Office of the Commissioner of Customs
Custom House, Cochin – 9
- - - - -
Public Notice No. 26 / 2009

Attention of the trade and public is invited to the following instructions of the C.B.E.C, enclosed herewith, for information:

Sl. No.	Instruction No. and origin	Subject
1.	Notification No. 117/2009 Customs, dated 13-10-2009	The designated authority vide notification No. 15/26/2008-DGAD, dated the 31st March, 2009
2.	Notification No. 118/2009 Customs, dated 14-10-2009	Amends Notification No. 21/2002-Customs, dated the 1st March, 2002
3.	Notification No. 119/2009 - Customs, dated 16-10-2009	Regarding anti dumping duty on Phosphorus Pentachloride (PCL5) originating in, or exported from, the People's Republic of China (China PR) and European Union
4.	Notification No. 120/2009 - Customs, dated 16-10-2009	Amends Notification No.100/2004-Customs, dated 28th September, 2004
5.	Notification No. 121/2009 - Customs, dated 30-10-2009	Regarding anti dumping duty on Nylon Tyre Cord Fabric, originating in, or exported from, Belarus
6.	Notification No. 122/2009 - Customs, dated 05-11-2009	Regarding imposition of provisional safeguard duty on imports of Soda Ash
7.	Notification No. 156/2009 Customs (N.T.), dated 15-10-2009	Amends Notification No. 36/2001 – Customs (N.T.), dated, the 3rd August, 2001
8.	Notification No. 157/2009 - Customs (N.T.), dated 22-10-2009	Amends Notification No. 146/2009-CUSTOMS (N.T.) dated 25th September, 2009
9.	Notification No. 159/2009 - Customs (N.T.), dated 30-10-2009	Amends Notification No. 36/2001-Cus (N. T.), dated, 3rd August 2001
10.	Notification No. 160/2009 -	Amends the Customs (Import of Goods at

	Customs (N.T.), dated 30-10-2009	Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996
11.	Board's Instruction in F. No.401/48/2009-Cus.III FirstAmendment SecondAmendment dated 15-10-2009	Regarding implementation of certain provisions of the Hazardous Waste (Management, Handling and Transboundary) Rules, 2008
12.	Board's Instruction in F.No.354/189/2009-TRU dated 04-11-2009	Regarding applicability of indirect taxes on packaged software
13.	Circular No. 30/2009 vide F.No.: DGEP/G&J/428/2006 Cus dated 22-10-2009	Procedure and guidelines for import of diamonds for certification and grading and re-export thereof

[Issued in F.No.C1/01/2009-TU]

Sd /-
(J. P. GREGORY)
COMMISSIONER

Cochin, dated: 11.11.2009

Annexure : As above

Copy to:

1. The Chief Commissioner's Office, Cochin.

2. Commissioner's file/ Jt. Commissioner / All D.Cs & A.Cs / Development Commissioner (CSEZ) / All Appraisers / All Sections / Guard File & As per mailing list. .All concerned officers are directed to note and comply with the instructions/changes. No separate S.O. is being issued.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

Notification No.117/2009-Customs

New Delhi, the 13th October, 2009

G.S.R. (E). -Whereas, the designated authority vide notification No. 15/26/2008-DGAD, dated the 31st March, 2009, published in the Gazette of India, Extraordinary, Part I, Section 1 dated the 1st April, 2009, has initiated review in terms of sub-section (5) of Section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on imports of Propylene Glycol, falling under tariff item 2905 32 00 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, the United State of America, Singapore, Republic of Korea and European Union imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue),No. 105/2004-CUSTOMS, dated the 8th October, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.663(E), dated the 8th October, 2004, and has requested for extension of anti-dumping duty up to 7th July, 2010, in terms of sub-section (5) of Section 9A of the said Customs Tariff Act;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of Section 9A of the said Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 105/2004-CUSTOMS, dated the 8th October, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.663(E), dated the 8th October, 2004, namely: -

In the said notification, at the end, the following shall be added, namely: -

"This notification shall remain in force up to and inclusive of the 7th July, 2010, unless the notification is revoked earlier".

[F.No.354/87/2004-TRU]

(Prashant Kumar)

Under Secretary to the Government of India

Note.- The Principal notification No.105/2004-CUSTOMS, dated the 8th October, 2004, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.663(E), dated the 8th October, 2004.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 118/2009-Customs

New Delhi, the 14th October, 2009

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2002-Customs, dated the 1st March, 2002 which was published in the Gazette of India, Extraordinary, vide number G.S.R.118 (E), dated the 1st March, 2002, namely:-

In the said notification, -

A) in the preamble, in the proviso, after clause (iaf), the following clause shall be inserted, namely:-

‘‘(iag) the goods specified against S.No. 22AC of the said Table on or after the 1st day of October, 2010”

B) in the Table, after S.No. 22AB and the entries relating thereto, the following S.No. and entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
‘‘22AC.	1006 30	All goods	Nil	-	-”.

[F.No. 354/184/2007-TRU] (Prashant Kumar)
Under Secretary to the Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, vide number G.S.R.118(E), dated the 1st March, 2002 and was last amended by notification No. 84/2009-Customs, dated the 31st July, 2009 which was published in the Gazette of India, Extraordinary vide number G.S.R.559(E), dated the 31st July, 2009.

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi,16th October, 2009

Notification No.119/2009-Customs

G.S.R. (E). – Whereas, in the matter of import of Phosphorus Pentachloride (PCL5) (hereinafter referred to as the subject goods), falling under tariff item 2812 10 22 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the said Customs Tariff Act), originating in, or exported from, the People's Republic of China (China PR) and European Union, and imported into India, the designated authority vide, its preliminary findings vide notification No. 14/3/2009-DGAD, dated the 18th August, 2009, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 18th August, 2009, had come to the conclusion that various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury in case of imports of PCL5, and has recommended imposition of provisional anti-dumping duty on the imports of subject goods, originating in or exported from, the People's Republic of China (hereinafter referred to as the subject country).

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 9A of 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 findings of the designated authority, hereby imposes on the goods, the description of which is specified in column (3) of the Table below, 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 exported from the country as specified in the corresponding entry in column (5), and produced by the producer as specified in the corresponding entry in column (6), and exported by the exporter as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty equal to the amount mentioned in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9) of the said Table.

Table

Sl. No	Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	2812 10 22	Phosphorus Pentachloride (PCL5)	China PR	China PR	M/s Xuzhou Jianping Chemical Co. Ltd.	M/s China Haohua Chemical (Group) Corporation	0.326	Per KG	US Dollar

2.	2812 10 22	Phosphorus Pentachloride (PCL5)	China PR	China PR	M/s Xuzhou Jianping Chemical Co. Ltd.	M/s Sinochem International Corporation	0.436	Per KG	US Dollar
3.	2812 10 22	Phosphorus Pentachloride (PCL5)	China PR	China PR	Any combination of producer and exporter except at Sl. No. 1 and 2		0.638	Per KG	US Dollar
4.	2812 10 22	Phosphorus Pentachloride (PCL5)	China PR	Any	Any	Any	0.638	Per KG	US Dollar
5.	2812 10 22	Phosphorus Pentachloride (PCL5)	Any	China PR	Any	Any	0.638	Per KG	US Dollar

2. The anti-dumping duty imposed under this notification shall be effective up to and inclusive of the 15th day of April, 2010 and shall be payable in Indian currency.

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

[F.No.354/187/2009-TRU]

(Prashant Kumar)
Under Secretary to the Government of India.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No.120/2009-Customs

New Delhi, the 16 th October, 2009

G.S.R. (E). -Whereas, the designated authority vide notification No. 15/25/2008-DGAD, dated the 31st March, 2009, published in the Gazette of India, Extraordinary, Part I, Section 1 dated the 1st April, 2009, has initiated review in terms of sub-section (5) of Section 9A of the Customs Tariff Act, 1975 (51 of 1975) and in pursuance of rule 23 of the Customs Tariff (Identification,

Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on imports of Styrene Butadiene Rubber (SBR) 1900 series, falling under heading 3903 or 4002 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, the Japan, Korea RP and United States of America imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue),No. 100/2004-CUSTOMS, dated the 28th September, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.647(E), dated the 28th September, 2004, and has requested for extension of anti-dumping duty upto 27th June, 2010, in terms of sub-section (5) of Section 9A of the said Customs Tariff Act;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of Section 9A of the said Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 100/2004-CUSTOMS, dated the 28th September, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.647(E), dated the 28th September, 2004, namely: -

In the said notification, at the end, the following shall be added, namely: -

‘‘This notification shall remain in force up to and inclusive of the 27th June, 2010, unless the notification is revoked earlier”.

[F.No.354/48/2004-TRU (Pt.I)]

(Prashant Kumar)

Under Secretary to the Government of India

Note.- The Principal notification No.100/2004-CUSTOMS, dated the 28th September, 2004, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 647 (E), dated the 28th September, 2004.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
Notification No.121 /2009-Customs

New Delhi, the 30th October, 2009

G.S.R. (E). – Whereas, in the matter of import of Nylon Tyre Cord Fabric (NTCF) (hereinafter referred to as the subject goods), falling under sub heading 5902 10 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the said Customs Tariff Act), originating in, or exported from, Belarus (hereinafter referred to as the subject country) and imported into India, the designated authority in its preliminary findings vide notification No.14/09/2008-DGAD dated the 3rd March, 2009, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 3rd March, 2009, had come to the conclusion that-

1. the product under consideration had been exported to India from Belarus below its normal value;
2. the domestic industry had suffered material injury; and
3. the injury had been caused by the dumped imports from Belarus;

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

And whereas, on the basis of the aforesaid findings of the designated authority, the Central Government had imposed provisional anti-dumping duty on the subject goods vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 39/2009-Customs, dated 29th April, 2009, published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 289(E), dated the 29th April, 2009;

And whereas, the designated authority in its final findings vide notification No. 14/09/2008-DGAD dated the 29th September, 2009, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 29th September, 2009 , had come to the conclusion that-

(a) The product under consideration had been exported to India from Belarus below its normal value.

(b) The domestic industry had suffered material injury.

(c) The injury had been caused by the dumped imports from Belarus.

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

Now, therefore, in exercise of the powers conferred by sub-section (1), read with sub-section (5) of section 9A of the said Customs Tariff Act and rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, on the basis of the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under subheading of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), the specification of which is specified in column (4), originating in the country as specified in the corresponding entry in column (5), and produced by the producers as specified in the corresponding entry in column (7), when exported from the country as specified in the corresponding entry in column (6), by the exporters as specified in the corresponding entry in column (8), and imported into India, 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 (11) and per unit of measurement as specified in the corresponding entry in column (10), of the said Table.

Table.

Sl. No.	Sub-heading	Description of goods	Specification	Country of Origin	Country of export	Producer	Exporter	Duty Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10	11
1	5902 10	Nylon Tyre Cord Fabric	All Grades	Belarus	Singapore	Grodno Khimvo lokno	Kapsco Private Ltd.	0.77	Kg	US Dollar
2	5902 10	Nylon Tyre Cord Fabric	All Grades	Belarus	Belarus	Grodno Khimvo lokno	Grodno Khimvo lokno	0.77	Kg	US Dollar
3	5902 10	Nylon Tyre Cord Fabric	All Grades	Belarus	Belarus	Any combination other than at 2 above		0.92	Kg	US Dollar
4	5902 10	Nylon Tyre Cord Fabric	All Grades	Belarus	Any country other than Belarus	Any combination other than at 1 above		0.92	Kg	US Dollar
5	5902 10	Nylon Tyre Cord Fabric	All Grades	Any country other than country/ies attracting anti dumping duty.	Belarus	Any	Any	0.92	Kg	US Dollar

2. The anti-dumping duty imposed shall be levied for a period of five years (unless revoked, superseded or amended earlier) from the date of imposition of the provisional anti-dumping duty, that is, 29th April, 2009 and shall be payable in Indian currency.

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

[F.No.354/70/2009 –TRU]
(Prashant Kumar)
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 122 / 2009-Customs

New Delhi, the 5th November, 2009

G.S.R. (E). – Whereas, in the matter of import of Soda Ash (hereinafter also referred as the subject goods), falling under tariff item 2836 20, of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the said Act), from People's Republic of China, the Director General (Safeguards), in its preliminary findings vide number G.S.R. 62 (E), dated the 30th January, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 30th January, 2009, had come to the conclusion that increased imports of Soda Ash into India from the People's Republic of China had caused and threatened to cause market disruption to domestic industry of Soda Ash and that this had necessitated the imposition of provisional safeguard duty on imports of Soda Ash into India from People's Republic of China ;

And whereas, on the basis of the aforesaid findings of the Director General (Safeguards), the Central Government had imposed provisional Safeguard duty on imports of the subject goods *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 37/2009-CUSTOMS, dated the 20th April, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 20th April, 2009, *vide* number G.S.R.264 (E), dated the 20th April, 2009;

And whereas, the Director General (Safeguards) in its final findings *vide* number G.S.R.725(E), dated the 6th October, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 6th October, 2009 had come to the conclusion that increased imports of Soda Ash into India from the People's Republic of China had caused and

threatened to cause market disruption to the domestic industry of Soda Ash and it necessitated the imposition of definitive safeguard duty on imports of Soda Ash into India from People's Republic of China;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 8C of the said Act, read with rules 12 and 14 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, the Central Government after considering the said findings of the Director General (Safeguards), hereby imposes a safeguard duty at the rate of 20% ad *valorem* on Soda Ash, falling under tariff item 2836 20 of the First Schedule to the said Act, when imported into India from the People's Republic of China.

2. The Safeguard duty imposed under this notification shall be levied with effect for one year from the date of imposition of the provisional Safeguard duty, and shall remain in force upto and inclusive of the 19th April, 2010.

[F.No.354/40/2009 –TRU] (Prashant Kumar)
Under Secretary to the Government of India

[TO BE PUBLISHED IN PART-II, SECTION-3, SUB-SECTION (ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

(Central Board of Excise and Customs)

Notification No. 156/2009-Customs (N.T)

New Delhi, 15th October, 2009

23 Asvina, 1931 (SAKA)

S. O… (E) – In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Board, being satisfied that it is necessary and expedient so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Cus (N. T.), dated, the 3rd August 2001, namely: -

In the said notification, for the , the following shall be substituted namely:-

"T A B L E

S. No.	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	447 (i.e. no change)
2	1511 90 10	RBD Palm Oil	476 (i.e. no change)
3	1511 90 90	Others – Palm Oil	462 (i.e. no change)
4	1511 10 00	Crude Palmolein	481 (i.e. no change)
5	1511 90 20	RBD Palmolein	484 (i.e. no change)
6	1511 90 90	Others – Palmolein	483 (i.e. no change)
7	1507 10 00	Crude Soyabean Oil	580 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	**3328**
9	1207 91 00	Poppy seeds	**3018**"

[F. No. 467/14/2009-Cus.V]

(SATISH KUMAR REDDY)

Director to the Government of India

Note: - The Principal notification was published in the Gazette of India, Extraordinary, vide Notification No. 36/2001 – Customs (N.T.), dated, the 3rd August, 2001 (S. O. 748 (E), dated, the 3rd August, 2001) and was last amended vide Notification No. 149/2009-Customs (N.T.), dated, the 30th September, 2009 (S. O. 2492 (E) dated 30th September, 2009).

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, PART-II, SECTION 3, SUB-SECTION (ii), EXTRAORDINARY]

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

DEPARTMENT OF REVENUE

CENTRAL BOARD OF EXCISE AND CUSTOMS

Notification No. 157/2009-Customs (N.T.)

Dated the 22nd October, 2009

30 Asvina, 1931 (SAKA)

S. O. (E). – In exercise of the powers conferred by Section 14 of the Customs Act, 1962 (52 of 1962), the Board hereby makes the following amendments in the Notification of the Government of India, Ministry of Finance (Department of Revenue) No. 146/2009-CUSTOMS (N.T.) dated the 25th September, 2009 [S. O. 2460 (E)], namely:-

In the SCHEDULE-I of the said Notification for Serial No. 8 and the entries relating thereto, the following shall be substituted, namely:-

SCHEDULE-I

S. No.	**Foreign Currency**	**Rate of exchange of one unit of foreign currency equivalent to Indian rupees**	
(1)	(2)	(3)	
		(a)	**(b)**
		(For Imported Goods)	**(For Export Goods)**
8.	Swedish Kroner	6.77	6.90 (No Change)

The rates will be effective from 22nd October, 2009.

[F. No. 468/15/2009-Cus.V] (M. SATISH KUMAR REDDY

Director to the Government of India Telephone No. 011-2309 338

[TO BE PUBLISHED IN PART-II, SECTION-3, SUB-SECTION (ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

(Central Board of Excise and Customs)

Notification No. 159/2009-Customs (N.T)

New Delhi, 30th October, 2009
8 Kartika, 1931 (SAKA)

S. O… (E) – In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Board, being satisfied that it is necessary and expedient so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Cus (N. T.), dated, the 3rd August 2001, namely: -

In the said notification, for the Table, the following Table shall be substituted namely:-

"T A B L E

S. No.	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	447 (i.e. no change)
2	1511 90 10	RBD Palm Oil	476 (i.e. no change)
3	1511 90 90	Others – Palm Oil	462 (i.e. no change)
4	1511 10 00	Crude Palmolein	481 (i.e. no change)
5	1511 90 20	RBD Palmolein	484 (i.e. no change)
6	1511 90 90	Others – Palmolein	483 (i.e. no change)
7	1507 10 00	Crude Soyabean Oil	580 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	**3318**
9	1207 91 00	Poppy seeds	**3066"**

[F. No. 467/14/2009-Cus.V]
(SATISH KUMAR REDDY)
Director to the Government of India

Note: - The Principal notification was published in the Gazette of India, Extraordinary, vide Notification No. 36/2001 – Customs (N.T.), dated, the 3rd August, 2001 (S. O. 748 (E), dated, the 3rd August, 2001) and was last amended vide Notification No. 156/2009-Customs (N.T.), dated, the 15th October, 2009 (S. O. 2622 (E) dated 15th October, 2009).

[TO BE PUBLISHED IN THE GAZETTE OF INDIA,EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 160 / 2009 - Customs (N.T.)

NEW DELHI, THE 30 OCTOBER, 2009.
8 KARTIKA, 1931 (SAKA).

G.S.R._____(E) - In exercise of the powers conferred by section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules further to amend the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996, namely:-

1. (1) These rules may be called the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Amendment Rules, 2009.

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

2. In the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996, in rule 7, -

(i) in Clause (a), at the end, the words “and” shall be omitted;

(ii) in Clause (b), at the end, for the words “Deputy Commissioner of Central Excise.”, the words, “Deputy Commissioner of Central Excise; and” shall be substituted;

(i) after Clause (b) so amended, the following shall be inserted, namely:-

“(c) submit a monthly return, in the format prescribed as “Annexure” appended to these rules, to the said Assistant Commissioner or Deputy Commissioner by the tenth day of the following month.”.

"Annexure"

MONTHLY RETURN

Return for the month of ……

[see Rule 7(c)]

Name of the imported goods:

S.No	Description of goods imported at concessional rate	Details of goods imported during the month					Goods manufactured during the month		Specified purpose for procuring the goods at concessional rate of duty	Whether thegoods used for specified purpose or not. In case of export, specify the quantity exported with details of ARE-1/ ARE-2.
		Opening balance On the 1st day of the months	Received during the month	Total of Col.(3) & (4)	Quantity consumed for the intended purpose, during the month	Closing balance on the last day of the month	Nature	Quantity		
1	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

(Note: Separate entries should be made for each variety or class of imported goods used and goods manufactured.)

Declaration

I/We hereby declare that the undersigned have compared the above particulars with the records and books maintained by my / our factory and that they are true and correct in every respect and are in accordance with the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Amendment Rules, 2009.

Date:

Signature and name

of the authorised person
of the manufacturer.
Seal of the company"

Place:

F.No.450/63/2009-Cus.IV

(Navraj Goyal)
Under Secretary (Customs)

Note:- The principal rules were published vide Notification No.36/96-Customs (N.T.) dated 23rd July, 1996, [G.S.R. 305 (E), dated the 23rd July, 1996] and were last amended vide Notification No.12/2002-Customs (N.T.) dated the 1st March, 2002, G.S.R. (E), dated the 1st March, 2002.

F. No.401/48/2009-Cus.III

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

159-A, North Block, New Delhi-1.

15th October, 2009.

To

All Commissioners of Customs / Customs (Prev.).

All Commissioners of Customs & Central Excise.

Subject: **Implementation of the Hazardous Waste (Management, Handling and Transboundary) Rules, 2008 – Second amendment to the said Rules.**

***

Sir / Madam,

Please refer to the Board's instructions of even number dated 24.8.2009 and the Notifications No. S.O. 2447 (E) dated 23rd September, 2009 (copy enclosed) and S.O. (E) 1799 dated 21st July, 2009 issued by the Ministry of Environment and Forests (MoEF) on the above mentioned subject.

2. In this regard, it is stated that the Ministry of Environment and Forests (MoEF) vide its O.M. F.No.23-76/2009-HSMD dated 1.10.2009 (copy enclosed) had clarified that the amendments introduced in the Notification dated 23.9.2009 should be read in continuation of earlier amendment of 21.7.2009. it is also stated that these amendments pertain to the category of Waste, which do not require either MoEF approval or DGFT licence, i.e. the waste products mentioned in Part B of Schedule III to the aforesaid Rules suffixed with ** (double asterisk), which shall be subject to the following condition:

> "Import permitted in the country by the actual users without any licence or restrictions or by importer registered with State Pollution Control Board on behalf of the actual user who shall furnish the details of such import and particulars of the actual users along with quantities to the concerned State Pollution Control Board, on a quarterly basis."

3. The MoEF has also stated that the import consignment of hazardous waste shall be accompanied by the shipment movement document i.e. Form – 9 and the test report of analysis of the hazardous waste under import, from a laboratory accredited by the exporting country under

Rule 16(5) of the aforesaid Rules. The amendment vide Notification dated 23.9.2009 seeks to provide an alternative to the test report by means of an pre-shipment inspection certificate issued by Inspection and Certification Agency approved by the DGFT.

4. However, as regards to the amended provision, permitting import by persons other than actual users on behalf of actual users since the State Pollution Control Boards may take some more time to complete the process of registration, they have requested to issue instructions to the Customs authorities to clear the consignments based on fulfillment of other conditions as stipulated in the Hazardous Waste (Management, Handling and Transboundary) Rules, 2008.

5. In view of the above, Board hereby instructs that the amendments introduced in the aforesaid Rules and the instructions of the MoEF vide their O.M.F.No.23-76/2009-HSMD dated 1st October, 2009 may be implemented by all the Customs field formations. Since the nodal officers would have been designated in each of the Commissionerates, they may be requested to liaise with the respective State Pollution Control Board for effective implementation of the above mentioned change.

6. The field formations as well as trade and industry may be suitably informed.

Yours faithfully,

(M.M. Parthiban)

Director (Customs)

Encl: 2 pages.

F.No.354/189/2009-TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Tax Research Unit)
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Room No. 147-A, North Block,
New Delhi-110001, dated 4th November, 2009.

To

Chief Commissioner of Customs (All)
Chief Commissioner of Central Excise (All)
Chief Commissioner of Customs and Central Excise (All)
Commissioner of Customs (Import), Air Cargo Complex, Andheri (E), Mumbai-4000099
Commissioner of Customs, Airport & Air Cargo Complex, Meenambakkam, Chennai – 600027.

Madam/Sir,

Subject: Applicability of indirect taxes on packaged software – regarding –

The undersigned is directed to state that 'Packaged Software' is a type of IT software which caters to the needs of a variety of users and is capable of being used for variety of hardwares. IT software is fully exempt from basic customs duty being covered under Information Technology Agreement. So far as excise duty/CVD is concerned, while customised software is fully exempt, the packaged software attracts duty @ 8%.

2. Shrink wrap software is a type of packaged software which consists of a box containing software or software upgrade on media (i.e. CD/DVD), users manual and end-user licence agreements, which is shrink wrapped in plastic cover and is always sold as a set (without removing the plastic cover).

3. Normally, cost of a software supplied in a media consists of two cost components, namely,-

(a) the cost of the actual software, i.e. set of information which is placed on a media; and
(b) the cost of the intellectual property right (IPR) relating thereto.

4. In 2008 budget, the IPR portion of the cost of software was brought under the service tax net under a new taxable service 'IT Software Service' (ITSS). As per the definition, a service provided in relation to IT software for use in the course, or furtherance, of business or commerce was covered under this taxable service. In specifics, the taxable service included,-

…….

(v) providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products,
(vi) providing the right to use information technology software supplied electronically and the term 'service provider' shall be construed accordingly.

5. In their pre-budget representations for the 2009 budget, the IT companies and their associations represented that if such IT software is imported, it is likely to be subjected to double taxation. While for calculating additional duty, the value of 'right to use' supplied alongwith the software would be included (as per the provisions of the Customs Valuation Rules) by the

Customs authorities, the service tax authorities would charge service tax on the same value (i.e. on right to use) considering it to be import of ITSS.

6. Accepting their plea, in Budget 2009, two parallel notifications were issued on the excise and customs side. Vide notification no.22/2009-CE dated 07.07. 2009, partial exemption from excise duty was provided to packaged or canned software on that portion of the value which represents the consideration for the transfer of the right to use for commercial exploitation, as on this portion, service tax would be leviable under the ITSS. Similar exemption from CVD was provided vide notification No. 80/2009-Customs dated 07.07.2009 on such software. These exemptions were notified to ensure that while importing or manufacturing packaged software, the importer/manufacturer is spared from paying customs duty/excise duty on the value attributable to transfer of 'right to use'.

7. It has been brought to the notice of the Board that some of the importers of shrink wrapped software have faced certain difficulties in availing of Notification No.80/2009-Customs dated 7.07.2009. It has been reported that their live consignments are held up, especially at Mumbai and Chennai cargo complexes. From the documents submitted by them it appears that two major objections have been raised at Mumbai and Chennai respectively.

8. It may be recalled that the first proviso of the said notification states that the exemption would be limited to that much of value which is towards *right to use such software for commercial exploitation <u>including</u> the right to reproduce, distribute <u>and</u> sell such software and the right to use software components for creation of and inclusion in other information technology software products.* In Mumbai, a view has been taken that the benefit of the notification is available only if all the activities, viz., right to reproduce, right to distribute, right to sell and right to use the software component for creation of and inclusion in other IT software products are fulfilled. Thus a conjunctive meaning of the term 'and' has been taken and it has been held that since the importer did not fulfill all the conditions, they should be denied the benefit of the notification.

9. In another case in Chennai, where fully packed product (FPP) was imported by a company which produced split value (i.e., one value for media CVD and other for right to use software) in a single invoice shown separately, the jurisdictional authorities have refused to accept such split value for the purpose of claiming notification No.80/2009-Customs and taken the view that CVD should be charged on entire amount.

10. The above instances show that the field formations have failed to appreciate the scope of the said notification. In the first case, the view taken by officers is legally untenable because the phrase used in notification No.80/2009-Cus is inclusive in nature and it is a well-known principle that in an inclusive expression, the word 'and' is to be understood as 'or' and that even if one of the activities (such as right to reproduce, right to distribute, right to sell etc.) mentioned in the said inclusive portion is carried out, it would satisfy the condition of commercial exploitation, thus making the import eligible for notification No.80/2009-Customs. As for the second case, the notification No.80/2009-Cus itself envisages splitting of the value of the imported goods into that pertaining to software on media and the one pertaining to right to use. In such cases, there is no rationale for the department to deny splitting of value unless there are reasons to believe that such a splitting has been done in order to evade payment of duty.

11. The assessment of the shrink wrapped packaged software may be done keeping in view the above directions.

12. This issues with the approval of the Member (Budget & ST).

Yours faithfully,

(Gautam Bhattacharya)
Joint Secretary (TRU-II) Tel: 23093027

Circular No. 30/2009-Cus

F.No.: DGEP/G&J/428/2006

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

Directorate General of Export Promotion

New Delhi, the 22nd October, 2009

All Chief Commissioners of Customs/Central Excise,

All Commissioners of Customs /Central Excise.

Madam /Sir

Sub: Procedure and guidelines for import of diamonds for certification and grading and re-export thereof - reg.

A new scheme under paragraph 4A.2 has been introduced in the Foreign Trade Policy 2009-2014 (FTP) for import of diamonds for certification and grading and re-export thereof. Procedure in this regard has also been specified under paragraph 4A.14 of Handbook of Procedure Volume I (HBP). To avoid dichotomy in following the procedure by the field formations for allowing import of diamonds for the specified purpose and re-export thereof, the salient feature of this scheme and procedure in this regard are laid down.

i. This scheme is presently allowed to the authorized offices/ agencies in India of Gemological Institute of America (GIA) in India only;
ii. GIA shall furnish a general bond to the satisfaction of the Asstt./ Dy Commissioner of Customs at the port of import, undertaking to properly account for the diamonds, to follow the specified procedure and to re-export diamonds within the prescribed period;
iii. The import shall be allowed under bill of entry having the detailed description of the diamonds, including *inter alia*, the dimensions, weight, colour, caratage, specification, approximate value etc of each piece of diamonds;
iv. The bill of entry should carry the endorsement “only for certification and grading”;
v. GIA, while taking the diamonds in their unit, shall allot a unique ’control number’ for identification purposes and maintain a separate account for such diamonds;
vi. After the grading/certification, the diamonds shall be re-exported under a shipping bill containing the detailed description as was mentioned at the time of import;
vii. Cross reference of B/E shall be endorsed in the shipping bill;
viii. The onus of certification shall solely rest with the GIA, i.e. the diamonds being re-exported are the same as those imported. GIA shall submit a certificate to this effect, along with the S/B, at the time of re-export;
ix. GIA shall obtain GR waiver in respect of import and re-export as per the procedure laid down by RBI and realize the foreign exchange for the service charges in terms of RBI guidelines;

x. The premises of GIA can be visited by Custom officers for surprise audit or checks. The Commissioner should devise a system of random audit at least twice a year;

xi. The diamonds imported for certification/grading are to be re-exported within a period of 3 months from the date of import;

xii. The importer shall submit a quarterly statement by 25th of the month succeeding quarter. The statement should reflect the B/E No. & date, details of diamonds and details of re-exports etc; and

xiii. Re-export shall be allowed only from the port through which import took place.

2. Wide publicity may please be given to these instructions by way of issuance of Public/Trade Notice. Suitable Standing orders/instruction may be issued for guidance of the field officers. Difficulties, if any, in implementation of these instructions, may be brought to the notice of the Directorate General of Export Promotion.

3. This issues with the approval of Central Board of Excise & Customs.

4. Receipt of this circular may kindly be acknowledged.

. Yours faithfully

Sd/-

(Praveen Mahajan)

Director General

Copy for information to:

PS to Chairman, CBEC, New Delhi

PS to all Members of the CBEC, New Delhi

All Director Generals under CBEC,

Chief Departmental Representative (CDR), Delhi

webmaster.cbec @ icegate.gov.in

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