. This Commodity Spot Prices Table focuses on price movements from 12-15 March.

(Rs.)					
Commodity	Unit	Market	12-Mar	13-Mar	15-Mar
CER (Carbon Trading)	1 MT	Mumbai	715	703.5	703.5
Chana	100 KGS	Delhi	2171	2192	2183
Masur	100 KGS	Indore	3616	3648	3636
Potato	100 KGS	Agra	634.6	627.2	603.8
Potato TKR	100 KGS	Tarkeshwar	NA	NA	NA
Arecanut	100 KGS	Mangalore	7486	7444	7555
Cashewkern	1 KGS	Quilon	281	279	281
Cardamom	1 KGS	Vandanmedu	1106.7	1111.3	1110.8
Coffee ROB	100 KGS	Kushalnagar	56.7	55.8	55.9
Jeera	100 KGS	Unjha	11647	11683	11613
Pepper	100 KGS	Kochi	13110	13129	13025
Red Chili	100 KGS	Guntur	5062	5062	4961
Turmeric	100 KGS	Nzmbad	9575	9575	9575
Guar Gum	100 KGS	Jodhpur	4725	4700	4575
Maize	100 KGS	Nzmbad	850	850.5	850.5
Wheat	100 KGS	Delhi	1244.2	1248.1	1247.1
Mentha Oil	1 KGS	Chandausi	658.7	658.8	654.1
Cotton Seed	100 KGS	Akola	1187	1178	1204
Castorsd RJK	100 KGS	Rajkot	2869	2865	2872
Guar Seed	100 KGS	Jodhpur	2240	2256	2230
Soya Bean	100 KGS	Indore	2032	2001	1992.5
Mustrdsd JPR	20 KGS	Jaipur	486.75	484.85	486
Sesame Seed	100 KGS	Rajkot	5675	5675	5705
Coconut Oil Cake	100 KGS	Kochi	1170	1170	1144
RCBR Oil Cake	1 MT	Raipur	5839	5832	5880
Kapaskhali	50 KGS	Akola	1022.3	1014.6	1020.1
Coconut Oil	100 KGS	Kochi	5191	5127	5190
Refsoy Oil	10 KGS	Indore	454.35	451.45	451.25
CPO	10 KGS	Kandla	370.5	369.6	367.5
Mustard Oil	10 KGS	Jaipur	466.3	462.2	463.8
Gnutoilexp	10 KGS	Rajkot	681.2	678	681.7
Castor Oil	10 KGS	Kandla	620	620	620
Crude Oil	1 BBL	Mumbai	3734	3692	3638
Furnace Oil	1000 KGS	Mumbai	29969	29969	30046
Sourcrd Oil	1 BBL	Mumbai	3579.5	3579.5	3511.5
Brent Crude	1 BBL	Mumbai	3636	3635	3635
Gur	40 KGS	Muzngr	973.6	975.4	977.3
Sugars	100 KGS	Kolhapur	2975	2914	3132
Sugarm	100 KGS	Delhi	3372	3326	3312
Natural Gas	1 mmBtu	Hazirabad	201.9	200	200
Rubber	100 KGS	Kochi	14725	14894	14912
Cotton Long	1 Candy	Kadi	27870	27870	27740
Cotton Med	1 Maund	Abohar	2672.5	2667.5	2702
Jute	100 KGS	Kolkata	3157	3149.5	3167
Gold	10 GRMS	Ahmd	16590	16437	16490
Gold Guinea	8 GRMS	Ahmd	13272	13150	13192
Silver	1 KGS	Ahmd	26850	26616	26635
Sponge Iron	1 MT	Raipur	18100	18485	18595
Steel Flat	1000 KGS	Mumbai	33510	33510	34220
Steel Long	1 MT	Bhavnagar	28750	28790	28940
Copper	1 KGS	Mumbai	338.5	338.7	338.7
Nickel	1 KGS	Mumbai	968.4	990.2	970.6
Aluminium	1 KGS	Mumbai	100.3	100.7	100.6
Lead	1 KGS	Mumbai	101.65	102.3	99.6
Zinc	1 KGS	Mumbai	105.45	105.9	102.75
Tin	1 KGS	Mumbai	789.5	796.5	797.5

(Source: MCX Spot Prices)

case of project exports and 72 months (August 26, 2015) from the execution date of the Credit Agreement in case of supply contracts .

3. Shipments under the LOC will have to be declared on GR / SDF Forms as per instructions issued by Reserve Bank from time to time.

4. No agency commission is payable under the above LOC. However, if required, the exporter may use his own resources or utilize balances of his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer Category- I (AD Category-I) banks may allow such remittance after realization of full payment of contract value subject to compliance with the

prevailing instructions for payment of agency commission.

5. AD Category-I banks may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's office at Centre One, Floor 21, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 or log on to www.eximbankindia.in.

6. 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.

Free Trade Agreement.

While health warnings on cigarette packages are commonplace today, Philip Morris charges that Uruguay's measures are 'extreme' and 'unprecedented', going beyond what is necessary to reduce the harm caused by smoking. The rules have required it to withdraw several brands of its Marlboro cigarettes, leading to a "very substantial loss of market share".

The rules "won't stop people from smoking; it just makes people switch brands," said the Philip Morris spokesperson.

In response, three subsidiaries of the Swiss-headquartered company filed for arbitration on 19 February with the World Bank's International Centre for the Settlement of Investment Disputes, claiming violations of the Switzerland-Uruguay bilateral investment treaty.

Bilateral investment treaties provide a range of guarantees to foreign investors, typically including protection against expropriation and guarantees that investors will be treated fairly and not discriminated against vis-à-vis domestic investors. The definition given to 'investment' also tends to be broad, encompassing intangible rights like trademarks.

A TRIP to the WTO?

Philip Morris has long contested that so-called 'plain-packaging legislation' - regulations that prohibit branding on cigarette packages - run afoul of international trade and investment rules.

Last year Philip Morris commissioned an opinion from the law firm Lalive, which concluded that requiring cigarettes to be sold in generic packages would breach several obligations under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The law firm points out that TRIPS prevents governments from discriminating against trademarks based on the nature of a particular good or service.

Why investment arbitration?

Philip Morris's decision to challenge Uruguay under an international investment agreement highlights the different methods for settling investment and trade disputes. A WTO dispute would need to be taken up by a member government, while the Switzerland-Uruguay bilateral investment treaty, like many international investment agreements, permits the foreign investor to arbitrate directly with the host government.

In effect, the investor-to-state dispute mechanism extinguishes the political considerations inherent in the WTO's government-to-government procedure.

Indeed, a WTO challenge by Switzerland, home of Philip Morris International, seems highly unlikely given that the Swiss also introduced health warnings on cigarette packages in 2010. In Switzerland, 56 percent of the package must be covered by health warnings, and labels such as 'light' and 'mild' are prohibited.

Marlboro in Spate with Uruguay on Health Warning Coverage on Cigarette Pack – Says Investor Law Violated

Measures taken by Uruguay to deter smokers have drawn a legal challenge by one of the world's largest tobacco companies under a treaty designed to protect foreign investors.

Philip Morris, the maker of Marlboro cigarettes, objects to three recent regulations enacted by Uruguay that restrict the branding that can be featured on cigarette packages. Under Uruguayan law, health warnings must cover 80 percent of each cigarette package. The company argues that this restriction prevents it from effectively displaying its trademarks.

Tobacco companies have complained in the past that cigarette-labelling measures violate international law. In 2001, for instance, Philip Morris argued that Canada's proposal to prohibit the descriptors 'light' and 'mild' were in breach of certain investment provisions in the North American

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