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WORLD TRADE SCANNER

ISSN: 0971-8095

Single copy Rs. 20 \$2

Vol. XXVI No 48 24 February-02 March 2010

Promoted by Indian Institute of Foreign Trade, World Trade Centre,
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Budget 2010 Forecast

Budget Notes - Arun Goyal

- **Peak Customs Duty to Fall from 10% to 7.5%?**
- **Minimum Import Duty of One percent on All Imports Suggested?**
- **Capital Goods Duty may fall from 7.5 percent to EPCG Rate of 3 percent ?**
- **EPCG Scheme may be Abolished since General Duty on Capital Goods may Fall to the Current EPCG Rate of 3 percent?**
- **Zero Duty EPCG will Remains?**
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- **Finance Minister Prepares for GST, Raises Excise to 10 percent?**
- **Goal 12-14 percent once the Economy comes out of the Recession?**
- **Duty Foregone in Export Promotion Schemes to be Reviewed?**

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US Moves to Trade Promotion Mode

The White House appears to have awoken from its year-long slumber on trade matters, but the political climate for liberalising trade in the world's biggest national economy remains problematic.

The action began on 27 January, when US President Barack Obama, addressing a joint session of Congress for his State of the Union address, highlighted trade as an important tool for economic recovery and job creation, calling for the US to double its exports in five years.

A week later, Commerce Secretary Gary Locke explained how the White House intends to achieve those goals. The administration will create the first-ever "government-wide export-promotion strategy" that will receive "the focused attention" of the president and his cabinet. Locke said in an address at Washington's National Press Club on 4 February. The new National Export Initiative will work on three fronts: expanding trade advocacy at home and abroad; helping companies, especially small- and medium-sized firms, access the credit they need to export their products; and enforcing trade rules so that US exporters will not be unfairly blocked from foreign markets.

Three FTAs still pending

Turning to new markets, the Commerce Secretary mentioned the work that the US Trade Representative's Office is doing to open up trade with "key growth areas" in Asia and elsewhere, as well as the USTR's efforts to strike "an ambitious and balanced" deal to end the WTO's Doha Round talks. Locke referred briefly to Washington's three pending bilateral trade deals - with Colombia, Panama and South Korea - noting that the White House aims to address "outstanding concerns" with each of the pacts.

Another major figure in the Obama administration offered a different take on those deals last week. Answering questions before the House of Representatives' Committee on Ways and Means on 3 February, Treasury Secretary Timothy Geithner responded that the three pending deals are "absolutely" part of the White House's plans to boost exports this year. However, a statement issued subsequently by the US Treasury Department seemed to backpedal from Geithner's remark. There are still some "outstanding concerns" with the trade deals now on the table, the statement said, adding, "Once these issues are resolved, the administration looks forward to working with Congress on the best time to move the agreements forward."

The three deals in question were negotiated by the Bush administration but have yet to win

lawmakers' approval. Each has faced its own set of political hurdles: the pact with Colombia has been opposed by labour unions, who say the country has a bad record of protecting workers' rights; the US auto industry, fearing an influx of cheap imports, has pushed back against the South Korean deal; and some fair-trade NGOs have warned that an FTA with Panama could increase the flow of US money to shady tax shelters in the Latin American country.

Obama: one year in

On the campaign trail in 2008, candidate Obama wooed voters by promising to reform the North American Free Trade Agreement and to fight for the interests of US farm exporters overseas. But during his first 12 months in office, Obama made little mention of trade and took little action on it - the one notable exception being his announcement in September of new tariffs on Chinese tyre imports. Trade was put on the political backburner as his administration fought domestic battles over healthcare, the economy, and wars in Afghanistan and Iraq.

But since he brought trade back into the spotlight with his State of the Union speech, the president has begun facing calls, largely from within his own party, to take a stronger stand on trade. Senator Arlen Specter, Democrat of Pennsylvania, pressed Obama last week on whether the president would support the revocation of existing trade deals with China, which he accused of "international banditry" in the form of illegal subsidies and dumping.

Obama demurred. "Our future is going to be tied up with our ability to sell products all around the world, and China is going to be one of our biggest markets, and Asia is going to be one of our biggest markets. And for us to close ourselves off from that market would be a mistake," the president said.

Despite the White House's new rhetoric on trade engagement, critics point out that more than a year after Obama took office several posts on the administration's trade team remain empty, most notably the position of US ambassador to the WTO - a fact that is not lost on WTO delegates in Geneva.

But the appointments, which have been held up by partisan and parochial bickering in the Senate, could be finalised soon. Obama threatened on Tuesday to push through some of his nominees during Congress's week-long February recess, which starts on Monday. Such a move would allow the appointees to serve until the end of 2011 without lawmakers' approval.

PCT Filings Drop Led US and EU, China Gains

The World Intellectual Property Organisation (WIPO) has reported a 4.5 percent decrease in international patent filings under the Patent Cooperation Treaty in 2009, marking the first time in the PCT's 32-year history that filings have dropped. But according to Francis Gurry, Director General of WIPO, "The decline in PCT filings [was] not as sharp as originally anticipated."

While sharp declines were seen in many industrialised countries, a number of East Asian countries posted growths. Japan, the second largest user of the PCT registered a growth of 3.6 percent while China posted the largest growth, an increase of 29.7 percent.

As expected, the United States remained the country of origin for the most patents with 45,790 patents filed, or just under one third of all pat-

ents. Despite this, the filing rate in the United States dropped 11.4 percent. Additionally, Germany's filing rate dropped sharply, falling 11.2 percent from 2008. However, the largest decline by one of the top 15 countries of origin was realised by Israel, which saw a decrease of 17.2 percent.

Despite the fact that developing countries make up 78 percent of the membership to the PCT, they only accounted for 14 percent of the patent filings. Of these 14 percentage points, 10 of them are shared between China and South Korea alone. According to Director General Gurry, "[the maximisation of] participation in the PCT is a key priority" of the Organization.

The Patent Cooperation Treaty was launched in 1978 as a tool to streamline the act of filing patents worldwide. An estimated 155,900 patents were filed via the PCT in 2009, a decline from the 163,249 that were filed in 2008.

'Non-exhaustive list' at WIPO

The announcement on PCT filings comes after extensive discussions on patent issues at the meeting of WIPO's Standing Committee on the Law of Patents (SCP) which met during the last week of January. The SCP meeting witnessed important discussions on a number of issues selected among a "non-exhaustive list" that was agreed upon in 2008. Major topics discussed at the meeting included standards and patents, technology transfer and a new proposal by Brazil to create a programme to examine limitations and exceptions to patent rights.

However, the most contentious subject related to the future plans of the SCP. At issue was whether to include certain topics in the "non-exhaustive list" to be discussed at later meetings. Brazil proposed the inclusion of a new programme of work to debate its proposals on exceptions and limitations to patent rights. However, developed countries disagreed with the inclusion of Brazil's proposal for future discussions. Divergences also focused on how discussions on technology transfer and IP should be addressed.

A text by the chair that emerged from informal consultations had called for a study on how the patent system supports technology transfer prompted a proposal by Asian countries suggesting that such study should be about how the patent system can impede technology transfer. Developed countries indicated their preference for a more neutral formulation. At one point, African and Asian countries proposed two add two new issues to the list: the impact of the patent system on developing countries and patents and food security. However, developed countries were reluctant to expand the 'non-exhaustive' list and indicated that the issues suggested were already addressed under the broader topic of patents and public policy.

As the meeting came to a close, negotiations broke down as to what to add to the 'non-exhaustive list'. The next meeting of the SCP will be held on 11 to 15 October 2010.

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Three More Ports Permitted for New Vehicle Imports

Subject : Import policy for vehicles.

30-Ntfn(RE) S.O. (E) In exercise of powers
10.02.2010 conferred under section 5 of
(DGFT) the Foreign Trade
(Development and Regulation)

Act, 1992 read with paragraph 2.1 of the Foreign Trade Policy, 2009-14, the Central Government hereby makes the following amendments in the Schedule 1 (Imports) of the ITC (HS) Classifications of Export and Import Items :

1. The Import Licensing Note No. 2(II)(d) under Chapter 87 is amended to read as under:

"The import of new vehicles shall be permitted only through the Customs port at Nhava Sheva, Kolkata, Chennai and Chennai Airport, Cochin, ICD-Tughlakabad and Delhi Air Cargo, Mumbai Port and Mumbai Air Cargo Complex , ICD Talegaon Pune."

2. This issues in public interest.

Cess Payable on Labelled Beedies

Subject: Beedi cess payable under the provisions of Section 3 of Beedi Workmen Welfare Cess Act

F.No.262/01/2009-CX8

914-CBEC References have been
16.02.2010 received from Trade & Industry
as well as field formations,

regarding levibility of beedi cess on labelled as well as unlabelled beedis. It has been stated that Notification No. S-23011/1/79-M.V. dated 19.12.1981[G.S.R. No.669(E)] as amended by [G.S.R. No. 281(E)] dated 30.03.82, issued by the Ministry of Labour, provides that when cess has been collected on unlabelled beedis, no further cess shall be collected when they are subsequently labelled. The trade has represented that despite the notification, some Commissionerates are insisting on payment of cess on labelled beedis. Differing stands are being taken by different adjudicating authorities in this regard.

2. The matter has been examined in consultation with the administrative ministry. The Ministry of Labour have confirmed that the aforesaid notification is still in operation. They have informed that the rate of cess on manufactured beedis has, however, been enhanced vide Notification No. S.O.363 (E) dated 17.03.2006. Other provisions of the Act and Rules made in this regard are still applicable.

3. On examination of the aforesaid notification dated 19.12.1981 as amended by notification dated 30.03.1982, the following position emerges with regard to the levibility of cess:-

(i) If the biris are otherwise exempted from payment of Central Excise duty, they are also exempted from payment of biri cess.

(ii) If cess has been collected on unlabelled beedis, no further cess is required to be collected, if they are subsequently labelled.

(iii) For cases covered under (i) above, if the exempted beedis are subsequently labelled, cess shall be payable on labelled beedis.

4. Trade & Industry as well as field formations may be suitably informed.

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Highlights

The database consists of two sections:

- Main database (updated till Budget 2010-11) on 11,000 plus covers:

All customs duties (including the major ones basic,

CVD of excise,

CVD of VAT,

Education cess,

196 Anti-dumping

10 Safeguards Actions

Import policy restrictions by DGFT,

NTBs like labeling, BIS standards,

Country preferences,

Import and export values and quantity from DGCIS)

- Line wise Tariff for the 13 RTAs and BTAs such as Sri Lanka, Nepal, ASEAN, Thailand, China (APTA), Korea giving effective preferential duties for specific countries/country groups.

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Domestic Cargo Facility Allowed to All International Airlines

Subject: Carriage of domestic cargo on international flights

F.No.450/122/2009-Cus.IV

04-CBEC Reference is invited to the
15.02.2010 Board's Circular No.15/99-
Customs dated 22.3.1999,

whereby the facility of carriage of domestic cargo between domestic airports on international flights was extended to M/s. Air India. In this regard, the Board had received certain requests for providing such a facility by other private airlines also.

2. The Board had examined the matter in consultation with various Customs field formations. It was seen that initially when the facility was first extended, M/s. Air India was the only airline that was undertaking carriage of both international and domestic cargo. However, presently a number of other private airlines have also started providing such a service. Therefore, it was felt that the facility of carriage of domestic cargo in international flights between two domestic airports may be allowed to other private airlines as well, subject to fulfilment of certain safeguards so as to prevent any misuse.

3. In this regard, it is stated that the Board has decided to allow domestic private airlines as well as M/s. Air India and Indian Airlines, to carry domestic cargo between domestic airports on their international flights subject to the fulfilment of the following conditions:

(i) Separate space shall be assigned by the airlines or custodian in the cargo complex / area of the airport for receipt and storage of domestic cargo till these are delivered or dispatched.

(ii) Domestic cargo will be received by the airlines in the designated area during the normal working hours of Customs at the respective airport.

(iii) The containers/ Unit Load Devices (ULDs) used for carrying the domestic or international cargo shall be clearly marked or coloured or strapped, for its identification, distinction at the time of loading/ unloading, transportation.

(iv) Domestic tags shall be prepared for identification of the domestic cargo with separate colour coding.

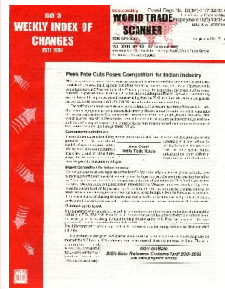
(v) Loading or unloading of domestic cargo in any international flight/ aircraft shall be carried under the supervision of Customs officers.

(vi) Domestic and international cargo will be loaded separately, and shall be carried in hold area onboard the aircraft distinctly identifying these cargoes.

(vii) On arrival of the domestic cargo, at the destination airport, the airlines shall make necessary arrangements to deliver the domestic cargo.

(viii) In respect of transshipment of international cargo by airlines, they shall be required to execute necessary bond and bank guarantee as prescribed vide Circular No.78/2001-Customs dated 7.12.2001. Further, those persons who fulfill the threshold limit of annual transshipment

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Registration Timing of Documents for Import Cargo Examination at JNCH, Nhava Sheva

Compliance Agency Provision Sec 20, 21 and 22 in SEZ Act Notified w.e.f 13.01.2010

Exchange Rates for Customs Valuation Imports and Exports w.e.f February 1, 2010

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Edited by Arun Goyal

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volume specified shall be exempt from the requirement of furnishing bank guarantee as specified Circular No.45/2005-Customs dated 24.11.2005. Accordingly, no separate bond or bank guarantee shall be required in respect of domestic cargo. In addition, transshipment procedure as specified in Board's Circular No. 06/2007-Cus dated 22.01.2007 may be strictly adhered to.

4. In case of any violation of the conditions prescribed here above or by any other regulations providing for the manner in which the imported goods/ export goods shall be received, stored, delivered or otherwise handled in a customs area, necessary action may be taken against the person including withdrawal of the facility and imposition of penalty under the Handling of Cargo in Customs Areas Regulations, 2009.

5. In view of the above, the jurisdictional Commissioner of Customs are requested to implement the above said procedure, while permitting the facility of carriage of domestic cargo between domestic airports on international flights by private airlines as well as M/s Air India and Indian Airlines. Difficulties, if any, experienced while implementing the above matter may be taken up for appropriate action with the Board.

6. The Board's Circular No.15/1999-Customs dated 22.3.1999 stands superseded by the aforesaid Circular

7. The Commissioner of Customs may issue a Public Notice bringing the above to the notice of the trade and industry.

Aircraft Imports by AAI for Flight Calibration

Ntfn 09 In exercise of the powers
11.02.2010 conferred by sub-section (1) of
(DoR) 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 :-

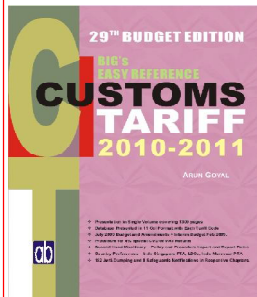
In the said notification –

(A) in condition number **103A**, after **clause (c)**, the following clause shall be inserted, namely:-

“(d) the aircraft is imported by the Airports Authority of India for flight calibration purposes and at the time of importation, the Airports Authority of India furnishes an undertaking to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, that :-

a. the said aircraft shall be used for flight calibration purposes only and in the event of their failure to use the imported aircraft for the specified purpose, they shall pay, on demand,

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5402 69 40	---	Acrylic filament yarn	Kg	10	8.24	4	24.421	Free	Np Lk SA SF ASEAN	1.15

an amount equal to the duty payable on the said aircraft but for the exemption under this notification; and

b. the said aircraft shall not be sold or transferred to any other entity”

(B) in condition number **105**, after **clause (ii)**, the following clause shall be inserted, namely:-

“(iia) imported for servicing, repair or maintenance of aircraft imported or procured by the Airports Authority of India for flight calibration purposes”

[F. No. 356/11/2007-TRU]

Minimum Value Addition of 8% for Copper concentrate under Advance Authorisation

Subject: Amendment in paragraph 4.1.6 related to Value Addition under Advance Authorisation scheme.

31-Ntfn(RE) In exercise of powers conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (No. 22 of 1992) read with Para 1.3 of the Foreign Trade Policy (FTP), 2009-14, the Central Government hereby makes the following amendment in Foreign Trade Policy:

1. The first sentence of Paragraph 4.1.6 stands amended as follows:

“Advance Authorisation necessitates exports with a minimum value addition of 15%, except for items **specified in Appendix 11B of HBP v1** and for items in Gems & Jewellery Sector, for which value addition would be as per paragraph 4A.2.1 of HBP v1.”

This issues in Public Interest.

Value Addition Norms of 8% for Copper concentrates

Subject: Appendix 11B for Value addition in terms of paragraph 4.1.6 of FTP

42-PN(RE) In exercise of powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14, the Director General of Foreign Trade hereby makes the following amendments in the Handbook of Procedures (Vol.1), 2009-14:-

1. A new Appendix i.e., Appendix 11B related to “Value addition Norms (below 15%) for specific product(s) under Advance Authorisation Scheme” stands added in the Appendices and Aayat Niryat Forms in the HBP, v1, as per the Appendix attached to this Public Notice.

2. In the Contents in the Appendices and Aayat Niryat Forms in the HBP, v1, following shall be added:

11B. Value addition Norms (below 15%) for specific product(s) under Advance Authorisation Scheme.

This issues in public interest.

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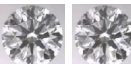
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Value addition Norms (below 15%) for specific product(s) under Advance Authorisation scheme

(Please see paragraph 4.1.6 of FTP, 2009-14, as amended from time to time)

Sl No.	Export Product	Minimum Value Addition
1.	Copper Cathode / Copper Wire Rods (manufactured from Copper Concentrate)	8%

Confirmation of ICAI Certificates

Subject: Confirming membership of Chartered accountants with the Institute of Chartered Accountants of India.

23-Pol.Cir 09.02.2010 (DGFT) The Institute of Chartered Accountants of India has informed that with a view to strengthening the process of certification being issued by chartered accountants, they have hosted a link <http://220.227.161.82/locm.asp> on ICAI website, to enable anyone to seek confirmation to the effect that certificate received by him has been issued by a member of the Institute holding full time Certificate of Practice (i.e. a member authorized to issue such a certificate). This will ensure that none of the authorities act on the certificates issued either by non members or members not holding Certificate of Practice.

All RAs to make use of the above facility to confirm about the membership of the chartered accountants.

This issues with the approval of competent authority.

10,000 MT Quota Sugar to EU under CXL Concessions Sugar

41-PN(RE) 15.02.2010 (DGFT) In exercise of the powers conferred under Paragraphs 2.1, 2.4 and 2.29 of the Foreign Trade Policy, 2009-14, the

Director General of Foreign Trade hereby allocates a total quantity of 10,000 MTs (Ten thousand metric tonnes) of white Sugar for export of CXL Concessions Sugar to European Union (EU) for the fiscal year 2009 -10 (October, 2009 to September, 2010).

2. This refers to HS Code No. 1701 00 00 in the Schedule-2 of ITC(HS) Classification of Export and Import Items, 2009-2014 under which M/s Indian Sugar Exim Corporation Limited, New Delhi is the designated agency for export of Sugar to EU under Preferential Quota

3. As regards special certification requirements, entries to be made in document EUR and GSP are as follows:-

(i) CXL Concessions Sugar

"[Application of Regulation (EC) No. 891/2009 under Schedule CXL (European Communities). CXL Concessions Sugar Serial No. 09.4321]".

4. EUR Form is to be endorsed by Customs at the Port of Shipment and the GSP Certificate by Export Inspection Agency/Directorate General of Foreign Trade.

5. This issues in public interest.

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Wheat Export Quota of 50,000 MT for Nepal by FCI

Subject: Prohibition on export of wheat and wheat products – exemption for export of wheat to Nepal

29-Ntfn(RE) In exercise of the powers
09.02.2010 conferred by Section 5 read
(DGFT) with Section 3(2) of the Foreign
Trade (Development &
Regulation) Act, 1992 (No.22 of 1992) and also
read with Para 1.3 and Para 2.1 of the Foreign
Trade Policy, 2004-2009, the Central Govern-
ment hereby makes the following addition with
immediate effect at the end of Paragraph 2 of
Notification No. 33(RE-2007)/2004-2009, dated
08.10.2007, as amended from time to time (per-

taining to prohibition on export of wheat and
wheat products):

“2.9The prohibition imposed by this Notifi-
cation on export of wheat shall not be applicable
to export of 50,000 MT of wheat to Nepal through
Food Corporation of India.”

2. The above mentioned quantity shall be ex-
ported by Food Corporation of India out of the
Central Pool stock. Wheat may be exported at
economic cost.

3. This issues in Public Interest.

Tariff Based Competitive Bidding Introduced for Certification of Mega Power Projects

Subject: Amendment in Appendix 22 C and Appendix 27 regarding Mega Power Projects.

39-PN(RE) In exercise of powers conferred
08.02.2010 under paragraph 2.4 of Foreign
(DGFT) Trade Policy, 2009-14, the
Director General of Foreign

Trade hereby makes the following amendments
in Handbook of Procedures, Vol. I:

1. Paragraph (e) of Form 1-A and Para 2 (e) of
Form I-B of Appendix 22C shall be substituted
by the following:

“That supply of goods under the contract
made to mega power project in India is under the
procedure of ICB or requisite quantum of power
has been tied up through tariff based competi-
tive bidding or project has been awarded through
tariff based competitive bidding in accordance
with the provisions of paragraph 8.2 and 8.4.4(iv)
of FTP, and the import content of the order is
Rs.....(Figures and words).”

2. Paragraph (e) of Appendix 27 shall be sub-
stituted by the following:

“That supply of goods under the contract
made to mega power project in India is under the
procedure of ICB or requisite quantum of power
has been tied up through tariff based competi-
tive bidding or project has been awarded through
tariff based competitive bidding in accordance
with the provisions of paragraph 8.2 and 8.4.4(iv)
of FTP, and the import content of the order is
Rs.....(Figures and words).”

This issues in public interest.

Tariff Value on Poppy Seeds Hiked by US\$ 368/MT

11-Cus(NT) In exercise of the powers conferred by sub-section (2) of section 14 of the
15.02.2010 Customs Act, 1962 (52 of 1962), the Board, being satisfied that it is necessary
(DoR) 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:-

Table

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)	3555
9	1207 91 00	Poppy seeds	4760"

[F. No. 467/4/2010-Cus.V]

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ICB not required for Mega Power Projects if Project Awarded through Tariff Based Competitive Bidding

Subject: Amendment in Chapter 8 of FTP regarding Mega Power Project

28-Ntfn(RE) In exercise of powers conferred
08.02.2010 by Section 5 of the Foreign
(DGFT) Trade (Development &
Regulation) Act, 1992 read with
paragraph 1.3 of the Foreign Trade Policy (FTP),
2009-2014, the Central Government hereby
makes the following amendments in FTP, 2009-
2014.

Following sentence shall be added at the end of
the first line of Paragraph **8.4.4 (iv)**:

“However, in regard to mega power projects,
the requirement of ICB would not be mandatory,
if the requisite quantum of power has been tied
up through tariff based competitive bidding or if
the project has been awarded through tariff
based competitive bidding.”

This issues in public interest.