

Postal Regn.No. DL(C)-01/1251/15-17  
**WORLD TRADE** Licence to Post without  
 Prepayment U(C)-30/15-17  
 RNI No. 42906/84  
**SCANNER**

ISSN: 0971-8095

Single copy Rs. 20 \$2

**Vol. XXXII No 39 23 - 29 December 2015**

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

Annual subscription Rs. 950

## Nairobi Ministerial of WTO Ends, US has its Way India Isolated again, Signs on Dotted Line

*Arun and Asim Goyal Report Direct from Nairobi*

**Nairobi, 19 Nov:** The Tenth Ministerial Conference (MC10) ended in Nairobi, Kenya, on Saturday 19 Nov at the Kenyatta Conference Centre, refurbished with Rs. 80 crs from US and EU donors. Dancers pirouetted to the beat of African music at the start of the event but few remained by the extended session on Saturday. The mood turned despondent as ministerial achieved little beyond the IT Agreement between the super powers.

Nairobi Ministerial Declaration (NMD) saw a concluded ITA-II between 52 of the 162 members. (The remaining 110 get free rides at zero duty for their exports accounting for only 10% of world IT trade).

New negotiating approach from developing and least developed economies was visible with tacit support to New Issues advocated by Developed world.

The accession of Liberia and Afghanistan and expressions of interest from Somalia and Iran shows the enlargement of the WTO footprint.

"Members must decide – the world must decide – about the future of this organisation," said WTO Director-General Roberto Azevêdo during the closing moments of the ministerial. (It seems that the Developed Countries and trade super powers see WTO as a means of maintaining rule based trade through dispute settlement. The market openings will be in the realm of RTAs).

"The world must decide what path this organisation must take. Inaction itself is a decision and I believe the price of inaction is too high," Azevêdo added, noting that the year ahead leaves them with a "very serious task."

The agreement disciplining agricultural export competition is lauded as "historic", "an achievement that eluded the trade system for 60 years" since the GATT imposed similar curbs on

export subsidies for industrial goods.

The declaration specifically refers to agriculture - domestic support, market access, and export competition - as well as the other two core issues of industrial market access and services as issues where members aim to advance work.

**Mike Froman: Time to be honest, we are at the end of the line on Doha**

The US has for the first time publicly called for the Doha Round of global trade negotiations to be abandoned, arguing that after almost a decade and a half of fruitless discussions, it was time to try new approaches. This point was recognised upfront in the final Ministerial Declaration.

Writing in the Financial Times ahead of the World Trade Organisation's biennial ministerial meeting in Nairobi this week, USTR Mike Froman said that 14 years after it was launched the Doha Round "simply has not delivered".

"It is time for the world to free itself of the strictures of Doha."

The belief of most people in the global business community is that it died a painful and final death in 2008 amid a stalemate over agriculture between developed and developing nations. The first blow to Doha was in Cancun Ministerial in year 2003 followed by the July 2004 package at Geneva when the so-called Singapore issues like investment and competition policy were dropped. The issues of agriculture subsidies by India almost killed the Bali ministerial meet in 2013. The Trade facilitation agreement which was part of the Doha agenda was concluded in an 'early harvest' programme in this meeting.

Frustrated at the lack of progress on the Market Access agenda, the US and others have turned their focus in recent years to new regional negotiations such as the recently concluded Trans-Pacific Partnership, which included the US, Japan and 10 other economies.



Conference Chairman Amina Mohamed and WTO DG Azevêdo "Its done"

*"We recognize that many Members reaffirm the Doha Development Agenda, and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then, and reaffirm their full commitment to conclude the DDA on that basis. Other Members do not reaffirm the Doha mandates, as they believe new approaches are necessary to achieve meaningful outcomes in multilateral negotiations. Members have different views on how to address the negotiations," the declaration reads.*

*The way ahead could mean revival of the Singapore issues of Investment Competition Policy, Currency, Energy and Tech Trade. The US will go full out on zero for zero deals in other sectors on the lines of the ITA I and ITA II and Government procurement agreements.*

### Crude is Down to \$33!!

Crude Oil (Indian Basket) from 16 - 22 Dec 2015

	16 Dec	17 Dec	18 Dec	21 Dec	22 Dec
(\$/bbl)	34.20	33.33	33.62	32.61	33.00
(Rs/bbl)	2286.11	2221.08	2232.85	2162.73	2187.88
(Rs/\$)	66.85	66.65	66.42	66.32	66.30

(Previous Trading Day Price)

Source: Ministry of Petroleum & Natural Gas

## Japan, EU and Australia tilt to the US position

In the lead up to this week's gathering, other big advanced economies such the EU and Japan have sided with the US in its push for a new approach to negotiations after the Nairobi meeting and a shift to more focused discussions on specific sectors rather than a monolithic global agreement.

EU Commissioners Cecilia Malmström and Phil Hogan – responsible for trade and agriculture, respectively – joined the fray in a joint public statement, saying that they were “concerned by the deep persisting differences” between governments on the post-Nairobi WTO agenda. While the organisation should “keep working on” the outstanding Doha issues, it should also start to address other issues that are important for today's global trade, the Commissioners argued.

## Amina Tilts against India

On 18 December, the Kenya Minister and Conference Head openly declared at a press conference that India and Africa covering 53 Developing and LDC members differed Agriculture subsidies. She said that it is time to bury artificial groups, self-interest is more important.

## China Looms

Doha rules of engagement as outdated, particularly with regard to China. Beijing, US officials argue, now has the biggest farm subsidy program in the world. And yet under Doha it is considered a developing economy and may not cut subsidies in the event of a deal even

## Developing Countries

The US stance seemed directly at odds with the position taken by India and numerous other developing countries, many of which have argued that the long running talks need to be concluded before moving on to new issues.

A joint ministerial statement from the African Group, China, Ecuador, India, and Venezuela called for a redoubling of efforts to “proceed towards the full, successful, and multilateral conclusion of the negotiations,” referring to the Doha mandate. (It is ironical that these very countries were vehemently opposed to Doha and wanted the unfinished tasks of the Uruguay Round process to be completed before taking on Doha. Now that the finishing line is changed to the TPP type frame, Doha has changed form from “enemy” to “friend”).

Although not referring specifically to the position taken by Froman, the group highlighted the various benefits they say would come from a successful, “comprehensive” conclusion of the Round with “economically meaningful and balanced outcomes.”

Separate statements from both the least developed country (LDC) and small, vulnerable economies (SVE) trade ministers issued going into the conference also called for a successful conclusion to the Doha Round trade talks.

An achievement of great significance, the ITA-II involves products currently valued at US\$1.3 trillion annually and responds to the continued evolution of the global digital economy. For many,

## India Eclipsed at WTO Ministerial

### Minister Sitharaman Fights a Fruitless Battle

Only five countries – the US, European Union (EU), Brazil, China and India, who negotiated among themselves in “Green Room” format the final outcome based on their respective national interests – the others were left out. Commerce Minister Nirmala Sitharaman led the Indian attack. The ministerial had to be extended by another day to accommodate India who was isolated at the end of day with the 53 nation Africa group led by Amina Mohamed deserting the ranks to join the chorus seeking an end to all agriculture subsidies.

India now has to end agri export subsidies by 2018. It can hope to get some cover for transport and marketing expenses for another four years. There is also no progress on Indian demand for food procurement at minimum support prices for public stock holding. The *quid pro quo* for signing trade facilitation deal is not

working. It has got only special negotiating sessions for this demand. It has got the same result of special negotiation session for its other demand for special safeguards to protect its agriculture for sudden drop in import prices or rise in quantity.

The Doha Development Agenda (DDA) was launched in Doha, Qatar, in 2001. The US and the EU had supported the Round immediately after the 9/11 terrorist attacks in the US, as a way to unite the world New issues of Singapore 1996 ministerial like Investment and Competition Policy along with trade facilitation were part of this Round.

The India proposal on a permanent solution for public stockholding programmes suggested easy options by expanding the agreement on agriculture to include market price support programmes that can be exempted from aggregate measurement of support calculations. The SSM proposal by India, along with the G-33 farm coalition led by Indonesia, set forth a transparent and effective instrument based on price and volume triggers to impose special safeguard duties.

The US led a sustained campaign to ensure that there was neither an outcome on continuing DDA negotiations nor a deal on SSM and public stockholdings for food security.

India wanted a permanent solution to public stockholding programmes for food security and SSM, and reaffirmation to continue the DDA negotiations beyond Nairobi. In return, it would commit to a substantive agreement on export competition entailing a phase-out of export subsidies and reducing export credits.

Sitharaman did not mince her words in making out India's case; neither did she hold back her disappointment at the way things turned out. “It is regrettable that longstanding issues of interest to a large number of developing countries are being put aside for the future and new issues of recent vintage are being taken up with unusual enthusiasm,” she said.

In his draft issued on 17 December, the facilitator offered vague language on both the SSM and public stockholding programmes for food security without proposing any time-frame for

their resolution. Sitharaman duly protested and submitted two proposals together with China and Turkey to ensure that there are clear outcomes at the 11th ministerial meeting in 2017. These proposals also mentioned the DDA negotiations in passing.

Nirmala met the US trade representative,

Ambassador Michael Froman, in Nairobi, that India will need reaffirmation to continue the DDA negotiations until all outstanding issues are resolved. Of course, Froman declined.

India expressed deep disappointment over NMD saying its concerns were not addressed adequately. More importantly, the NMD which was finalized after five days of hectic negotiations failed to incorporate New Delhi's core demand for reaffirming the continuation of Doha Development Agenda trade negotiations.

At the final plenary meeting, India's trade minister Nirmala Sitharaman made a pitch for “Doha Only” but the final draft accepted the US demand for new issues by saying “some wish to identify and discuss other issues for negotiation; others do not.” India had all along opposed discussing new issues.

The NMD on agriculture contained decisions for an accelerated work program on special safeguard mechanism (SSM) and the public stockholding programs for food security.

The draft NMD and the Nairobi deliverables on agriculture was adopted at meeting at the Kenyatta International Conference Center.

China joined India in fighting another battle on the post-Nairobi work programme for reaffirming to continue the DDA negotiations. The US and the EU vehemently opposed it and only agreed to insert the term “Doha” instead of DDA negotiations. The US and the EU managed to secure language on new approaches and new issues with a caveat that new issues cannot be accommodated unless all members agree, this was the saving grace for India.



Nirmala Sitharaman at Nairobi MC10 with WTS Reporters

this model of Most-Favoured Nation (MFN)-based, represented by the ITA-II may become an increasingly more common alternative to multilateral trade agreements under the WTO. The big players do a deal between themselves while the smaller ones accede to the done deal without negotiating on their concerns. The smallest ones come in as “free riders”, that is they export to the signatories at zero duty but charge duty on imports.

### E-commerce

WTO members also extended their moratorium prohibiting customs duties on electronic transmissions until the next ministerial conference in 2017, along with renewing a related work programme. The organisation’s General Council is mandated to report in December 2016 and July 2017 on related issues arising in WTO bodies where the work programme is being implemented.

### Regional Trade Agreements

The continued proliferation of regional trade agreements (RTAs) has been another area of both interest and concern for WTO members, with the ministerial declaration including language reaffirming “the need to ensure that [RTAs] remain complementary to, not a substitute for, the multilateral trading system.”

The language draws from a proposal made by Brazil on the subject in the context of the WTO’s rules negotiations. The decision puts in place a more active process to report by the next ministerial due in 2017.

### Agriculture: Four New Decisions

The Nairobi package includes new ministerial decisions covering a special safeguard mechanism for developing countries; a decision on export subsidies and other “export competition” elements; a decision on cotton; public stockholding for food security purposes.

The decisions, which are legally binding, represent the “most significant outcome on agriculture” seen in the WTO’s 20-year history, Azevêdo told members.

### Special Safeguard Mechanism – Dedicated Mechanisms

The G-33 group assembling a set of developing countries, that includes China, India, and Indonesia as well as many smaller economies, had argued in favour of a special safeguard mechanism that will allow developing countries to raise tariffs temporarily to respond to sudden import surges and price depressions. Countries such as Australia, Brazil, and the US wanted a cut in tariffs to go with SSM.

The new decision states that developing countries will “have the right to have recourse” to a special safeguard mechanism “as envisaged under paragraph 7 of the Hong Kong Ministerial Declaration.

It also says that WTO members will pursue negotiations on a special safeguard mechanism

for developing country members in dedicated negotiating sessions of the WTO agriculture committee.

### Export Competition – Financing, State Enterprises, Food Aid EU Discontinues Subsidies

This decision groups together export subsidies with other types of export support instruments that can distort competition: export credits, export credit guarantees and other types of export financing; exporting state trading enterprises; and food aid.

When the Doha talks were launched, the EU insisted that these other types of arrangements also be disciplined in parallel to efforts to phase out and ultimately eliminate export subsidies. The EU subsidised exports at very high levels – reaching €10 billion in 2000 – and since almost totally curbed.

Historically, the US has been the main provider of export credits and food aid, while Canada, New Zealand and Australia have operated exporting state trading enterprises, some of which have since been privatised.

While the EU has discontinued export subsidies for most products, Switzerland, Norway, and Canada still notify support to the WTO, and some developing countries such as India or Turkey also provide this type of support but have not formally notified it to the trade body.

Although the Hong Kong ministerial declaration has said that developing countries should be allowed to provide Article 9.4 export subsidies – related mostly to marketing and internal transportation – for five years after export subsidies are eliminated, the legal authority for doing so under the Agreement on Agriculture has already expired.

### Export Subsidies – End by 2018

Under the decision, developed countries will immediately eliminate their remaining agricultural export subsidies. These types of payments have long been seen as particularly trade-distorting, and already prohibited for manufactured goods. At the Hong Kong ministerial conference in 2005, members agreed that these payments would be eliminated by 2013, although the wider stalemate on the Doha agenda meant that this deadline was missed.

A footnote provides an exception until 2020 for developed countries that provide these subsidies on “processed products, dairy products, and swine meat,” to accommodate countries such as Switzerland and Canada that still use this type of support. The exception nonetheless would require the countries concerned not to export these products to least developed countries.

Developing countries must also eliminate their export subsidies by the end of 2018. Again, a footnote provides an exception until 2022 for

some countries which have notified their support to the WTO.

An extended 2023 deadline is also provided for developing countries to use export subsidies for transport and marketing, which were originally covered under article 9.4 of the Agreement on Agriculture. The arrangement is in keeping with other WTO clauses providing “special and differential treatment” to developing countries – often in the form of longer implementation periods for commitments. Least developed countries and net food importing developing countries will be allowed to do so until 2030.

Special arrangements are made for export subsidies on cotton. Developed countries would have to immediately implement their export subsidy commitments for this product, and developing countries would have until January 2017 to do so. More ambitious disciplines on cotton have long been a special demand of West African cotton-producing countries in the C-4 – Benin, Burkina Faso, Chad, and Mali.

### Export Credits, Export Credit Guarantees, or Insurance Programmes–18 Months Limit

The decision says that maximum credit repayment periods for developed countries would be eighteen months. The EU, Brazil, and other members had proposed nine month repayment periods under certain conditions. Although current US legislation allows repayment periods of up to 24 months, actual practice is believed to be 18 months.

Developing countries would initially also be allowed to extend credit for longer periods of up to 36 months, although this would be gradually reduced to 18 months over the course of a four-year implementation period.

### Exporting State Trading Enterprises

The decision states that WTO members must ensure that exporting state trading enterprises do not operate in a manner that circumvents any other disciplines. This could be interpreted as meaning that these enterprises must not be allowed to operate in a way that effectively subsidises exports once the relevant deadlines in the export subsidy section of the text have expired.

A “best endeavours” clause would also commit members to making their best efforts to ensure that any export monopoly powers exerted by these bodies do not distort trade, the text says.

### Food Aid

New language on food aid would commit WTO members to refrain from providing in-kind food aid where this might cause an adverse effect on local or regional production of the same or substitute products. The decision would also require them to ensure that international food aid does not unduly impact established, functioning commercial markets of agricultural commodities.

The decision would also establish new commitments affecting the extent to which countries would be allowed to “monetise” food aid – meaning for donors to sell in-kind food in recipient countries so as to raise funds for development projects.



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The text would require WTO members to monetise international food aid “only where there is a demonstrable need” for transport purposes, or where monetisation is used to redress food deficit requirements or “insufficient agricultural production situations” which give rise to hunger and malnutrition in least developed and net food-importing countries. Other requirements are also included in the decision - such as for a market analysis to take place before monetisation occurs.

### **Public Stockholding – Not in Doha Process**

On public stockholding, the G-33 group of developing countries has argued that current farm subsidy rules unfairly constrain their ability to purchase food at administered prices as part of their public programmes for food security purposes. The 2013 Bali ministerial saw WTO members agree not to challenge these schemes under the trade body’s dispute settlement process, and members agreed a year later that this arrangement would apply until a permanent solution is reached.

The G-33 have argued that price inflation over the last two decades have eroded the degree of flexibility they have to provide farm subsidies, even if purchases are made at administered prices that are below the level of international market prices.

The new text says that WTO members note the Bali decision, and also reaffirm a November 2014 decision extending the arrangement until a permanent solution is reached.

Today’s agreement also says that negotiations will be held on the subject in dedicated negotiating sessions of the WTO’s agriculture committee - but that these will be distinct from Doha negotiations.

### **Cotton – Developing Countries including China to provide Market Access**

African countries have long sought stricter disciplines on cotton, and in particular in the area of domestic support.

The new agreement says that developed countries shall grant “to the extent provided for in their respective preferential trade arrangements” duty free and quota free market access for least developed country cotton exports, from 1 January 2016 onwards.

Developing countries “declaring themselves in a position to do so” would undertake the same commitment - and a footnote clarifies that this would include China, both for general market access commitments and also in their preferential trade agreements. In the past, the US has often argued that China ought to undertake market access commitments as part of a broader sectoral agreement in this area. The most recent proposal from the C-4 group would also have included separate market access commitments for developing countries, including China.

An annexed product list would also specify which other cotton-related products would benefit from similar market access treatment.

### **Substantive advances for LDC issues – 75% Foreign Material Allowed**

LDCs had repeatedly voiced concerns that these preferential rules of origin are often too restrictive and impose onerous compliance burdens, making it difficult for them to take full advantage of existing preferential margins.

The decision adopted in Nairobi now sets a timeframe for preference-granting members to undertake the commitments contained in the decision by 31 December 2016.

Regarding the value addition threshold, the document allows for the use of materials not originating from an LDC to make up to 75 percent of the final value of a product for it to qualify for preferential treatment. Some observers consider, however, that 75 percent non-originating material is in fact still prohibitive, given modern manufacturing methods based on global value chains which require in some cases only very little domestic content.

### **Services Waiver**

Discussions on the services waiver for LDCs – which had proved difficult on certain technical aspects early in the morning yesterday – eventually led to a compromise on the draft text proposed by Rwandan Minister of Trade and Industry François Kanimba, who was facilitating those talks.

The draft text adopted in Nairobi provides for an extension of the existing services waiver until 31 December 2030.

The text also contains provisions related to the provision of technical assistance and initiation of a process to review the operation of notified preferences.

### **Special and differential treatment**

Discussions on special and differential treatment (S&DT) continued to prove divisive on Friday, before ultimately collapsing. The proponents met yesterday morning to “essentially restate their positions and even backslide,” said one developed country trade delegate.

Various consultations took place on the subject, however issues related to balance of payments, sanitary and phytosanitary measures, technical barriers to trade, safeguards, LDC-specific issues and also tariff negotiations have been cited as being particularly problematic.

The revised text presented by the facilitator in this issue, WTO Deputy-Director General Yonov Frederick Agah, was rejected by the G-90 and LDCs as it did not reflect any consensus, said one source close to the process. Instead, on Saturday morning, the G-90 submitted a draft decision which included text on future work on the issue, instructing the Committee on Trade and Development in Special Session (CTD SS) to continue to negotiate on the basis of specific proposals tabled by the G-90 last November with a view to achieving agreement on all proposals by 31 July 2016.

An outcome on S&DT could not be secured as members had “opposing interests,” explained Azevedo.

“S&DT is an area that is horizontal, crossing across all WTO agreements. These are also difficult negotiations, as it is about the flexibilities in the agreement,” he said.

### **No Transparency on Anti-dumping**

The first draft decision would have instructed the WTO Committee on Anti-Dumping Practices, through its Working Group on Implementation, to study and make recommendations to report to the General Council on a specific list of topics. This would be done in order to ensure “maximum possible” predictability and objectivity in implementing the relevant provisions in the Anti-Dumping (AD) Agreement. The Committee on Subsidies and Countervailing Measures would also have been instructed to study these outcomes to determine their relevance and report conclusions to the General Council.

Some industry voices have cautioned that the proliferating use of trade remedies could threaten expansion or foreign investment in growing and salient industries, pointing to areas such as clean energy technologies. Other experts in Nairobi, however, considered that the steps proposed chair’s text would not have been a high-ambition outcome.

The document was panned by several nations, including Russia among others, who had also circulated its own revised draft decision on transparency issues in anti-dumping and countervailing measures on Friday morning. Moscow reportedly expressed disappointment that the chair’s text did not explicitly include a reference to the Agreement on Subsidies and Countervailing Measures (SCM) in the instructions paragraph on implementation recommendations, as featured in its proposal.

### **Fisheries Subsidy to Stay**

The second draft decision on fisheries subsidies would have decided to work towards completing negotiations within specific timeframe – potentially two years, though this was bracketed – for prohibitions on subsidies linked to illegal, unreported, or unregulated (IUU) fishing and those provided to any vessel or fishing activity “negatively affecting fish stocks that are in an overfished condition.”

This language was reportedly resisted in the final stretch on Friday by the 28-nation EU. The chair’s document would also have had members commit to a best endeavour standstill on introducing new fisheries subsidies contributing to overcapacity and overfishing in so far as these undermine the development livelihood and food security prospects of developing countries – a move rejected by China, given its estimated sizeable domestic support in this area.

The draft decision also included additional fisheries subsidy programmes notifications commitments under the SCM Agreement with guidance on format outlined in an annex, taking into account each members’ resources and technical capacity. China and India reportedly struck out against the supplementary notifications on Friday afternoon, reiterating concerns these did not constitute a development outcome, due to the potential additional burden it could impose on poorer countries.

*Academy of Business Studies News Service*

## WEEKLY INDEX OF CHANGES

### DGAD Initiates Anti-dumping Investigation on Aluminium Foil from China on Complaint of Hindalco and Jindal

[Anti-dumping Initiation Notification No.14/06/2015-DGAD dated 15<sup>th</sup> December 2015]

Subject: Anti-dumping investigation concerning imports of 'Aluminium Foil', originating in or exported from China PR.

M/s Hindalco Industries Ltd., M/s Raviraj Foils Ltd. and M/s Jindal India Ltd. have filed an application for initiation of anti-dumping investigation and imposition of anti dumping duty concerning imports of Aluminium Foil, originating in or exported from China PR.

The Authority prima facie 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 initiated an investigation into the alleged dumping, and consequent injury to the domestic industry.

#### Product under consideration

The product under consideration in the investigation is "Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packing materials of a thickness ranging from 5.5 micron to 80 micron excluding Alu Alu Laminate and Ultra Light Gauge Converted and Capacitor".

Aluminium ingots are rolled into sheets called Aluminium flat rolled product (FRP). Aluminium Flat Rolled product (FRP) are rolled further into foils. The essential difference between the two is in thickness. The FRP have thickness greater than 80 microns. the rolled FRP(aluminium foil) may be sold as it is, or, it may be printed or laminated (also called backed) with paper, board, plastic or other packaging materials. Aluminium foils may be printed either by the producers or by converters or by end consumers.

Aluminium Foil is used extensively for the protection, storage, and preparation of foods and beverages. Major applications of aluminium foil are in the pharmaceuticals industry for packing medicines; food industry for packing processed foods, cigarette industry for wrapping cigarettes & other applications.

The subject goods is subsumed within Chapter 76 of the Custom Tariff Act, 1975 under subheading No. 7607. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.

#### Normal Value

Applicants have claimed that China PR should be treated as a nonmarket economy and determined normal value in accordance with Para 7 and 8 of Annexure I of the Rules. The applicants have claimed normal value for China PR on the basis of cost of production in India, duly adjusted. In terms of Para 8 in Annexure 1 to the Rules it is presumed that the producers of the subject goods in China PR are operating under non market economy conditions. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters

from china PR, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.

#### Export Price

The export price has been claimed by the applicants as the weighted average import price from subject country based on the transaction-wise import data obtained from the DGCI&S. Price adjustments have been made on account of ocean freight, marine insurance, commission, inland freight expenses and port expenses to arrive at the net export price.

#### Dumping Margin

The normal value has been compared with the export price at ex-factory level. There is sufficient prima facie evidence that the normal value of the subject goods in the subject country are higher than the ex-factory export price, indicating, that the subject goods are being dumped into the Indian market by the exporters from the subject country. The dumping margins are estimated to be above de minimis.

#### Injury and Causal Link

Information furnished by the applicants has been considered for assessment of injury to the domestic industry. The applicants have furnished evidence regarding the injury having taken place as a result of the alleged dumping in the form of increased volume of dumped imports in absolute terms and in relation to production and consumption, price undercutting, price underselling and consequent significant adverse impact in terms of decline in production, sales, market share, inventories. There is sufficient prima facie evidence of the 'material injury' being suffered by the domestic industry caused by dumped imports from subject country to justify initiation of an antidumping investigation.

The applicants have claimed that imports have spurted from China PR. Petitioner has therefore claimed that the imports are threatening material injury to the domestic industry. Applicants have submitted that there is significant increase in imports, decline in import price, significant surplus capacity and high export orientation of the

### Excise Hike of Rs. 0.30 per litre for Petrol and Rs. 1.17/Litre for Diesel from 17 Dec 2015

Seeks to further amend notification No 12/2012-Central Excise dated 17.03.2012 so as to increase the Basic Excise Duty rates on Petrol and Diesel (both unbranded and branded).

46-CE 16.12.2015 (DoR) In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.12/2012-Central Excise, dated the 17<sup>th</sup> March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide G.S.R. 163(E), dated the 17<sup>th</sup> March, 2012, namely:-  
In the said notification, in the Table,-  
(i) in serial number 70,-  
(a) against item (i) of column (3), for the entry in column (4), the entry Rs. 7.36 per litre shall be substituted;  
(b) against item (ii) of column (3), for the entry in column (4), the entry Rs. 8.54 per litre shall be substituted;  
(ii) in serial number 71,-  
(a) against item (i) of column (3), for the entry in column (4), the entry Rs. 5.83 per litre shall be substituted;  
(b) against item (ii) of column (3), for the entry in column (4), the entry Rs. 8.19 per litre shall be substituted;  
2. This notification shall come into force with effect from the 17<sup>th</sup> day of December, 2015.  
[F. No.354/123/2014 -TRU]

producers in subject country as grounds for claiming threat of material injury to the domestic industry from subject imports.

#### Period of Investigation (POI)

The period of investigation for the present investigation is from 1st April, 2014 to 30th June 2015 (15 months). The injury investigation period will however cover the periods Apr'11-Mar'12, Apr'12-Mar'13, Apr'13-Mar'14 and the period of investigation.

[Full text of notification available at [www.worldtradesScanner.com](http://www.worldtradesScanner.com)]

### DGCA Recommendation Not Required for Import of Reconditioned or Second Hand Parts of Aircrafts

**Effect of this Notification:** Hereafter, there is no requirement for 'recommendation from DGCA' for import of reconditioned / second hand aircraft parts

Subject: Amendment in policy condition of items classified under Exim Code 8803 of Chapter 88 of ITC (HS), 2012-Schedule-1 (Import Policy).

27-Ntfn 16.12.2015 (DGFT) In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends the policy condition of items classified under Exim

Code 8803 of Chapter 88 of ITC (HS), 2012-Schedule-1 (Import Policy)

2. The existing import of policy conditions of the items classified under Exim Code 8803 in Chapter 88 of ITC (HS), 2012 Schedule I (Import Policy) are as under:

Exim Code	Item Description	Policy	Policy Conditions
8803	Parts of Goods of Heading Number 8801 or 8802		
8803 10 00	Propellers and rotors and parts thereof	Free	Import of reconditioned or second hand parts shall be allowed without a licence to categories specified in the Handbook of Procedures, Vol. I on recommendation of DGCA.
8803 20 00	Under carriages and parts thereof	Free	-do-
8803 30 00	Other parts of Aeroplanes or Helicopters	Free	-do-
8803 90 00	Other	Free	-do-

3. The revised import policy conditions of the items classified under Exim Code 8803 in Chapter 88 of ITC (HS), 2012 Schedule I (Import Policy) shall be as under:

Exim Code	Item Description	Policy	Policy Conditions
8803	Parts of Goods of Heading Number 8801 or 8802		Reconditioned / second hand aircraft parts are also free.
8803 10 00	Propellers and rotors and parts thereof	Free	Reconditioned / second hand aircraft parts are also free.
8803 20 00	Under Carriages and parts thereof	Free	-do-
8803 30 00	Other Parts of Aeroplanes or Helicopters	Free	-do-
8803 90 00	Other	Free	-do-

### 375 Items Identified in 5% Plus Export Decline in 2014-15 Period for Refixation of Annual Export Obligation

*Subject: Relief in Average Export Obligation in terms of Para 5.19 of Hand Book of Procedures of FTP 2015-20.*

04-Pol.Cir 16.12.2015 (DGFT) Para 5.19 of the Hand Book of Procedures of FTP 2015-20 permits re-fixation of Annual Average Export Obligation, in case the export in any sector/ product group decline by more than 5%. This implies that the sector/product group that witnessed such decline in 2014-15 as compared to 2013-14, would be entitled for such relief.

2. A list of such product groups showing the percentage decline in exports during 2014-15 as compared to 2013-14 is Annexed.

3. All Regional Offices are requested to re-fix the annual average export obligation for EPCG Authorizations for the year 2014-15 accordingly. Re-

duction, if any, in the EO should be appropriately endorsed in the licence file of the office of RA as also in the Amendment Sheet to be issued to the EPCG Authorisation holder.

4. Regional Offices while considering requests of discharge of Export Obligation will ensure that in case of shortfall in Export Obligation fulfillment, Policy Circulars earlier issued in terms of Para 5.11.2 of HBP 2009-14 are also considered before issuance of demand notice etc. This stipulation should also form part of Check-Sheet for the purpose of EODC.

5. This issues with the approval of DGFT.

**[Annexure to this circular is available at [www.worldtradescanner.com](http://www.worldtradescanner.com)]**

### Indian Kabuli Chana (Chickpeas) Eligible for FPS Benefits – DGFT Clarification

*Subject: Clarification about eligibility of Indian Kabuli Chickpeas under FPS in FTP 2009-14.*

10-TN 10.12.2015 (DGFT) Clarification has been sought in respect of eligibility of benefit under Focus Product Scheme of FTP( 2009-14) to the Indian Kabuli Chickpeas under the item description, **"EDIBLE VEGETABLES (EXCLUDING ONIONS) ALL ITEMS COVERED UNDER CHAPTER 07 (EXCEPT ONION COVERD UNDER CODES 0703 AND 0712)"**. This item appeared at Sr. No. 248 of Appendix 37D, notified vide Public Notice No. 80(RE2010)/2009-14 dated 13.10.2011 and at Sr. No. 488 of FPS Table, notified vide

Public Notice No. 52 dated 25.02.2014 (RE- 2013). Focus Product Scheme was available upto 31.3.2015.

2. The issue was placed before Policy Interpretation Committee (PIC). The Committee discussed the eligibility of Kabuli chickpeas under Focus Product Scheme. The Committee noted that the item was appearing at Sr. No. 248 of appendix 37D as notified by Public Notice 80 dated 13.10.2011 and renumbered at Sr. No. 488 of FPS table vide Public Notice No. 52 dated 25.02.2014 reads as under :

SNo.	FPS Product Code	ITC (HS) Code	Item Description	Rate Percentage
488	488	07	EDIBLE VEGETABLES (EXCLUDING ONIONS) ALL ITEMS COVERED UNDER CHAPTER 07 (EXCEPT ONION COVERD UNDER CODES 0703 AND 0712)	2%

It was noted that export of pulses is prohibited. However, export of Kabuli Chana is exempted from the ban. It was also noted that the description of export items, in this case, is Indian Kabuli

Chickpeas whereas exemption from ban is on export is for "Kabuli Chana". It was also noted that custom Authorities are allowing this item for export without any authorisation from DGFT. The

### HRD Diamond Institute, Mumbai Notified for Certificate/Grading of Diamond of 0.25 Carats and above

**Effect of this Notification:** M/s HRD Diamond Institute Private Limited, Mumbai, Maharashtra, India is added as agency permitted to import duty free diamonds for certification/grading and subsequent re-export, subject to conditions mentioned in paragraph 4.75 of Handbook of Procedures 2015-20 and other applicable provisions of the law in this regard.

**Sub: Addition of M/s HRD Diamond Institute Private Limited in paragraph 4.42 of FTP 2015-20.**

28-Ntn 16.12.2015 (DGFT) In exercise of the powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No.22 of 1992) read with Para 1.02 of the Foreign Trade Policy, 2015-2020, the Central Government hereby amends the following provisions of FTP 2015-20 :

The following entry is inserted at serial No. (4) in Para 4.42 of FTP 2015-20:

"(4) HRD Diamond Institute Private Limited, Mumbai, Maharashtra, India."

### Lab Recognition for Diamond Grading for Re-export under Para 4.42 of FTP Clarified

**Effect of this Public Notice:** With this amendment, paragraph 4.76 of the Handbook of Procedures 2015-20 will also cover the procedure to be followed for processing applications for enlistment / authorisation of Laboratories stated in paragraph 4.42 of FTP 2015-20.

**Sub: Amendment in paragraph 4.76 of Handbook of Procedures 2015-20.**

48-PN 16.12.2015 (DGFT) In exercise of powers conferred under Para 1.03 of the Foreign Trade Policy, 2015-20, as amended from time to time,

the Director General of Foreign Trade hereby makes the following amendments in paragraph 4.76 of the Handbook of Procedures 2015-20:-  
2. Last sentence of paragraph is amended as below with immediate effect:-

**Existing sentence:**

"Based on the Inspection Report and recommendations of the GJEPC, the concerned laboratory would be considered for inclusion in paragraph 4.43 of FTP."

**Amended sentence:**

"Based on the Inspection Report and recommendations of the GJEPC, the concerned laboratory would be considered for inclusion in paragraph 4.42 or 4.43 of FTP as the case may be."

matter was discussed in detail and after deliberations it was decided that:

(i) Kabuli Chana and Indian Kabuli Chickpeas are the same item. Hence, Indian Kabuli Chickpeas is also exempted from ban on export.

(ii) Since Kabuli Chana is exempted from ban on export, Indian Kabuli Chickpeas cannot be

treated as prohibited or restricted item.

(iii) Chapter 7 of ITC(HS) Code, list items under the Heading Edible vegetables and certain "Roots" and "Tubers". Therefore all items listed under Chapter 7 of ITC HS have to be either edible vegetables or certain roots or Tubers. The committee noted that Kabuli chickpeas are neither "Roots" nor "Tubers". The HS code for chickpea is 07132000 which is under subheading "Direct leguminous vegetables, shelled whether or not skinned or split".

3. Thus, the committee was of the view that Indian Kabuli Chickpeas are "Edible vegetables" and therefore eligible under FPS.

4. Accordingly it is hereby clarified that Indian Kabuli chickpeas is eligible under Focus Product Scheme.(2009-2014).All RAs are advised to allow FPS benefit on export of Indian Kabuli chickpeas under the above description and dispose off all pending applications accordingly.

## No FPS Benefits for Industrial Valves Only Bicycle Parts under SNo. 269 Eligible

*Subject: Clarification on availability of benefit under Focus Product Scheme of Foreign Trade Policy 2009-14 on the export of items mentioned at SI No. 269 of Appendix 37-D, Table-1 of Foreign Trade Policy 2009-14- of kind used on bicycle (ITC HS 8481).*

11-TN The product description appearing under ITCIHS 8481 14.12.2015 mentioned at SI No. 269 of Appendix 37-D, Table-1 of Foreign Trade Policy 2009-14 notified vide public notice no.52 dated 25.02.2014 is as under:

'ITEMS OF A KIND USED ON BICYCLES: TAPS, COCKS, VALVES AND SIMILAR APPLIANCE POR PIPES, BOILER SHELLS, TANKS, VATS OR THE LIKE, INCLUDING PRESSURE REDUCING VALVES AND THERMOSTATICALLY CONTROLLED VALVES'

2. DGFT has received representations from exporters requesting for providing benefits under focus Product Scheme of Foreign Trade Policy 2009-14 on the export of industrial valves under item at SI. No. 269 of Appendix 37D, Table-1 of Foreign Trade Policy 2009-14 notified vide public notice no. 52 dated 25.02.2014 or under any other any other SI. No. in the earlier public notices having same description and even to those items which are not used in bicycles.

3. It is hereby clarified that intention from the beginning had been to grant incentive to bicycle parts only under this serial No. 269 under FPS and this intention has been clearly indicated. Other items, which are not parts of bicycle, appearing in the above mentioned description are not eligible for FPS benefit under FTP 2009-14. The Focus Product scheme has sunset on 31.03.2015, therefore, there is no merit in requests for providing benefit to other products.

4. Cases where RA has issued any scrips against the export of parts other than those used in bicycle under ITCHS 8481 mentioned at SI No. 269 of Appendix 37-D, Table-1 of Foreign Trade Policy 2009-14 notified vide public notice no. 52 dated 25.02.2014 or under any other SI. No. in the earlier public notices having same description, are liable to be reviewed and corrective measures be taken to recover such claims granted by over sight.

## DRI to Adjudicate Rs. 5 Crores Plus Cases

*Subject: Amendment to Board Circular No. 18/2015-Cus dated 9.06.2015.*

30-CBEC Attention is invited to Notification No 60/2015-Customs 04.12.2015 (N.T.) dated 04.06.2015 as amended delegating powers (DoR) to appoint Common adjudicating authority to the Principal DGRI or DG DRI under section 4 and section 5 of the Customs Act, 1962. Attention is also invited to Board Circular No 18/2015 dated 09.06.2015 which lays down guidelines for appointment of common adjudicating authority.

2. DRI has pointed out difficulty being faced in implementing guidelines and accordingly has suggested suitable amendments. The matter has been examined in Board. Accordingly, it has been decided that the following cases investigated by DRI shall be assigned to Additional Director General (Adjudication), DRI:

- (i) Cases involving duty of Rs. 5 Crores and above;
- (ii) Group of cases on identical issues involving aggregate duty of Rs. 5 crore and more;
- (iii) Cases involving seizure value of Rs 25 Crore or more;
- (iv) Cases involving wrong availment of export incentives where the export incentives wrongly availed is Rs 5 Crore or more;

## Exchange Rates for Customs Valuation

### Rupee Rises Five paise to Rs. 67.20 against Dollar for Imports w.e.f 18 Dec 2015, Euro Now 73.10

144-Cus(NT) In exercise of the powers conferred by section 14 of 17.12.2015 the Customs Act, 1962 (52 of 1962), and in super session of the notification of the Central Board of Excise & Customs No.136/2015-CUSTOMS (N.T.), dated the 3<sup>rd</sup> December, 2015, except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or vice versa, shall, with effect from 18<sup>th</sup> December, 2015 be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SNo.	Currency	Imprted Goods		Exported Goods	
		Current	Previous	Current	Previous
<b>Schedule I – Rate of exchange of one unit of foreign currency equivalent to Indian rupees</b>					
1.	Australian Dollar	48.55	49.45	47.15	48.00
2.	Bahrain Dinar	182.25	183.05	171.75	171.75
3.	Canadian Dollar	48.80	50.55	47.80	49.45
4.	Danish Kroner	9.80	9.60	9.55	9.35
5.	EURO	73.10	71.65	71.30	69.85
6.	Hong Kong Dollar	8.70	8.70	8.55	8.55
7.	Kuwait Dinar	226.10	226.00	213.65	212.70
8.	Newzeland Dollar	45.55	45.05	44.20	43.70
9.	Norwegian Kroner	7.65	7.80	7.45	7.60
10.	Pound Sterling	100.80	100.70	98.60	98.50
11.	Singapore Dollar	47.60	47.80	46.60	46.80
12.	South African Rand	4.55	4.75	4.30	4.50
13.	Saudi Arabian Riyal	18.30	18.30	17.30	17.30
14.	Swedish Kroner	7.90	7.75	7.70	7.60
15.	Swiss Franc	67.70	66.25	66.20	64.60
16.	UAE Dirham	18.70	18.70	17.65	17.70
17.	US Dollar	67.20	67.25	66.20	66.25

**Schedule II – Rate of exchange of 100 units of foreign currency equivalent to Indian rupees**

1.	Japanese Yen	55.00	54.75	53.80	53.50
2.	Kenya Shilling	67.05	67.20	63.30	63.45

[F.No.468/01/2015-Cus.V]

- (v) Group of case on identical issues involving wrong availment of export incentives aggregating to Rs 5 Crore or more;
  - (vi) Cases of overvaluation of import where overvaluation is Rs 25 Crore or more; and
  - (vii) DRI case pending with erstwhile Commissioner (Adjudication).
3. In cases investigated by DRI other than in Para 2 above the basis of appointment of common adjudicating authority shall be maximum duty evaded/ export incentive wrongly availed / amount of overvaluation of cases.
4. In respect of non DRI cases, appointment of common adjudication authority shall continue to be made by Board under section 4 and section 5 of Customs Act. This will include:
- (i) Cases made by Commissioner;
  - (ii) Non DRI cases pending with erstwhile Commissioner (Adjudication).
5. The Board Circular No 18/2015- Customs dated 09.06.2015 stands modified to above extent.
6. The amended guidelines shall also apply mutatis mutandis for the cases falling under the jurisdiction of Additional Commissioner/ Joint Commissioner/ Deputy Commissioner/ Assistant Commissioner as reference to Commissioners is specifically mentioned in the guidelines.
7. Difficulty faced, if any, may be brought to the notice of the Board urgently.

F. No. 450/145/2015-Cus IV

**Tariff Value Up: Gold \$3/10 gms; Crude Soyabean Oil \$36/MTs; Crude Palm Oil \$17/MTs; Palmolein \$11/MTs**  
**Down: Silver \$13/kg; Brass Scrap \$119/MTs; Areca Nuts \$104/MTs**

142-Cus(NT) In exercise of the powers conferred by sub-section 15.12.2015 (2) of section 14 of the Customs Act, 1962 (52 of (DoR) 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S.O. 748 (E), dated the 3rd August, 2001, namely:-  
 In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted namely:-

**Table-1**

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	553
2	1511 90 10	RBD Palm Oil	587
3	1511 90 90	Others – Palm Oil	570
4	1511 10 00	Crude Palmolein	599
5	1511 90 20	RBD Palmolein	602
6	1511 90 90	Others – Palmolein	601
7	1507 10 00	Crude Soya bean Oil	770
8	7404 00 22	Brass Scrap (all grades)	2874
9	1207 91 00	Poppy seeds	2722

**Table-2**

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	347 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	448 per Kilogram

**Table-3**

SNo.	Chapter/heading/sub-heading/tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
1	080280	Areca nuts	2558

[F. No. 467/01/2015-Cus-V]

**62 Items Notified for Indo-Myanmar Border Trade under Public Notice 30-PN(RE) dated 16.11.2012 Rescinded**

**Effect of this Public Notice:** With the transition to normal trade across Indo-Myanmar Border at Moreh (Manipur), all the Public Notices on Indo-Myanmar Border Trade are rescinded herewith.

**Subject:** Rescinding of the Public Notice No. 30 (RE-2012)/2009-2014 dated 16th November, 2012.

50-PN In exercise of powers conferred under paragraph 17.12.2015 2.04 of the Foreign Trade Policy, 2015-2020, the Director (DGFT) General of Foreign Trade hereby rescinds the Public Notice No. 30 (RE-2012)/2009-2014 dated 16th

November, 2012 vide which a list of 62 tradable items had been notified for the Indo-Myanmar Border Trade. Along with the Public Notice No. 30 (RE-2012)/2009-2014 dated 16th November, 2012, the Public Notice No.289/92-97 dated 10th April, 1995 and Public Notice No.106 (RE-2008)/2004-2009 dated 7th November, 2008 are also rescinded.

**Interest Cut on Export Credit comes into effect from 1 April 2015**

**Subject:** Interest Equalisation Scheme on Pre and Post Shipment Rupee Export Credit w.e.f. 1<sup>st</sup> April 2015

09-TN It is brought to the notice of Trade and Industry that the 08.12.2015 Interest Equalisation Scheme on Pre and Post Shipment (DGFT) Rupee Export Credit has been announced by the Government of India and notified vide RBI Circular No.

DBR/Dir/BC.No. 62/04.02.001/2015-16 dated December 4, 2015. The scheme is applicable w.e.f. 1<sup>st</sup> April 2015. Details of the scheme are available on the website of RBI www.rbi.org.in.

2. As the scheme is applicable from 01.04.2015, all eligible exporters who have availed pre and post shipment credit facility from 01.04.2015 may contact their respective Banks to enable expeditious decision on availing benefit under the scheme.

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\*See details in [www.worldtradesScanner.com](http://www.worldtradesScanner.com)