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G-20 on Market Volatility in Food and Energy

[Ref: Para 61-62 from G20 Leaders Declaration, Convened in Los Cabos on 18-19 June 2012]

61. We recognize the importance to the global economic recovery of maintaining stability in international commodity markets. We stress the importance of well-functioning and transparent physical and financial commodities' markets and reduced excessive price volatility to achieve food security and strong growth that is both sustainable and inclusive. We recognize that excessive commodity price volatility has significant implications for all countries, increasing uncertainty for actors in the economy and potentially hampering stability of the budgets, and predictability of economic planning. We recognize that mitigating the negative effects of commodity price volatility on the most vulnerable is an important component of reducing poverty and boosting economic growth. We therefore endorse the conclusions of the G20 report on the macroeconomic impacts of excessive commodity price volatility on growth and its identification of policy options that countries could consider, taking account of national circumstances to mitigate any such effect. We also acknowledge and appreciate the participation and valuable inputs of the IMF, World Bank and UNCTAD. We ask our Finance Ministers to report in 2013 on progress on the G20's contribution to facilitate better functioning of these physical markets, taking note of possible areas of further work outlined in the report. We reaffirm our commitment to enhance trans-



parency and avoid abuse in financial commodity markets, including OTC, with effective intervention powers for market regulators and authorities and an appropriate regulation and supervisory framework. In this regard we look forward to IOSCO's report on the implementation of its recommendations on commodity derivatives markets by November 2012.

62. We recognize that excessive price volatility in energy commodities is also an important source of economic instability. We remain committed to well-functioning and transparent energy markets. We will continue to work to improve the

timeliness, completeness and reliability of JODI-Oil and look forward to a progress report next year. We will work on the JODI-Gas database on the same principles. We expect the International Energy Forum (IEF) report on improving the reliability of the JODI-Oil database and the report on transparency in international gas and coal markets submitted by the International Energy Agency (IEA), IEF, and Organization of the Petroleum Exporting Countries (OPEC) to be discussed by our Finance Ministers in November. We also look forward to IOSCO's recommendations to improve the functioning and oversight of Price Reporting Agencies in November 2012, which will be produced in collaboration with other mandated organizations (IEF, IEA and OPEC), and task Finance Ministers to take concrete measures in this area as necessary.

India on Call for \$10bn in \$460bn Fund for Europe Bail Out

PM Singh Cautious on G20 Eurozone Crisis

Speaking to the G-20 leaders at the G20 Mexico Summit on 19-20 June, PM Manmohan Singh said that making changes in treaties involving 17 Parliaments in the case of the Eurozone, and 27 in the case of the E.U., is a time consuming process. More specific indications after the European Summit on 28th or 29th June reforms in both product and labour markets to enhance competitiveness will be required.

The G-20 countries have responded to the need to enhance the resources of the IMF to enable it to play its role in the current situation. India has contributed \$ 10 billion. BRICS and other countries have also contributed, taking the total commitments, including what was earlier agreed in

April, to almost \$ 460 billion.

The amount is entirely liquid and will be available whenever needed. It will be part of India's reserves.

The Summit also reiterated the standstill on new protectionist measures and extended it beyond the earlier commitment up to 2013 to 2014.

The Declaration indicates that Multilateral Development Banks should be strengthened for this purpose.

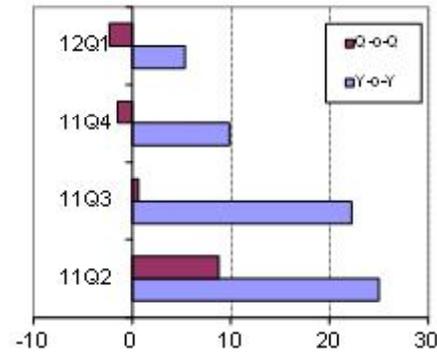
The Summit also discussed a number of other important issues including especially the progress in regulatory reform, issue of food security and agricultural productivity, anti-corruption measures and issues related to green growth.

World Trade Picks Up by 5 percent in Q1

The value of world merchandise trade was 5% higher in the first quarter of 2012 compared to the same period of 2011, according to WTO figures released on 8 June 2012. This modest performance follows a slowdown in trade during the second half of 2011.

Chart 1: Recent quarterly developments in the value of world merchandise exports

Percentage change



These short-term indicators are in nominal value and should not be confused with the annual trade growth forecasts headlined in the 12 April 2012 press release, which are "volume" data that do not take price fluctuations into

account.

Moreover, these values are not seasonally adjusted. Seasonal patterns may considerably affect the comparison of quarter on quarter (Q-o-Q) and month on month (M-o-M) developments in world trade.

Table 1: World merchandise trade by region and selected economies, January-March 2012

Percentage change in current US dollars, year-on-year and quarter-on-quarter

Exports		Imports	
Y-o-Y	Q-o-Q	Y-o-Y	Q-o-Q
5	-2	5	-2
8	-1	8	-2
9	-1	8	-2
6	-1	6	0
11	-4	11	-8
8	-17	9	-11
1	-1	-1	1
0	-1	-1	1
-2	0	-2	0
6	-3	2	3
19	-6	12	-18
18	-8	13	-19

15	6	Africa and the Middle East	10	-3
4	-6	Asia (a)	9	-2
8	-15	China	7	-6
2	14	India	22	2
2	-4	Japan	14	-1
2	-1	Six East Asian traders (c)	6	2

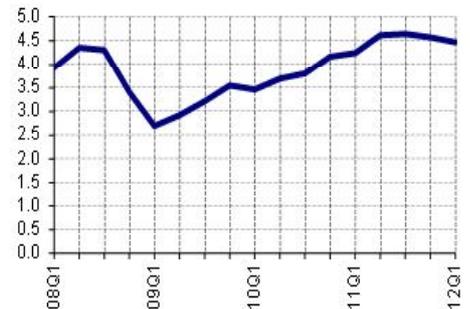
a Includes significant re-exports or imports for re-exports.

b "Intra EU" is trade within the EU; "extra EU" is trade between the EU and non-EU economies

c Hong Kong, China (excluding re-export trade), Republic of Korea, Malaysia, Singapore, Chinese Taipei, and Thailand

Chart 2: Value of world merchandise exports, first quarter 2008 to first quarter 2012

Trillion dollars



Gold May Rebound on Fed Economy Stimulus

Gold may rebound, after dropping for the first time in eight sessions, on speculation that the U.S. Federal Reserve may take steps to boost the economy amid signs of faltering growth, increasing demand for a haven.

Spot gold was little changed at \$1,620.55 an ounce in Singapore. Holdings in the SPDR Gold Trust, the biggest exchange-traded product backed by bullion, were unchanged at a one-month high of 1,281.62 metric tons on 19 June, the company's website showed.

Gold prices almost doubled after the Fed bought \$2.3 trillion of debt in two rounds of quantitative easing from December 2008 to June 2011. The central bank will review new economic forecasts as it concludes a two-day meeting on 20 June, and may announce further



measures to spur growth after recent data in the housing and labor markets missed projections.

Central Banks

Central banks, the largest holders of gold, may buy more this year than the purchases of 456 tons in 2011 as countries diversify their reserves, according to the World Gold Council. Central banks are expanding reserves for a third straight year as prices head for a 12th consecutive annual gain.

Spot silver was unchanged at \$28.4475 an ounce after gaining as much as 0.5 percent. Cash platinum rose as much as 0.5 percent to \$1,489 an ounce and was last at \$1,486.50. Palladium was little changed at \$629 an ounce.

US Exempts India, Six others from Iran Sanctions

The US on Tuesday said it would exempt India and six other countries from financial sanctions because they have significantly cut purchases of Iranian oil.

Clinton said exemptions would also be granted to South Korea, Turkey, Malaysia, South Africa, Sri Lanka and Taiwan, which join Japan and a number of European countries already on the list of those exempted from Iran sanctions act that kicks into force later this month.

Clinton issued the statement in this regard hours before External Affairs Minister S M

Krishna was to arrive in Washington to co-chair the third India-US Strategic Dialogue along with his American counterpart.

In her statement, Clinton said as a result of her determination, she will report to the Congress that relevant sanctions will not apply to financial institutions of these countries.

The US remains committed to a dual-track policy that offers Iran the chance to engage seriously with the international community to resolve our concerns over its nuclear programme through negotiations with the P5+1, she said.

G-20 Pledges Money for Eurozone

World leaders told Europe to pull together to overcome its debt crisis, endorsing a road map for tighter integration to cut borrowing costs and prevent further damage to the global economy.

With Spain readying a request within days for as much as 100 billion euros (\$127 billion) for its struggling banks, euro-area leaders at a Group of 20 summit in Mexico pledged to take "all necessary policy measures" to defend the currency union. The U.S. committed to cut spending while avoiding a "sharp fiscal contraction" in 2013.

G-20 leaders arrived for their second consecutive summit dominated by Greece, as the country at the source of the debt crisis voted in elections that threatened to trigger the euro's first exit. Within hours of victory for pro-bailout parties, investor focus shifted to Spain as borrowing costs breached the 7 percent level that forced sovereign bailouts for Greece, Ireland and Portugal.

Spanish Banks

Spanish Prime Minister Mariano Rajoy, attending his first G-20, was prodded to spell out the scope of Spain's bank bailout as the deepening debt crisis in Europe exposed tensions among the world's biggest economies. China led a group of developing nations that pledged more money for the International Monetary Fund to stem the turmoil while chastising the euro area's guardians for damaging market confidence.

The euro rose on 19 June to near a one-month high against the dollar, while Spanish 10-year bond yields edged below 7 percent after reaching a euro-era record of 7.29 percent on June 18.

WEEKLY INDEX OF CHANGES

Provisional Anti-dumping Duty Imposed on Digital Offset Printing Plates from China and Japan

Ntnf 31-ADD Whereas in the matter of 04.06.2012 import of Digital Offset Printing (DoR) Plates (herein after referred to as the subject goods), originating in or exported from Peoples' Republic of China (China PR) and Japan (hereinafter referred to as the subject countries) and imported into India, the designated authority, vide its preliminary findings F.No. 14/7/2011-DGAD, dated the 16th March, 2012, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 16th March, 2012, had come to the conclusion that -

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

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

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

and had recommended imposition of provisional anti-dumping duty on the imports of subject goods, originating in or exported from the subject countries.

Now, therefore, in exercise of the powers conferred by sub-section (2), of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (here-

inafter referred to as the said Customs Tariff Act), read with rules 13 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, on the basis of the aforesaid preliminary findings of the designated authority, hereby imposes on the subject goods with specification as provided in column (8) of the Table below, the description of which is specified in column (3), falling under sub-heading of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), and produced by the producers 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 exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty which shall be equivalent to the difference between the amount specified in the corresponding entry in column (9), in the currency as specified in the corresponding entry in column (10) and per unit of measurement as specified in the corresponding entry in column (11), of the said Table, and the landed value of such imported goods in like currency per like unit of measurement.

Table

SNo	Sub heading or Tariff Item	Description of goods	Country of origin	Country of export	Producer	Exporter	Specification	Amount	Currency	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	8442.502, 3701.3000, 3704.0090, 3705.1000, 7606.9190, 7606.9290	Digital Offset Printing Plates*	Japan	Japan	Fujifilm Corporation, Japan	Fujifilm Corporation, Japan	Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
2	-do-	-do-	Japan	Japan	Any combination other than serial no 1		Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
3	-do-	-do-	Japan	Any other than subject countries	Any	Any	Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
4	-do-	-do-	Any other than subject countries	Japan	Any	Any	Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
5	-do-	-do-	China PR	China PR	FujiFilm Printing Plate Co. Ltd. China (FFPB)	FujiFilm Printing Plate Co. Ltd. China(FFPB)	Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
6	-do-	-do-	China PR	China PR	Any combination other than serial no 5		Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
7	-do-	-do-	China PR	China PR	Fuji Film (China) Corporation Ltd. (F FPS)	FujiFilm (China) Corporation Ltd. (F FPS)	Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
8	-do-	-do-	China PR	China PR	Any combination other than serial no 7		Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm
9	-do-	-do-	China PR	China PR	M/s Kodak (china) graphi cs comm unicati on system Ltd.	Kodak Singap ore PTe. Ltd..	Violet Thermal CtCP**	6.60 5.84 5.26	US\$ US\$ US\$	Sqm Sqm Sqm

Corrigendum dated 15 June 2012 to 31-ADD dated 4 June 2012

[Corrigendum dated 15th June 2012]

In the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 31/2012-Customs (ADD), dated the 4th June, 2012 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 416 (E), dated the 4th June, 2012,-

(i) for

"an anti-dumping duty at the rate equal to the amount indicated in the corresponding entry in column (9), in the currency as specified in the corresponding entry in column (10) and per unit of measurement as specified in the corresponding entry in column (11), of the said Table."

read

"an anti-dumping duty which shall be equivalent to the difference between the amount specified in the corresponding entry in column (9), in the currency as specified in the corresponding entry in column (10) and per unit of measurement as specified in the corresponding entry in column (11), of the said Table, and the landed value of such imported goods in like currency per like unit of measurement.";

(ii) for "76069191" in column (2) of the Table, read "76069190".

[F.No.354/45/2012-TRU]

10	-do-	-do-	China PR	China PR	Any other combination of producer and exporter at 9 above		Violet	6.60	US\$	Sqm
							Thermal	5.84	US\$	Sqm
							CtCP**	5.26	US\$	Sqm
11	-do-	-do-	China PR	China PR	Lucky Huang uang Graphics Co. Ltd.	Lucky Huang uang Graphics Co. Ltd.	Violet	6.60	US\$	Sqm
							Thermal	5.84	US\$	Sqm
							CtCP**	5.26	US\$	Sqm
12	-do-	-do-	China PR	China PR	Any combination other than serial no 11		Violet	6.60	US\$	Sqm
							Thermal	5.84	US\$	Sqm
							CtCP**	5.26	US\$	Sqm
13	-do-	-do-	China PR	China PR	Any combination other than all above		Violet	6.60	US\$	Sqm
							Thermal	5.84	US\$	Sqm
							CtCP**	5.26	US\$	Sqm
14	-do-	-do-	China PR	Any other than subject countries	Any	Any	Violet	6.60	US\$	Sqm
							Thermal	5.84	US\$	Sqm
							CtCP**	5.26	US\$	Sqm
15	-do-	-do-	Any other than subject countries	China PR	Any	Any	Violet	6.60	US\$	Sqm
							Thermal	5.84	US\$	Sqm
							CtCP**	5.26	US\$	Sqm

*Conversion factor From Kg to Sq mtr is 1 Kg=1.318 sq mts, for 28 mm thickness plate. If the thickness of the plate varies, the square meter for kg of the product will vary proportionately. 1 Sq mtr=0.7588 kg.

** Computer to Conventional Plate also known as UV-CTP plate.

2. The anti-dumping duty imposed under this notification shall be effective for a period not exceeding six months from the publication of this notification in the Official Gazette and shall be payable in Indian Rupees.

Explanation.- For the purposes of this notification,-

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

[F.No.354/45/2012 -TRU]

Rail cum Road Vehicles are Road Vehicles Classifiable in Chapter 87

Subject: Classification of Rail Cum Road Vehicle

14-CBEC Board has received 11.06.2012 representations regarding (DoR) divergent practice followed in the classification of rail cum road vehicles. Reportedly, field formations are classifying such vehicles both in chapter 86 which covers, "Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds", and in chapter 87 which covers, "Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof."

2. The correct classification of Road-Rail-Vehicle or Rail Cum Road Vehicle was examined in the Board. The General Rules of Interpretation (GRI), Rule 1 inter alia states that, "...for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter

Notes...". Note 4 (a) to Section XVII states that, "For the purposes of this Section, vehicles specially constructed to travel on both road and rail are classified under the appropriate heading of Chapter 87...". On the basis of the said legal section Notes to Section XVII, the "dual mode vehicle capable of being used as "rail cum road vehicle" - specially constructed to travel on both road and rail should fall under an appropriate heading in Chapter 87. As such, Board is of the considered view that the correct classification in the harmonised Customs Tariff in case of Rail cum Road Vehicles should be in the appropriate heading in Chapter 87 by application of GRIs 1 (Note 4 (a) to Section XVII).

3. All pending provisional assessment cases of Rail Cum Road Vehicle imports may be finalised on the basis of above instructions. Difficulties, if any, in implementation, may be brought to the notice of the Board.

F. No. 528/23/2012-STO (TU)

Enactment of Finance Act 2012 Changes on Service Tax – Effective from 1 June 2012

18-ST In exercise of the powers conferred by clauses (A), 01.06.2012 (B), (D) and (E) of section 143 of the Finance Act, (DoR) 2012 (23 of 2012), the Central Government hereby appoints the 1st day of June, 2012 as the date from which the provisions of clauses (A), (B), (D) and (E) of the said section of the said Act shall come into force.

[F. No. 334 /1 /2012-TRU]

Readymade Garments, Carpets, Shoes and Local Herbal Medicines Allowed at Zero Duty in Border Trade with China at Gunji

Ntfn 41 In exercise of the powers 14.06.2012 conferred by sub-section (1) (DoR) 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. 38/96-Customs, dated the 23rd July, 1996**, G.S.R. 290(E), dated the 23rd July, 1996, namely:-

In the said notification, against **S.No.1, in column (2), in item (g)**, for the words "szaibelyite and goat cashmere", the words "szaibelyite, goat cashmere, Readymade Garments, Shoes, Quilt/Blankets, Carpets and Local Herbal Medicines" shall be **substituted**.

[F.No.354/57/2007 -TRU (Pt-I)]

Zero Duty Concession to Goods Imported for the Manufacture of Man-made Made Ups Allowed

Ntfn 39 In exercise of the powers 12.06.2012 conferred by sub-section (1) (DoR) 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 further following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012-Customs, dated the 17th March, 2012 which was published in the Gazette of India, Extraordinary, vide G.S.R. 185(E) dated the 17th March, 2012, namely: -

In the said notification, in the Annexure, in Condition No. 28, for the words "polyester made ups", wherever they occur, the words "man-made made ups" shall be substituted.

[F. No. 354/90/2012-TRU]

DGFT Focuses on SMP Exports – Free Exports and Grants 5% VKGUY

Subject: Amendment in policy for export of Skimmed Milk Powders.

02-Ntnf(RE) In exercise of powers
08.06.2012 conferred by Section 5 of the
(DGFT) Foreign Trade (Development &
Regulation) Act, 1992 (No. 22
of 1992) read with Para 2.1 of the Foreign Trade
Policy, 2009-2014, the Central Government,
with immediate effect, makes a partial amend-
ment in entry number 38 in Chapter 4 of Sched-

ule 2 of ITC(HS) Classification of Export &
Import Items. Export of Skimmed Milk Powder
(HS Code 04021010) which was prohibited as
per Notification No. 23 (RE-2010)/2009-2014
dated 18.02.2011, is now made free. Conse-
quently entry number 38 would be bifurcated
into entry number 38 (revised) and entry num-
ber 38.01 (new entry) and would be as under:

SNo.	Tariff Item HS Code	Item Description	Export Policy	Nature of Restriction
38	0402	Milk and Cream, concentrated or containing added sugar or other sweetening matter including Whole Milk Powder, Dairy Whitener and Infant Milk Foods; but not Skimmed Milk Powder	Prohibited	Not permitted to be exported.
38.01	04021010	Skimmed Milk Powder	Free	

2. Effect of this notification

Entry Number 38 in the ITC(HS) Classifications of Export & Import Items has been bifurcated and an entry number 38.01(new entry) "Skimmed Milk Powder" is introduced. Export of new entry namely Skimmed Milk Powder has been made free.

Subject: Amendments in the Vishesh Krishi and Gram Udyog Yojana (VKGUY) of Chapter 3 of Foreign Trade Policy 2009-14 - Appendix 37A of Handbook of Procedure (Vol. I).

04-PN(RE) In exercise of powers
08.06.2012 conferred under paragraph 2.4
(DGFT) of the Foreign Trade Policy
2009-2014, the Director
General of Foreign Trade hereby makes the
following amendments in the Handbook of Pro-

cedures (Vol. I) (Appendices and Aayat Niryat
Forms) 2009-2014:
2. In Appendix 37A of Vishesh Krishi and
Gram Udyog Yojana (VKGUY), the following
product is added in Table 2 for export made with
immediate effect:

SNo./Table	VKGUY Product Code	ITC HS Code	Items	Admissible Rate
796	796	04021010	Skimmed Milk Powder	5%

CBEC Asks Field Formation to Defy Delhi High Court Order to Clear LG Mobile Consignments

Goods can be *Suo Moto* Interdicted on Registered Patent Infringement, court has No Role in Matter

[Ref: CBEC Instruction F. No. 26000/1/2012-OSD(ICD) Dated 27th March, 2012]

Subject: CS (OS) No. 2982/2011 in the matter of L.G. Electronics India Pvt. Ltd. (petitioner) vs. Bharat Bhogilal Patel, Commissioner of Customs, Mumbai / Delhi before the Hon'ble High Court of Delhi.



Shri Bharat Bhogilal Patel has Unique Permanent Registration Number (UPRN) A0241 INBOM4PR and A0242INBOM4PR with Commissioner of Customs (Import), Air Cargo Complex for the following two patents in terms of Rule 4 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007:

(a) No. 188787 dated 21.09.1998 for 'an improved laser marking and engraving machine' and

(b) No. 189027 dated 21.09.1998 for 'process for manufacturing engraved design articles on metals and non-metals';

2. L.G. Electronics India Pvt. Ltd. vide petition CS (OS) No. 2982/2011 in the matter of L.G. Electronics India Pvt. Ltd. (petitioner) vs. Bharat Bhogilal Patel, Commissioner of Customs, Mumbai / Delhi before the Hon'ble High Court of Delhi has submitted that Bharat Bhogilal Patel filed a complaint with the Commissioner of

Customs, Mumbai against L.G. Electronics India Pvt. Ltd. and various other importers alleging that such importers were importing products inter alia GSM handsets (Phones), using laser marking and engraving process which infringe his [Bharat Bhogilal Patel's] patent rights under patent No.189027 and the Commissioner of Customs, Mumbai has restricted clearance of consignments of L.G. Electronics India Pvt. Ltd.

3. The Hon'ble Delhi High Court vide order dated 30th November, 2011 opined in Para 21 that "in case clause 4 of the notification dated 29.10.2007 is read in a meaningful manner, it becomes clear that as far as the case of other three violations, i.e., Patents, Design and Geographical Indications, are concerned, unless the offences have already been established by a judicial pronouncement in India, the custom department cannot take action contrary to clause 4 of the notification."

3.1. The Court further stated that mere reading of clause 4 makes it clear that as far as three violations, i.e., Patents, Design and Geographi-

cal Indications, are concerned, the defendants 2 and 3 are merely implementing agencies to enforce the orders, if passed by the Court in favour of the party pertaining to above mentioned three subjects and the custom department would be entitled to enforce the same.

3.2 The Court ruled that as far as the present case is concerned, prima facie it appears that the defendants 2 and 3 (Customs Mumbai & Delhi) cannot restrict clearance of the plaintiff's consignments on the basis of alleged patent obtained or on the complaint made by defendant No.1 (Bhogilal Patel).

4. In this connection, it may be noted that the Central Government has been empowered under Section 11 of the Customs Act, 1962 to issue notifications for prohibiting either absolutely or subject to such conditions as may be specified in the notification, the import or export of goods of any specified description. Section 11(2) of the Customs Act, 1962 details the purpose for which such a notification may be issued by the Central Government which, inter-alia, covers the following purpose:

(i) The protection of *patents*, trademarks and copyrights. [Section 11 (2) (n)]; and

(ii) The prevention of the contravention of any law for the time being in force.[Section 11 (2) (u)]

4.1 Notification No. 51/2010-Cus(NT), dated 30.06.2010 prohibits import of goods infringing specified provisions of Trademarks Act, Copyrights Act, Designs Act, Geographical Indications Act and Patent Act subject to following the procedure prescribed under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 (IPR Rules) issued under Notification No. 47/ 2007- Cus.(NT), dated 08.05.2007. The explanation to the notification states that for the purpose of this notification, the terms and expressions used in various clauses of the notification shall have the meanings assigned to them in the respective Acts, including the Patents Act, 1970.

4.2 Thus, the provisions of the Customs Act, 1962 clearly empower the Central Government to prohibit import of goods to protect infringement of patents. Accordingly, the Central Government had issued notification 51/2010 Customs (NT) to prohibit import of goods, inter-alia, infringing specified provisions of Patent Act, 1970. The conditions and procedure based on which the prohibition would operate is listed in the IPR Rules.

4.3 The above legal position, which is unambiguous and explicit, should alone suffice to conclude that the Customs authority is empowered to enforce prohibition of imported goods that contravene the specified *provisions* of the Patent Act, 1970. In fact, IPR Rules empower Customs authority to take action on own initiative (ex officio action), even without prior recordation of Rights by the Right holder.

4.4 Hence, the interpretation that Customs authority is not empowered to take action to prohibit import of goods infringing the patent Act does not appear to be proper and correct in law. The Hon'ble High Court has relied on the follow-

ing provision of Circular No. 41/2007-Customs dated 29th October, 2007, in support of the judgement pronounced:

"It is pertinent to mention that while the mandatory obligations under Articles 51 to 60 of the TRIPS dealing with border measures are restricted to Copyright and Trade Marks infringement only, the said Rules deal with Patents, Designs and Geographical Indications violations as well, in conformity with the practice prevailing in some other countries, notably EU countries. While it is not difficult for Customs officers to determine Copyright and Trade Marks infringements at the border based on available data/inputs, it may not be so in the case of the other three violations, unless the offences have already been established by a judicial pronouncement in India and the Customs is called upon or required to merely implement such order. In other words, extreme caution needs to be exercised at the time of determination of infringement of these three intellectual property rights".[underlined/in bold for emphasis]

4.5 As is evident from the above wording of the Circular No. 41/2007-Customs dated 29th October, 2007, that the Circular merely seeks to drive a note of caution with regard to the determination of infringement in case of patents, designs and Geographical Indications and does not in any manner, take away the powers of Customs authorities to act on imported goods infringing Patents Act, conferred by Section 11 of Customs Act, 1962 and Notification 51/201 Customs (N.T). Further, a Circular cannot nul-

lify provisions of an Act and Notification issued under the Act. Circulars are issued to clarify the legal provisions and to bring in uniformity in implementation. They are not intended to alter the scope or meaning of the existing statutory provisions.

5. In view of the foregoing, the order dated 30th November, 2011 of High Court of Delhi, in the matter of CS (OS) No. 2982/2011 – L.G. Electronics India Pvt. Ltd. does not appear to be proper in law. Since, the aforesaid order of the Hon'ble Delhi High Court would have wider ramifications on the interpretation of Para 4 of Circular 41/2007 dated 29th October, 2007, the jurisdictional Chief Commissioner has been directed to defend the case by filing appropriate reply / review application against the order.

6. The undersigned is directed to reiterate to the field formations the policy intent as reflected in Section 11 (2) (n) of the Customs act, 1962 and notification 51/2010 Customs (N.T) which empower the Customs authorities to take action on patent infringement also.

7. To help in determination of IPR infringements including that of patents, designs and GIs of imported goods, the field formations are advised to take assistance of the concerned registration authorities, expert views and test results (based on the nature of the product) as done in case of implementation of many other allied laws where the final determination is made by Customs in consultation with the concerned authorities/ agencies and experts.

Entry are not subjected to examination and assessment.

4. Higher facilitation at the same time has led to a need for more scrutiny of Entry at Post Clearance Audit (PCA)/Post-Clearance Compliance Verification (PCCV) stage. It is therefore felt that percentage of Bills of entry selected for PCA need to be enhanced by concerned field formations. RMD has also reported that all Chief Commissioner should ensure that higher percentage of facilitated Bills of Entry should be subject to Post Clearance Audit/PCCV.

5. Board has also introduced 'On Site Post Clearance Audit' (OSPCA) vide Circular No 47/2011- Cus dated 21.10.2011. The Scheme currently covers ACP importers only. It was decided that in respect of ACP importers covered under OSPCA, transaction based PCA in vogue since 2005 after introduction of RMS should be phased out. However in respect of other importers, the same should continue to be operational.

6. Board is therefore of the view that till the time OSPCA is made applicable to other categories of importers, the percentage of Bills of Entry selected for PCA at a Customs house should be suitably enhanced to safeguard the interest of revenue. Board also desires that concerned Chief Commissioners of Customs should review the staff position in their jurisdiction and relocate more manpower for audit work as increased facilitation in terms of reduced examination have led to lesser requirement of staff for examination of goods. It is therefore imperative that excess staff should be diverted for activities such as PCA and SIIB in Customs Houses.

7. It is also reported that pendency in respect of transaction based PCA remain acute. Board has taken a serious note of it and desires that the work should be accorded due consideration and pendencies reduced.

8. These instructions should be complied with strictly and any difficulty in this regard may be brought to the notice of the Board immediately.
F.No.450/20/2007-Cus.IV

Step Up Post Clearance Audit on Imports, Says CBEC

Subject: Review of Risk Management System (RMS)

15-CBEC 13.06.2012 (DoR) As you are aware Self Assessment has been introduced vide Finance Act 2011. This marks a major change in the system of assessment of customs duty of imported and export goods. Self Assessment is trust based control with more reliance on declarations of the importer and exporters.

2. In order to implement self assessment effectively and to ensure its benefits to the trade, Board decided that current facilitation level un-

der RMS should be enhanced significantly. Accordingly vide Board Circular 39/2011-Cus dated 2.09.2011 it was decided to enhance facilitation level up to 80%,70% and 60% in case of air cargo complexes, ports and ICDs respectively by rationalizing risk rules and risk parameters.

3. Risk Management Division has since carried out rationalization of risk parameters and it is reported that facilitation level of Bills of entry has been enhanced appreciably. This means that that more and more numbers of Bills of

Exemptions on BE and IGM Procedure for Ships

Subject: Procedure followed for import of Indian vessels and filing of Import General Manifest, Bill of Entry

16-CBEC 13.06.2012 (DoR) I am directed to invite your attention to the Board's instruction issued vide F.No.450/79/2010-Cus.IV

dated 23.09.2010 which state that the requirement for filing Import General Manifest (IGM) and Bill of Entry should be complied with even in cases, where goods are exempt from payment of any duty. The jurisdictional Commissioners were also instructed to review the situation, and take appropriate action for past cases, including adjudication, if warranted, in case of non-fulfillment of aforesaid filing of documents.

2. In this regard, certain difficulties have been brought to the notice of the Board by the trade

and Indian Ship Owners' Association stating that the Customs field formations are insisting on filing of IGM and Bill of Entry even in respect of those vessels that were imported in the past and which were exempt from payment of import duty.

3.1 In this regard, it is stated that as the provisions of Section 29 of the Customs Act, 1962 read with Section 2 (22) and 2(25), the term 'imported goods', *inter alia*, includes vessels entering India from any place outside the country (India). These vessels may fall into any of the following category (i) Foreign flag vessels i.e., vessels that have been registered outside India and which carry imported/ exported goods or

passengers, during its foreign run (voyage from a port outside India to an Indian port, whether touching any intermediate port in India or not); (ii) Vessel entering India for the first time on arrival in the country, for registration as Indian Flag vessel; (iii) Vessels which are intended for conversion from foreign run to coastal run/ trade (voyage between two or more Indian ports); and (iv) Vessels which are brought into India for breaking up.

3.2 Foreign flag vessels: These are the vessels that are registered abroad and its entry into the country is for carrying cargo or passengers, as a conveyance. Hence, there is no requirement for filing an IGM, Bill of Entry for foreign flag vessel which is being used as conveyance. However, the requirement for filing an import manifest in the prescribed manner for the goods or passengers which are being carried in the

vessel, on its entry into an Indian port in terms of the provisions under Section 30 of the Customs Act needs to be complied with.

3.3 Indian Flag Vessel: In terms of the provisions of Part-V of the Merchant Shipping Act, 1958, vessels entering into India for the first time, are required to be registered with specified authority of the Mercantile Marine Department as Indian ship, which can then display the national character of the ship as Indian Flag Vessel for the purpose of Customs and other purposes specified in the said Act. Such Indian ship or vessel may be used for foreign run or exclusively for coastal run/ trade. Further, any ship or vessel may be taken outside India or chartered for coastal trade in India, only after obtaining the requisite licence from the Director General of Shipping, under the provisions of Section 406 or 407, respectively, of the said Merchant Shipping Act. Hence, in all such cases the Customs declarations such as IGM, Bill of Entry is required to be filed with jurisdictional Customs authority.

3.4 Vessels for conversion into coastal run: Any vessel could be used for coastal run/ trade after obtaining requisite clearance from Director General of Shipping and on fulfilment of certain specified conditions under Section 407 of the Merchant Shipping Act, 1958. In case of foreign going vessel, exemption from import duties, including CVD, have been extended vide serial No.462 of notification No.12/2012-Cus. dated 17.03.2012, subject to prescribed conditions, which binds the importer to file fresh Bill of Entry at the time of its conversion for coastal run/ trade and payment of applicable duty on such conversion of vessel for coastal run/ trade. Similarly, excise duty is also payable on vessels which are being used for coastal trade vide serial No.306 of notification No.12/2012-Cus. dated 17.03.2012. Hence, if any Indian Flag vessel which is used for time being as foreign going vessel is converted for use in coastal trade or any vessel which is to be used for coastal trade, there is a need to file a Bill of Entry for payment of applicable duty as CVD.

3.5 Vessels for breaking up: Vessel and other floating structures intended for breaking up are liable to payment of applicable duty. All vessels for the transport of persons or goods, falling under heading 8901 (excluding those which are imported for breaking up) are fully exempt from payment of import duty under vide serial No.461 of notification No.12/2012-Cus. dated 17.03.2012, subject to the condition that the importer should file fresh Bill of Entry at the time of its breaking up of the vessel after its importa-

tion. Hence, in these cases the importer has to file an IGM and Bill of Entry, claiming the exemption as may be applicable, at the time of initial import and later file fresh Bill of Entry at the time of breaking up of the vessel as per the condition attached to the aforesaid exemption.

4. In view of the above, it is clarified that in respect of foreign flag vessels, for Indian flag vessels, there is no requirement of filing of IGM and Bill of Entry, since its usage is as conveyance. In respect of Indian flag vessels and vessels for breaking up as explained in para 3.3 and 3.5 above, the importer has to file IGM and Bill of Entry, under the provisions of the Customs Act, 1962. As regards the vessel for conversion into coastal run/ trade as detailed in para 3.4, since the changes in the duty structure for levy of CVD on vessels which are being converted for coastal trade was initially imposed from 1.3.2011, and subsequently retrospective exemption has been provided for the period 1.3.2011 to 16.3.2011 vide clause 129 of the Finance Act, 2012, the requirement for filing

IGM and Bill of Entry may be insisted in all such cases w.e.f. 17.03.2012, that is the date from which levy of CVD has come into force.

5. It is also clarified that all vessels including foreign going vessels for its entry into / exit from the country during its journey as foreign going vessel and the Indian flag vessel / Indian Ship for subsequent use as foreign going vessel would not require filing of IGM and Bill of Entry as conveyance, since the same are not imported goods to be cleared for home consumption.

6. Accordingly, the field formations may adjudicate the cases involving any violation where the IGM or Bill of Entry in respect of import of vessel were not filed at the time of import, on its first arrival in India or on its conversion into coastal trade and appropriate penal action be taken against the offenders.

7. The above instructions may be brought to the notice of all the concerned immediately through appropriate Public Notice.

F. No.450/79/2010-Cus.IV

Customs Procedure for ATA Carnet Exhibition Goods

The following Public Notice was issued by the Commissioner of Customs (Import) Air Cargo Complex, Mumbai on 7 June 2012.

19-PN Attention of Importers
07.06.2012 Exporters/CHA's and Trade is invited to Notification No. 157/1990 – Cus dated 28.03.1990. The clearance of goods under ATA Carnet is governed by Notification No. 157/1990 – Cus dated 28.03.1990. In terms of notification, goods described in Schedule I to the notification, when imported into India for display or use at any event specified in Schedule II or Schedule III to the Notification, are exempt from the whole of Customs duty and the whole of additional duty leviable thereon and the Notification no 158/90-Cus, dated 28.03.90, exempts these goods from auxiliary duty subject to the following conditions:

1. The event specified in Schedule II is held in public interest and is sponsored or approved by the Government of India or the Trade Fair Authority of India.

2. The said goods are imported under an ATA carnet issued in accordance with the Customs Convection or ATA Carnet for temporary admission and the Carnet is guaranteed by the Federation of Indian Chamber of Commerce and Industry, which has been appointed as the 'Guaranteeing Association' for ATA Carnet in India (hereinafter referred to as the 'Federation')

3. The said goods in all respects conform to the description, quantity, quality, value and other specifications given in the ATA carnet duly certified by the Customs authorities at the country of exportation.

4. The said goods shall be exported within a period of six months from the date of importation.

Provided that where the goods are exported within the said period of six months and again

Customs Valuation Exchange Rates

June 2012	Imports	Exports
Schedule I		
1 Australian Dollar	55.55	54.15
2 Bahraini Dinar	150.30	142.25
3 Canadian Dollar	54.30	53.00
4 Danish Kroner	9.45	9.20
5 EURO	69.95	68.40
6 Hong Kong Dollar	7.15	7.05
7 Kenyan Shilling	66.35	62.60
8 Kuwaiti Dinar	202.60	191.10
9 New Zealand Dollar	43.05	42.00
10 Norwegian Kroner	9.20	8.95
11 Pound Sterling	86.20	84.40
12 Singapore Dollar	43.65	42.75
13 South African Rand	6.85	6.45
14 South Arabian Riyal	15.10	14.30
15 Swedish Kroner	7.80	7.55
16 Swiss Franc	58.30	57.00
17 UAE Dirham	15.45	14.60
18 U.S. Dollar	55.55	54.70

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

Schedule II

1 Japanese Yen 70.35 68.60

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

(Source: Customs Notification 49(NT)/07.06.2012)

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
18-Jun-12	55.2550	56.0600	55.2550	56.0150	56.0150	1509547	2607472	1453140	55.5990
15-Jun-12	55.7200	55.7800	55.6025	55.6550	55.6550	1523054	1212862	675713	55.7630
14-Jun-12	55.7600	55.9375	55.6575	55.8425	55.8425	1566085	1570679	876708	55.7940
13-Jun-12	55.8475	56.0150	55.6500	55.7750	55.7750	1540884	1672112	933774	55.8505
12-Jun-12	55.3600	56.2150	55.3600	55.8875	55.8875	1551483	2241006	1255571	56.0545
11-Jun-12	55.4475	55.9375	55.1975	55.8850	55.8850	1510810	2476898	1376889	55.2385

[Source: NSE and RBI Website]

re-imported, the period of six months shall be computed from the date of first clearance.

Provided further that when the Central Government is satisfied that it is necessary in the public interest so to do, it may extend the said period for a further period not exceeding six months. The validity of ATA Carnet shall not in any case exceed one year from the date of issue.

5. In the event of failure to export the goods within the period specified in condition (4), the customs duty leviable on the goods as on the date of clearance shall be paid by the 'Federation':

Provided that the Federation shall not be liable to pay the Customs duty in cases where the said goods are sold in exhibitions or fairs or otherwise disposed of in India or payment of customs duty with the prior approval of the Government of India (Department of Revenue). Only such goods will be allowed to be sold as are otherwise permissible for import onto the country the Import Policy in force at that time and/or the buyer holds a valid import license duly endorsed by the Licensing Authority.

In order to streamline the procedure for clearance under ATA Carnet, it is hereby prescribed that in addition to the guidelines provided in the Customs Preventive Manual, the following pro-

cedure shall be followed for day to day workings:

Procedure for Import under ATA Carnet

1. In the event of imports under Carnet, the Appraising Officer (PRO) will first confirm that the goods are imported for display or for use at Government approved Exhibitions/Fairs and/or similar events which are covered under Notification No. 157/1990 – Cus dated 28.03.1990. In case of goods are not accompanied by an India Trade Promotion Organisation (ITPO) Certificate, prior permission of the Asstt./Deputy Commissioner of Customs (PRO) must be obtained.
2. Subsequent to above, Noting on the Carnet may be done by the Import Noting Section.
3. 100% examination of the goods will be carried out by the officers of the PRO Section verifying with the details given on the Carnet.
4. The examination report will be duly recorded in the original Carnet document.
5. Subsequently assessment of the goods will be carried out by the AO (PRO) and AC/DC (PRO).
6. The details of the Carnet will then be recorded by TA/PRO in a register to be maintained in the PRO Section. The Serial Number of the Entry Register shall be indicated on the

Carnet document retained in the PRO Section.

Procedure for Re-Export under ATA Carnet

7. When the goods imported under ATA Carnet are presented for re-export, Noting will be allowed by Appraising Officer (PRO), if the re-export is within six months from the date of imports. In case the six months period has already lapsed, the noting to be allowed on verification of extension order and/or payment of duty with the due authorization for the re-export, as the case may be. In any other case, the matter will be put up to AC/DC (PRO).
8. Once the Noting is allowed, Noting on the Carnet may be done by the Export Noting Section.
9. 100% examination of the goods will be carried out by the officers of the PRO Section verifying with the details given on the Carnet.
10. The examination report will be duly recorded in the original Carnet document.
11. The Examination report establishing the identity of goods, or otherwise, with the import details will be put up to Appraising Officer (PRO) and Asstt./Deputy Commissioner (PRO) for final clearance.
12. The details of the Carnet will then be entered by TA/PRO against the corresponding import details in the Carnet register as prescribed above and then the Carnet may be closed. The Serial Number of the Entry Register shall be indicated on the Carnet document retained in the PRO Section. The officers examining the Carnet shall ensure that Customs copy of the Carnet document is retained in the PRO Section. In cases where the import had taken place at some other port, the export details will be recorded in the Carnet register and a copy of the Carnet will be sent to the concerned port.
13. In all such cases where the goods have been sold or disposed off in India, as provided under Notification 157/1990 – Cus, and duty with interest paid off, the details will be entered in the Carnet register and Carnet will be closed.
14. Appraising Officer (PRO) shall monitor the due export of goods and closure of such Carnets within Time limit as specified in Notfn. No. 157/1990-Cus. In case where goods are not re-exported within the stipulated time, the matter shall be brought to the notice of Asstt./Deputy Commissioner (PRO), who shall ensure that all dues including duty and interest are collected.
15. Carnet Register should be put up to Asstt./Deputy Commissioner (PRO) for inspection by 5th of every month.
16. The above instructions may be strictly followed, along with those stated in the Customs Preventive Manual and by the CBEC from time to time.
17. Any difficulty noticed in implementing this Public Notice may be brought to the notice of the Additional Commissioner (PRO).

F. No. S/3-Misc-PRO- 330/2011 ACC (I)

WORLD TRADE SCANNER		
G-20 on Market Volatility in Food and Energy		105
India on Call for \$10bn in \$460bn Fund for Europe Bail Out		105
World Trade Picks Up by 5 percent in Q1		106
US Exempts India, Six others from Iran Sanctions		106
Gold May Rebound on Fed Economy Stimulus		106
G-20 Pledges Money for Eurozone		106
BIG's WEEKLY INDEX OF CHANGES		
Foreign Trade Policy		
02-Ntfn(RE)/08.06.2012 DGFT Focuses on SMP Exports – Free Exports and Grants		109
04-PN(RE)/08.06.2012 5% VKGUY		
Customs		
Ntfn 39/12.06.2012 Zero Duty Concession to Goods Imported for the Manufacture of Man-made Made Ups Allowed		108
Ntfn 41/14.06.2012 Readymade Garments, Carpets, Shoes and Local Herbal Medicines Allowed at Zero Duty in Border Trade with China at Gunji		108
31-ADD/04.06.2012 Provisional Anti-dumping Duty Imposed on Digital Offset Printing Plates from China and Japan		107
Corrigendum/15.06.12 Corrigendum dated 15 June 2012 to 31-ADD dated 4 June 2012		107
19-PN/07.06.2012 Customs Procedure for ATA Carnet Exhibition Goods		111
Service Tax		
18-ST/01.06.2012 Enactment of Finance Act 2012 Changes on Service Tax – Effective from 1 June 2012		108
CBEC Circulars		
14-CBEC/11.06.2012 Rail cum Road Vehicles are Road Vehicles Classifiable in Chapter 87		108
15-CBEC/13.06.2012 Step Up Post Clearance Audit on Imports, Says CBEC		110
16-CBEC/13.06.2012 Exemptions on BE and IGM Procedure for Ships		110
26000/1/2012-OSD(ICD)CBEC Asks Field Formation to Defy Delhi High Court Order to		109
27.03.2012 Clear LG Mobile Consignments		