Postal Regn.No. DL(C)-01/1251/09-11
Licence to Post without Prepayment U(C)-30/09-11
RNI No. 42906/84

WORLD TRADE SCANNER

ISSN: 0971-8095

Single copy Rs. 20 $2

Vol. XXVIII No 40 28 December 2011-03 January 2012

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

Annual subscription Rs 750

EU and US Wins Dispute with Philippines on Differential Taxation between Sugar and Wheat Sourced Whiskies

- Philippines Violation of Article III of GATT 1994 on National Treatment Upheld by WTO Appellate Body
- Discrimination in Taxes
- Countervailing Duty in India under Attack, Judgment turns Down Conditional Exemptions

In a report circulated on 21 December, the World Trade Organisation's (WTO) Appellate Body confirms the findings of the panel report circulated on 15 August according to which the excise tax applied on distilled spirits in the Philippines discriminates against imported spirits and is therefore in violation of the principle of non-discrimination enshrined in the General Agreement on Tariffs and Trade (GATT).

The taxes applied on imported distilled spirits are ten to 50 times higher than those applied on spirits manufactured in the Philippines. It was estimated that, from 2004 to 2007, EU exports of spirits to the Philippines had more than halved (from around €37 million to €18 million) due to the Excise Tax Regime, notably since a new legislation introduced in 2004 aggravated the tax discrimination.

The Philippine market for distilled spirits has an important potential, with a steady increase in demand over the last years. However, the discriminatory taxation system has led to a decline of overall consumption of imported spirits since 2005, while consumption of local spirits has significantly grown in the same period.

Between 2006 and 2010, U.S. distilled spirits exports worldwide averaged more than $1 billion per year, making the United States one of the world's largest exporters of spirits. According to industry figures, the U.S. distilled spirits industry contributed to more than $113 billion dollars of economic activity and over 1.2 million jobs in 2007.

Background

The Philippines imposes different tax rates on distilled spirits depending on the product from which the spirit is distilled. Its tax rates on distilled spirits made from materials that are typically produced in the Philippines, such as sugar and palm, are generally low. However, imported distilled spirits are taxed at rates from approximately ten to forty times higher than those applied to domestic products. In the Philippines, producers use domestic materials, such as sugar, to create a variety of different distilled spirits, including whiskey, brandy, gin, vodka, and tequila. These distilled spirits compete with U.S. imports of the same spirits made from other materials, such as whiskey distilled from wheat.

The Philippines appealed both of these findings. A hearing was held before the WTO Appellate Body in Geneva on October 25-26, 2011, and the report addressing the Philippines' appeal was issued today. In its report, the Appellate Body upheld the Panel's conclusions on both the U.S. claims. It confirmed that the Philippines' measures are inconsistent with both the first and second sentences of Article III:2 of GATT 1994.

Imported spirits have been experiencing a longstanding discriminatory excise taxation regime in the Philippines market. According to this regime, spirits produced from certain raw materials[1] are taxed at a flat specific rate. This category of products corresponds essentially to domestically produced spirits. All other spirits (mostly imported) are subject to a system of price bands at substantially higher taxes. Following complaints by the EU industry, the European Commission has been working on the resolution of this situation with Philippine authorities over the past years, with no satisfactory result to date.

On 29 July 2009, the European Union requested WTO consultations with the Philippines. Consultations were held in Manila on 8 October 2009, with the United States participating as a third party. These consultations did not lead to a satisfactory solution.

Therefore, the EU in December 2009 requested the WTO to establish dispute settle-ment panel. The US filed a similar case in March 2010. A single panel to deal with the two cases was established on 20 April 2010 and composed by the WTO Director General on 5 July 2010.

The final report of the panel, issued on 15 August 2011, confirmed the EU and

US allegations that the excise tax regime on distilled spirits of the Philippines is in clear violation of Article III: 2 of the GATT.

The Philippines introduced an appeal of the WTO report on 23 September 2011. The EU introduced a counter-appeal on 28 September 2011. The report of the WTO Appellate Body issued today confirms the findings of the WTO panel and upholds the EU claim in its counter-appeal by completing its findings on the violation of the non-discrimination obligations of the Philippines with respect to the EU complaint.

[1] Republic Act No. 8240 adopted in November 1996 referred to spirits produced from the sap of nina, coconut, cassava, camote or buri palm or the juice, sugar or syrup of cane, "where produced commercially in the country where they were processed into distilled spirits".

Aflatoxin Found in Chinese Milk

Mildewed feed given to cows caused excessive levels of a potentially cancer causing agent in milk products from China Mengniu Dairy Co. (2319) and Fujian Changfu Dairy Industry Group Co., according to the nation's quality regulator.

The level of aflatoxin M1 in a batch of milk produced by Mengniu was more than double the nation's permitted level, an unidentified official at the General Administration of Quality Supervision, Inspection and Quarantine said in an interview with the official Xinhua News Agency posted on the regulator's website. The amount in one of Changfu's milk products was almost twice the standard, the official said.

China has ordered local regulators to toughen inspections of milk products for the toxin and to recall them if it is found to be present, and dairy companies to strengthen production and supply-chain management, according to the interview. The measures build on government efforts to ensure food safety after tainted milk, reprocessed oil waste and an illegal additive in pork fueled public fear over food safety.

China's quality watchdog tested 200 types of milk products made by 128 companies in 21 provinces this year and 198 types passed the inspection, according to the Xinhua interview dated 25 December. One batch produced by Mengniu on Oct. 18 and another made by Changfu on Oct. 8 were found to be tainted, it said.

The toxin would disappear if the animals stopped eating the feed, the official said. To date, no other products have been found to contain the substance, the report said.

Excessive Amounts

The administration, citing the results of tests carried out on milk products, first reported the excessive toxin levels in the Mengniu and Changfu products on its website on Dec. 24.

Hohhot, Inner Mongolia-based Mengniu, China's largest dairy maker, destroyed a batch of the contaminated milk products that hadn't been shipped out of its factory, the company said on its website on Dec. 25.

Changfu apologizes for the incident and has started to recall the milk products to destroy them, the Fujian, southeastern China-based company said on its website on 25 December.

Aflatoxin M1 is considered to be a possible human carcinogen, according to the International Agency for Research on Cancer.

China shut more than 5,000 companies that violated rules, arrested more than 2,000 people, and handed down at least one death sentence in a crackdown on food safety this year. Pork products containing an illegal additive used to produce lean meat were found earlier this year, while melamine-tainted baby formula killed at least six infants and sickened about 300,000 in 2008.

Japan to Ease Restrictions on Weapons Exports

Japan said it would ease some restrictions on weapons exports and allow them for international projects, resurrecting a proposal made last year to benefit the country's defense industry.

Japan's government announced the change in a paper distributed to reporters in Tokyo on 26 December. The trade ministry will make a ruling on each export case individually, Chief Cabinet Secretary Osamu Fujimura said in a briefing.

The decision follows Japan's move last week to award Lockheed Martin Corp. (LMT) a contract to supply F-35 Joint Strike Fighters, a deal Fujimura said is unrelated to the export rule change. Lockheed has about 700 F-35 orders from overseas, and the U.S. contractor will build 42 of the planes for Japan, according to Japan's defense ministry.

Japanese companies, including Mitsubishi Heavy Industries Ltd. (7011), Toray Industries Inc. and Kawasaki Heavy Industries Ltd. (7012), are crucial suppliers in the civilian aerospace industry. Tokyo-based Toray supplies carbon fiber for Boeing Co.'s newest passenger jet, the 787 Dreamliner, as well as for European rival Airbus SAS.

"It has become the mainstream among developed countries to improve the performance of defense equipment and to deal with rising costs of equipment by participation in international joint development and production projects," according to a section of Japan's defense policy guidelines from last year. "Japan will study measures to respond to such major changes."

Japan has restricted weapons exports since the 1960s and 1970s, citing the nation's pacifist constitution and the need to prevent Cold War enemies from obtaining arms.

US Court Holds Third Party Data in China Non Market Economy Case Invalid

China Calls for Review of 30 Cases, Demands End of US Trade Protectionism

US Court of Appeals for the Federal Circuit (CAFC) ruled, on December 19, 2011, concerning off-road tires case that US Department of Commerce cannot launch countervailing investigation against China as deem it a non-market economy. Leader of Chinese Ministry of Commerce commented on the issue that the US has been making countervailing investigations on Chinese products for many years. It is not only in violation of WTO rules, but also not in line with US law. We hope the US corrects the wrongdoing of making countervailing investigation as soon as possible when it holds China as a non-market economy.

Since November, 2006, US Department of Commerce has started countervailing investigation against China while it does not recognize China as a market economy. Especially after the international financial crisis, more frequent use of anti-dumping and countervailing measures by US against Chinese products occurred. Up to now, the US Commerce Department has started 30 anti-dumping and countervailing investigations that were not in accordance with US law, which abuse trade remedy measures and is of typical trade protectionism. US Department of Commerce imposed countervailing duty while imposing anti-dumping duty against Chinese enterprises by using a substitute country, which has posed unfair treatment to Chinese enterprises and impaired their lawful rights.

Dollar-Rupee Rate at NSE Futures

Trade Date	Open Price	High Price	Low Price	Close Price	Daily Settlement Price	Open Interest	No. of Contracts	Value (Rs. lakhs)	RBI Reference rate
27-Dec-11	52.8700	53.1200	52.7650	53.0850	53.0850	684750	919573	486988	52.8945
26-Dec-11	52.8950	52.9950	52.7625	52.7925	52.7925	740915	903836	477679	52.8205
23-Dec-11	52.6975	52.9900	52.6650	52.9425	52.9425	737458	1034046	546129	52.7220
22-Dec-11	52.9000	52.9975	52.6625	52.7450	52.7450	865409	1545056	815648	52.7825
21-Dec-11	52.8450	52.9150	52.5200	52.7100	52.7100	983289	1971027	1039383	52.6750
20-Dec-11	53.2100	53.2100	53.0000	53.0625	53.0625	1150297	1456027	773415	53.0270

[Source: NSE and RBI Website]

WEEKLY INDEX OF CHANGES

India Extends Ban on Milk and Milk Products from China by Six Months

Subject: Prohibition on import of milk and milk products from China.

91-Ntfn(RE)
26.12.2011
(DGFT)

In exercise of powers conferred by Section 5, read along with Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992, also read along with paragraph 2.1 of Foreign Trade Policy, 2009-14, the Central Government hereby makes the following amendment.

2. The prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionary/ food preparations with milk or milk solids as an ingredient) from China was imposed vide Notification No. 46(RE-2008)/2004-2009 dated 24th September, 2008 and Notification No. 67(RE-2008)/2004-2009 dated 1st December, 2008 and extended from time to time. The latest extension was notified on 3rd January, 2011 by Notification No. 16/ 2009-2014.

3. This prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionary/ food preparations with milk or milk solids as an ingredient) from China is extended till 24.6.2012 or until further orders, whichever is earlier.

4. Effect of this Notification

Prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionary/ food preparations with milk or milk solids as an ingredient) from China is further extended till 24.6.2012 or until further orders, whichever is earlier.

Anti-dumping Duty on Sodium Hydrosulphite from China Extended upto 13 October 2012

Ntfn 111
20.12.2011
(DoR)

Whereas, the designated authority vide notification No. 15/34/2010-DGAD, dated the 14th October, 2010, published in Part I, Section 1 of the Gazette of India, Extraordinary, dated the 14th October, 2010, had 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 'Sodium Hydrosulphite (SHS)', falling under headings 2831 and 2832 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, China PR imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue),No. 108/2006-Customs, dated the 16th October, 2006, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.641 (E), dated the 16th October, 2006, as superseded by notification of the Government of India, in the Ministry of Finance (Department of Revenue),No. 133/ 2009-Customs, dated the 9th December, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.870 (E), dated the 9th December, 2009 and has requested for extension of anti-dumping duty upto one more year, 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. 133/ 2009-Customs, dated the 9th December, 2009,** published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.870 (E), dated the 9th December, 2009, 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 13th October, 2012, unless the notification is revoked earlier".

[F.No.354/6/2001-TRU (Pt.III)]

Anti-dumping on Flexible Slabstock Polyol – Entries Relating to Singapore in Notification Omitted

Ntfn 112
20.12.2011
(DoR)

In exercise of the powers conferred by sub-section (1) and sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), **No. 15/2008-Customs, dated the 5th February, 2008,** published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 68 (E), dated the 5th February, 2008, namely:-

In the said notification, in the **TABLE**, -

(i) **Sl. No. 5** and the entries relating thereto shall be **omitted**;

(ii) **Sl. No. 6** and the entries relating thereto shall be **omitted**;

(iii) **Sl. No. 7** and the entries relating thereto shall be **omitted**;

(iv) **Sl. No. 8** and the entries relating thereto shall be **omitted**.

[F.No.354/221/ 2001-TRU (Pt.I)]

Zero Duty on Jute Products from Bangladesh Covering under Heading 5307, 5607 also

Ntfn 114
23.12.2011
(DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. **8/2011-Customs, dated the 14th February, 2011**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R.91 (E), dated the 14th February, 2011 namely:-

In the said notification, for the figures "5310, 5705", the figures "5307, 5310, 5607, 5705" shall be substituted.

[F.No.354/22/2011 –TRU]

Implementation of Bar Coding on Drugs and Pharma Export Consignments Extended to July 2012

Sub: Deferment in the date of effect for implementation of bar-coding on Primary and Secondary level packaging on export consignment of pharmaceuticals and drugs for tracing and tracking purpose.

87-PN(RE)
22.12.2011
(DGFT)

In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14, as amended from time to time, Director General of Foreign Trade hereby makes following amendments in Public Notice No. 59(RE-2010)/2009-14 dated 30.06.2011 read with Public Notice No. 21 dated 10.01.2011:

2. The trace and track technology as per serial number 2(i) and 2(i) b of Public Notice No. 59(RE-2010)/2009-14 dated 30.06.2011 will come into effect as follows:

(a) Primary Level packaging - With effect from 1st January, 2013

(b) Secondary Level packaging - With effect from 1st July, 2012

3. Effect of this Public Notice

Earlier the requirement of affixing barcodes on Secondary level and Primary level packaging was to come into effect from 01.01.2012 and 01.07.2012 respectively. Now more time is being allowed.

Online Transmission of DES and EPCG Authorisation at Krishnapatnam Port from 23 December 2011

Sub: Online transmission of DES (Advance Authorization and DFIA) and EPCG at Krishnapatnam Port (INKRI1) w.e.f. 23.12.2011.

49-Pol.Cir 22.12.2011 (DGFT) As and when Customs (CBEC) have conveyed their readiness to implement on-line message exchange between Customs and DGFT, Policy Circulars have been issued from time to time by DGFT indicating the names and Port Codes of such Customs Ports where EDI facility would be available. Such Policy Circulars issued in past are listed below:

1. Policy Circular No. 28 (RE-2005)/2004-2009, dated 6th October, 2005.
2. Policy Circular No .44 (RE-2005)/2004-2009, dated 10th January, 2006.
3. Policy Circular No. 32 (RE-2010)/2009-2014, dated 14th May, 2010.
4. Policy Circular No. 37/2009-2014, dated 7th July, 2010.
5. Policy Circular No. 26 (RE-2010)/2009-14 dated 21st March, 2011.
6. Policy Circular No. 36 (RE-2010)/2009-14-dated 5th August, 2011
7. Policy Circular No. 40 (RE-2010)/2009-14 dated 9th September, 2011

2. Now it has been decided to add the following one new location to 84 existing locations for on-line transmission of DES (Advance Authorization and DFIA) and EPCG Authorization:

SNo	Name of new ICES Location	LOCODE Customs Port Codes)
1	Krishnapatnam Port	INKRI1

3. Accordingly, with effect from 23rd December, 2011 following shall be mandatory:

(a) All authorizations for DES (Advance authorization and DFIA) and EPCG in respect of this port issued on or after 23.12.2011 by Regional Authorities would be communicated to Customs on-line.

4. This issues with the approval of the DGFT.

Spelling Corrections in Metamitron Technical (98%Min.) DEPB Item

Subject: - Corrigendum in description of export item at Sl. No 1011, Product Code-62 of the DEPB Rate Schedule.

86-PN(RE) 21.12.2011 (DGFT) In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14, the following correction is made in description of export item under Sl. No 1011, Product Code-62 "Chemicals" of the DEPB Rate Schedule.

2. The description of export item at Sl. No 1011, Product Code-62 "Chemicals" of the DEPB Rate Schedule is corrected to read as **"Metamitron Technical (98%Min.)"**.

Effect of this modification

Description of export item at Sl. No 1011, Product Code-62 "Chemicals" of the DEPB Rate Schedule had a typographical error. It was wrongly appearing as Metamitrion Tech (98%Min.). It is corrected to read as **"Metamitron Technical (98%Min.)"**. Extra 'i' has been removed from the spelling. There is no other change.

Zero Duty Exemption for Airborne Early Warning and Control (AEW&C) System Programme Extended upto 5 April 2014

Ntfn 110 19.12.2011 (DoR) In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments, in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.39/96-Customs, dated the 23rd July, 1996, published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 291(E), dated the 23rd July, 1996, namely:-

In the said notification, in the TABLE, against S.No.31, in column (3), in the Explanation, for the words, figures and letters "on or after the 1st day of January, 2012" the words, figures and letters, "on or after the 5th day of April, 2014" shall be substituted.

[F.No.354/32/2006 –TRU]

Micro Finance Cos Allowed to Borrow $10 mn on ECB Automatic Route

Considering the specific needs of the micro finance sector, the existing External Commercial Borrowings (ECB) policy has been reviewed in consultation with the Government of India and it has been decided that Micro Finance Institutions (MFIs) may be permitted to raise ECB upto USD 10 million or equivalent during a financial year for permitted end-uses, under the Automatic Route.

It has also been decided that Non-Government Organizations (NGOs) engaged in micro finance activities can avail of ECB up to USD 10 million or equivalent per financial year under the automatic route as against the present limit of USD 5 million or equivalent per financial year.

Sub: External Commercial Borrowings (ECB) for Micro Finance Institutions (MFIs) and Non-Government Organisations (NGOs)- engaged in micro finance activities under Automatic Route

AP(DIR Srs) Cir.59 19.12.2011 (RBI) Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, notified vide Notification No. FEMA 3/2000-RB dated May 3, 2000, amended from time to time, A.P. (DIR Series) Circular No. 5 dated August 1, 2005, amended from time to time and A.P. (DIR Series) Circular No. 40 dated April 25, 2005 relating to the External Commercial Borrowings (ECB).

2. Considering the specific needs of the micro finance sector, the existing ECB policy has been reviewed in consultation with the Government of India and it has been decided that hence forth MFIs may be permitted to raise ECB up to USD 10 million or equivalent during a financial year for permitted end-uses, under the Automatic Route. Detailed guidelines on ECB for MFIs with necessary safeguards are set out below.

(i) Eligible Borrower

The following MFIs engaged in micro finance activities shall be considered as eligible borrowers to avail of ECBs:-

♦ MFIs registered under the Societies Registration Act, 1860;

♦ MFIs registered under Indian Trust Act, 1882;

♦ MFIs registered either under the conventional state-level cooperative acts, the national level multi-state cooperative legislation or under the new state-level mutually aided cooperative acts (MACS Act) and **not** being a co-operative bank;

♦ Non-Banking Financial Companies (NBFCs) categorized as 'Non Banking Financial Company-Micro Finance Institutions' (NBFC-MFIs) and complying with the norms prescribed as per circular DNBS.CC.PD.No. 250/03.10.01/2011-12 dated December 02, 2011; and

♦ Companies registered under Section 25 of the Companies Act, 1956 and involved in micro finance activity.

(ii) Borrowing relationship and fit and proper status

Further, the MFIs registered as societies, trusts and co-operatives and engaged in micro finance

♦ should have a satisfactory borrowing relationship for at least 3 years with a scheduled commercial bank authorized to deal in foreign exchange; and

♦ would require a certificate of due diligence on 'fit and proper' status of the Board/Committee of Management of the borrowing entity from the designated Authorized Dealer (AD) bank.

(iii) Recognized lenders

ECB funds should be routed through normal banking channels. NBFC-MFIs will be permitted to avail of ECBs from multilateral institutions, such as IFC, ADB etc./ regional financial institutions/international banks / foreign equity holders and overseas organizations.

Companies registered under Section 25 of the Companies Act and engaged in micro finance will be permitted to avail of ECBs from international banks, multilateral financial institutions, export credit agencies, foreign equity holders, overseas organizations and individuals.

Other MFIs will be permitted to avail of ECBs from international banks, multilateral financial institutions, export credit agencies, overseas organizations and individuals.

Overseas organizations and individuals complying with following safeguards may lend ECB

a) Overseas organisations planning to extend ECB would have to furnish a certificate of due diligence from an overseas bank which in turn is subject to regulation of host-country regulator and adheres to Financial Action Task Force (FATF) guidelines to the designated AD. The certificate of due diligence should comprise the following (i) that the lender maintains an account with the bank for at least a period of two years, (ii) that the lending entity is organized as per the local law and held in good esteem by the business/local community and (iii) that there is no criminal action pending against it.

***b)* Individual Lender** has to obtain a certificate of due diligence from an overseas bank indicating that the lender maintains an account with the bank for at least a period of two years. Other evidence /documents, such as audited statement of account and income tax return which the overseas lender may furnish need to be certified and forwarded by the overseas bank. Individual lenders from countries wherein banks are not required to adhere to Know Your Customer (KYC) guidelines are not permitted to extend ECB.

(iv) Permitted End-use

The designated AD must ensure that the ECB proceeds are utilised for lending to self-help groups or for micro-credit or for bonafide micro finance activity including capacity building.

(v) Amount of ECB

With a view to ensure minimization of systemic risk, the maximum amount of foreign currency borrowings of a borrower is capped at USD 10 million during a financial year.

3. It has also been decided that Non-Government Organisations (NGOs) engaged in micro finance activities can avail of ECB up to USD 10 million or equivalent per financial year under the automatic route as against the present limit of USD 5 million or equivalent per financial year. All other conditions as detailed in our A.P. (DIR Series) Circular No. 40 dated April 25, 2005 remain unchanged.

4. Other ECB Parameters:

All other ECB parameters such as minimum average maturity, all-in-cost ceilings, restrictions on issuance of guarantee, choice of security, parking of ECB proceeds, prepayment, refinancing of ECB, reporting arrangements under the Automatic Route should be complied with by MFIs/NGOs availing ECBs. The designated AD has to certify the status of the borrower as eligible and involved in micro finance and ensure at the time of draw down that the forex exposure of the borrower is fully hedged.

5. These amendments to ECB policy will come into force with immediate effect and the framework with respect to MFIs will be subject to review after one year.

6. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 are being issued separately, wherever necessary.

7. Authorized Dealer banks may bring the contents of this circular to the notice of their constituents and customers.

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

Foreign Tourists can Change Money on the Basis of Passport Copy and Indian Immigration Stamp Visa

This will Serve as both Proof of Name as well as Proof of Address

Sub: Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards / Combating the Financing of Terrorism (CFT) Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009 – Money changing activities

AP(DIR Srs) Cir.60 22.12.2011 (RBI)

Attention of Authorised Persons is invited to F-Part-II of the Annex to the A.P. (Dir Series) Circular No. 17 [A.P. (FL/RL Series) Circular No. 04] dated November 27, 2009.

2. In view of the problems faced by the money changers while obtaining documents towards address proof from foreign tourists, it has been decided to amend certain instructions contained in the aforementioned Part. The amended instructions are given in the Annex.

3. All the other instructions contained in the A.P. (DIR Series) Circular No. 17 [A.P. (FL/RL Series) Circular No. 04] dated November 27, 2009 shall remain unchanged.

4. Authorised Persons may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this Circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act ibid.

Annex

[Annex to A.P. (DIR Series) Circular No. 60 dated December 22, 2011

Customer Identification Procedure

Features to be verified and documents that may be obtained from customers

Extant Guidelines		**Revised Guidelines**	
Features	Documents	Features	Documents
Transactions With Individuals - Legal name and any other names used	(i) Passport (ii) PAN card (iii) Voter's Identity Card (iv) Driving licence (v) Identity card (subject to the AP's satisfaction) (vi) Letter from a recognized public authority or public servant verifying the identity and residence of the customer to the satisfaction of the AP.	Transactions With Individuals - Legal name and any other names used	(i) Passport (ii) PAN card (iii) Voter's Identity Card (iv) Driving licence (v) Identity card (subject to the AP's satisfaction) (vi) Letter from a recognized public authority or public servant verifying the identity and residence of the customer to the satisfaction of the AP.
- Correct permanent address	(i) Telephone bill (ii) Bank account statement (iii) Letter from any recognized public authority (iv) Electricity bill (v) Ration card (vi) Letter from employer (subject to satisfaction of the AP). (any one of the documents, which provides customer information to the satisfaction of the AP will suffice).	- Correct permanent address	(i) Telephone bill (ii) Bank account statement (iii) Letter from any recognized public authority (iv) Electricity bill (v) Ration card (vi) Letter from employer (subject to satisfaction of the AP). (any one of the documents, which provides customer information to the satisfac tion of the AP will suffice). **Note: - I**n case of foreign tourists, copies of passport containing identification particulars and address, may be accepted as documentary proof for both identification as well as address. Further, a copy of the visa of non-residents, duly stamped by Indian Immigration authorities may also be obtained and kept on record.

China, Japan to Back Direct Trade of Currencies without the Dollar, Yuan Volumes Rise along with Value

Japan and China will promote direct trading of yen and yuan without using dollars and will encourage the development of a market for companies involved in the exchanges, the Japanese government said.

Japan will also apply to buy Chinese bonds next year, allowing the investment of renminbi that leaves China during the transactions, the Japanese government said in a statement after a meeting between Prime Minister Yoshihiko Noda and Chinese Premier Wen Jiabao in Beijing on 24 December. Encouraging direct yen-yuan settlement should reduce currency risks and trading costs, Japan's government said.

China is Japan's biggest trading partner with 26.5 trillion yen ($340 billion) in two-way transactions last year, from 9.2 trillion yen a decade earlier. The pacts between the world's second- and third-largest economies mirror attempts by fund managers to diversify as the two-year-old European debt crisis keeps global financial markets volatile.

China also announced a 70 billion yuan ($11 billion) currency swap agreement with Thailand last week as part of a plan outlined in October to promote the use of the yuan in the Association of Southeast Asia Nations and establish free trade zones. Central banks from Thailand to Nigeria plan to start buying yuan assets as slowing global growth has capped interest rates in the U.S. and Europe.

Offshore Yuan

The yuan traded in Hong Kong's offshore market gained 0.5 percent offshore last week and touched 6.3324 per dollar, the strongest level since trading started in July 2010. Its discount to the exchange rate in Shanghai narrowed to 0.1 percent, from a record 1.9 percent on Sept. 23.

The yuan gained 0.05 percent in Shanghai to 6.3330 per dollar and was little changed at 6.3450 in Hong Kong. It strengthened 4.3 percent this year, the best-performing Asian currency excluding the yen. The currency is allowed to trade 0.5 percent on either side of that rate. The yuan is a denomination of the renminbi.

Biggest Trading Partner

Japan exported 10.8 trillion yen to China in the year through November, and imported 12 trillion yen, according to Ministry of Finance data. The deficit with China widened to 1.2 trillion yen, from 418 billion yen in January-to-November 2010. About 60 percent of the trade transactions are settled in dollars, according to Japan's Finance Ministry.

Finance Minister Jun Azumi said Dec. 20 buying of Chinese bonds would help reveal more information about financial markets in China. Noda said in September 2010, when he was finance minister, that Japan should be able to invest in China given that its neighbor buys Japanese debt. Japan holds $1.3 trillion of foreign-currency reserves, the world's second largest after China's $3.2 trillion.

Investing in Chinese debt has become easier for central banks as issuance of yuan-denominated bonds in Hong Kong more than tripled to 112 billion yuan ($18 billion) this year and institutions were granted quotas to invest onshore. Japan will start to buy "a small amount" of China's bonds, a Japanese government official said on condition of anonymity because of the ministry's policy, without elaborating.

China sold the second-biggest net amount of Japanese debt on record in October as the yen headed for a postwar high against the dollar and benchmark yields approached their lowest levels in a year. It cut Japanese debt by 853 billion yen, Japan's Ministry of Finance said on Dec. 8.

Separately, the Japan Bank for International Cooperation, JGC Corp., Mizuho Corporate Bank Ltd., the Export-Import Bank of China and other Chinese companies will establish a $154 million fund to invest in environment-related businesses such as recycling and energy, the Japanese government said.

Yen Refuses to Lose Value, Gains against Dollar

There's been no better currency in 2011 than the yen and strategists forecast more gains, even as Japan promises to intervene again in foreign-exchange markets and expands the world's biggest debt burden.

The yen's advance against every major currency, including a 4.1 percent climb against the dollar, illustrates the anxiety in global markets as Europe's debt crisis stretched into a second year on the heels of the collapse of Lehman Brothers Holdings Inc. and the U.S. housing market crash. Though bond yields in Japan are the second-lowest in the world and government borrowings are double the size of the economy, foreign ownership of its debt is the highest since 2008.

Japanese officials sold at least 14.3 trillion yen ($183 billion) this year to stem gains that cut profits for exporters from Toyota Motor Corp. to Nintendo Co., and Finance Minister Jun Azumi has pledged more action. Intervention in 2012 may fail again as financial turmoil attracts investors to the world's third-most traded currency for its low volatility.

Risk-Adjusted Returns

Besides its gains against the dollar, the world's primary reserve currency, the yen is also the best performer among major peers after filtering out price swings, strengthening 0.5 percent, according to risk-adjusted return data compiled by a News Agency. Japan's is the only Group-of-10 currency seen rising versus the greenback next quarter, strengthening to 77 per dollar by March 31, analyst forecasts show.

The U.K. pound and Swiss franc were the second- and third-best performers against the dollar in 2011, finishing unchanged and down by 0.1 percent on a risk-adjusted basis. South Africa's rand fared the worst, weakening 1 percent after taking into account price swings, followed by the Mexican peso's 0.7 percent loss.

Gains in Japan's currency underscore the retreat from risk and losses in carry trades, whereby investors borrow in low-interest regimes to invest in higher-risk, higher-return assets elsewhere. Carry trades involving borrowing yen to invest in the currencies of Australia, South Africa, Mexico and Brazil have lost 9.1 percent this year, reversing a 1 percent gain in 2010.

Job Losses

Toyota cut its earnings forecast for this fiscal year and Nintendo predicted its first annual loss in three decades as currency gains eroded the value of their overseas sales.

Japan may lose 600,000 jobs if the yen stays at current levels, pushing carmakers to shift production overseas, according to a Nov. 21 report compiled by Trade and Industry Minister Yukio Edano and posted on the website of the National Policy Unit that reports to Prime Minister Yoshihiko Noda.

The yen's surge to a postwar high of 75.35 to the dollar on Oct. 31 prompted Azumi to order the nation's third intervention of the year that day. He said on Dec. 20 he wants the ability to take "decisive" action in explaining a ministry plan to raise its intervention war chest to more than 65 trillion yen.

Japan to Support India in $10bn Yen-Rupee Swap Deal without Dollar

Japan is poised to unveil a currency-swap line with India in its second international financial agreement with top Asian powers this week.

Finance Minister Jun Azumi told reporters on 27 December in Tokyo that Japan is negotiating an agreement with India, the third-largest economy in Asia behind China and Japan. The deal is likely to be unveiled during a trip by Prime Minister Yoshihiko Noda to India that starts on 27 December, with the amount of the swap line about $10 billion, a Japanese government official said on condition of anonymity.

Japan agreed with China two days ago to promote direct trading of the yen and yuan without using dollars and start purchases of Chinese bonds for its foreign-exchange reserves. The deal with India would expand the ability to respond to financial shocks as Prime Minister Manmohan Singh's administration contends with a slump in the rupee that risks stoking inflation.

The rupee has plunged about 15 percent against the dollar this year, the worst performance in Asia, after foreign investors sold shares worth $561 million as growth slows and Europe's protracted sovereign-debt crisis roiled global financial markets. A weakening currency adds to the cost of imported goods in a nation that has the fastest inflation among so-called BRIC nations, with the benchmark wholesale-price index rising more than 9 percent in each of the past 12 months.

Previous Arrangement

While India's foreign-exchange reserves have risen $4.8 billion in the past year to $302 billion, the country's holdings are smaller than those of China, Japan, Taiwan, South Korea andHong Kong.

India and Japan have previously supported each other with similar arrangements. In 2007, the two nations agreed to support each other in the event of a run on their currencies in the first such foreign-exchange accord for the South Asian nation. Under the plan, Japan would lend dollars and other currencies should India find its foreign-exchange reserves insufficient to stem a fall in the rupee.

Japan has also deployed some of its reserves, the world's second biggest behind China's, for aiding Japanese companies in making overseas acquisitions.

HK Fights Bird Flu with Ban on Poultry Import

Hong Kong celebrates winter solsticetoday without fresh chickens in the feast marking the occasion after officials culled tens of thousands of birds and banned the sale and import of live poultry to prevent a bird flu outbreak.

The government slaughtered a total of 19,451 birds, including more than 15,000 chickens, yesterday after the deadly H5N1 bird flu virus was found in a chicken carcass at a wholesale market.

"It is unfortunate that an avian influenza case is detected before the winter solstice," Secretary for Food and Health York Chow said. "I understand that it will cause inconvenience to the public. However, to safeguard public health, we need to adopt decisive and effective measures to prevent and control the spread of the virus."

Hong Kong takes a tough line on the highly pathogenic strain of flu virus, first recorded in humans in the city in 1997 and which has since spread through Asia, Europe and Africa, resulting in the deaths of tens of millions of birds and killing more than half of the people that caught it. The city of 7 million people was also hit by an outbreak of Severe Acute Respiratory Syndrome in 2003 in which 299 people died.

The Cheung Sha Wan Temporary Wholesale Poultry Market, where the carcass was found, was disinfected and will be closed until Jan. 12, the government said in a statement. The city's 30 chicken farms were tested, with all samples free of avian influenza, according to the statement. The Agricultural, Fisheries and Conservation Department will conduct further testing.

Customs Valuation Exchange Rates

December 2011		Imports	Exports
Schedule I			
1	Australian Dollar	51.30	49.95
2	Canadian Dollar	50.35	49.20
3	Danish Kroner	9.50	9.20
4	EURO	70.20	68.60
5	Hong Kong Dollar	6.75	6.65
6	Norwegian Kroner	9.00	8.70
7	Pound Sterling	81.65	79.85
8	Swedish Kroner	7.60	7.40
9	Swiss Franc	57.30	55.95
10	Singapore Dollar	40.20	39.35
11	U.S. Dollar	52.60	51.75
Schedule II			
1	Japanese Yen	68.30	66.55

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

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

(Source: Customs Notification 82(NT)/28.11.2011]

Commodity Spot Prices in India – 24-27 December 2011

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

(Rs.)

Commodity	Unit	Market	24-Dec	26-Dec	27-Dec
CER (Carbon Trading)	1 MT	Mumbai	NA	NA	NA
Chana	100 KGS	Delhi	3205	3300	3344
Masur	100 KGS	Indore	2946	2953	2974
Potato	100 KGS	Agra	NA	NA	NA
Potato TKR	100 KGS	Tarkeshwar	NA	NA	NA
Arecanut	100 KGS	Mangalore	NA	NA	NA
Cashewkern	1 KGS	Quilon	NA	NA	NA
Cardamom	1 KGS	Vandanmedu	533.7	533.7	574
Coffee ROB	100 KGS	Kushalnagar	NA	NA	NA
Jeera	100 KGS	Unjha	NA	NA	NA
Pepper	100 KGS	Kochi	NA	NA	NA
Red Chili	100 KGS	Guntur	NA	NA	NA
Turmeric	100 KGS	Nzmbad	5300	5300	5363
Guar Gum	100 KGS	Jodhpur	NA	NA	NA
Maize	100 KGS	Nzmbad	1146.5	1140	1132
Wheat	100 KGS	Delhi	1198.8	1210.4	1205.1
Mentha Oil	1 KGS	Chandausi	1495.9	1494	1487.1
Cotton Seed	100 KGS	Akola	NA	NA	NA
Castorsd RJK	100 KGS	Rajkot	3943	3931.5	3950
Guar Seed	100 KGS	Bikaner	7100	6630	6892
Soya Bean	100 KGS	Indore	2422.5	2423.5	2430
Mustrdsd JPR	20 KGS	Jaipur	689.2	691.75	696.45
Sesame Seed	100 KGS	Rajkot	6025	6025	6044
Coconut Oil Cake	100 KGS	Kochi	NA	NA	NA
RCBR Oil Cake	1 MT	Raipur	NA	NA	NA
Kapaskhali	50 KGS	Akola	1174.2	1166.7	1189.6
Coconut Oil	100 KGS	Kochi	8060	8060	8060
Refsoy Oil	10 KGS	Indore	695.55	700.45	709.95
CPO	10 KGS	Kandla	533.2	539.4	537.1
Mustard Oil	10 KGS	Jaipur	736.9	737.9	747.1
Gnutoilexp	10 KGS	Rajkot	1000	998.3	997.7
Castor Oil	10 KGS	Kandla	NA	NA	NA
Crude Oil	1 BBL	Mumbai	5255	5255	5255
Furnace Oil	1000 KGS	Mumbai	NA	NA	NA
Sourcrd Oil	1 BBL	Mumbai	NA	NA	NA
Brent Crude	1 BBL	Mumbai	5692	5692	5692
Gur	40 KGS	Muzngr	NA	NA	NA
Sugars	100 KGS	Kolhapur	NA	2832	2841
Sugarm	100 KGS	Delhi	2900	3100	3100
Natural Gas	1 mmBtu	Hazirabad	164.2	164.2	164.2
Rubber	100 KGS	Kochi	20107	20124	20094
Cotton Long	1 Candy	Kadi	NA	NA	NA
Cotton Med	1 Maund	Sriganganagar	NA	NA	NA
Jute	100 KGS	Kolkata	2117	2079.5	2100
Gold	10 GRMS	Ahmd	27600	27556	27458
Gold Guinea	8 GRMS	Ahmd	22169	22133	22055
Silver	1 KGS	Ahmd	51760	51665	51455
Sponge Iron	1 MT	Raipur	NA	NA	NA
Steel Flat	1000 KGS	Mumbai	NA	NA	NA
Steel Long	1 MT	Gobindgarh	NA	NA	NA
Copper	1 KGS	Mumbai	403.25	403.25	403.25
Nickel	1 KGS	Mumbai	982.1	982.1	982.1
Aluminium	1 KGS	Mumbai	105	105	105
Lead	1 KGS	Mumbai	104.7	104.7	104.7
Zinc	1 KGS	Mumbai	97.35	97.35	97.35
Tin	1 KGS	Mumbai	1022.25	1022.25	1022.25

(Source: MCX Spot Prices)

Health Concern

Avian flu is a serious public health concern with the potential to cause a deadly pandemic, the Centers for Disease Control and Prevention says. Since 2003, more than 500 people have been infected with the H5N1 strain worldwide and about 60 percent have died, according to the Atlanta-based agency.

Public hospitals in the city activated their "serious"response level and enhanced surveillance after the government discovered the H5N1-infected chicken carcass at the Cheung Sha Wan market, in the western part of Kowloon. It wasn't clear whether the chicken was local or imported, Chow said.

The Department of Health is testing workers at the market, farmers and other people who may have come into contact with the birds, according to a separate statement yesterday. So far no human H5N1 infections have been discovered, it said.

Swine Flu

During the 2009 swine flu scare, Hong Kong quarantined almost 400 people in a downtown hotel who may have come into contact with a Mexican visitor confirmed as having caught the flu strain.

No live ducks or geese are sold in Hong Kong, said Sally Kong, a government spokeswoman. Chow said the government will pay compensation of HK$30 for each chicken destroyed.

In 1997, the government ordered all poultry in Hong Kong to be culled. Many families in rural areas kept chickens in back-yard wood-and-wire hutches that can still be seen lying empty and rusting in villages across the territory. Ducks, geese and pigeons are also widely eaten in Hong Kong.

China Extends Anti-dumping Duty on Photographic Paper and Paper Board from EU, USA and Japan for Three Months to 23 March 2012

Ministry of Commerce released Announcement No.88 of 2011, on December 23, 2011, deciding to prolong the anti-dumping investigation on imports of photographic paper and paper board from EU, US and Japan.

MOFCOM publicized an announcement on December 23 of 2010 to launch an anti-dumping investigation into photographic paper and paper board originating from EU, US and Japan. On August 10, 2011, MOFCOM released preliminary determination concerning the case. Considering the case is complicated, and in accordance with the Article 26 of the Regulations on Anti-dumping of the People's Republic of China, MOFCOM has extended the probe by 3 months to March 23 of 2012.

Trading in Spectrum may be Allowed

India's telecommunications commission approved increases in available wireless spectrum, sharing and trading of airwaves and steps to make it easier for mobile phone companies to buy rivals.

The National Telecom Policy would increase the maximum market share for a merged phone company to 60 percent from 40 percent, R. Chandrashekhar, telecommunications commission chairman, told reporters in New Delhi on 26 December. The commission will submit its draft to Communications Minister Kapil Sibal for review within a week, he said.

The new regulations may lead to consolidation in a market where competition among 15 carriers including Bharti Airtel Ltd. (BHARTI)and local ventures of Vodafone Group Plc (VOD), Telenor ASA (TEL) and NTT DoCoMo Inc. pushed the lowest call charges to less than one penny a minute, eroding profitability. Carriers need more spectrum to offer broadband services that enable wireless video streaming and data downloads.

The proposals would allow spectrum auctions and would limit a merged company to holding 25 percent of the available airwaves, Chandrashekhar said. The country has 22 telecommunications zones.

Mergers between carriers that would have a combined market share of 35 percent or less would no longer need anti-monopoly approval under the proposed rules. Combined companies that would control between 35 percent and 60 percent of a zone's wireless phone market would be subject to such approval, according to the policy draft approved today.

The National Telecom Policy, initially introduced in October, would also require cabinet clearance and some portions may need parliamentary approval.

India's wireless market will surpass 872 million active users by the end of 2015, research firm Gartner Inc. forecasts, compared with 626 million in October.

The proposals may win final approval by June, according to a Dec. 23 review by the Department of Telecommunications.

WORLD TRADE SCANNER

BIG's WEEKLY INDEX OF CHANGES

Foreign Trade Policy

Customs

RBI Circulars *[AP(DIR Series)]*

Owned, Edited, Published and Printed by Arun Goyal and Printed at Mercury Printers, 602 Choori Walan, Delhi
Published from 24/4866, Sheeltara House, Ansari Road, New Delhi 110002. (INDIA) Phone: 2328 1314; Fax: 91-11-23281314
Email:academy.delhi@gmail.com; Website: worldtradescanner.com
This issue contains 8 pages in all