



India global trade advisory newsletter

Delivering clarity

I. Budget updates

- On the customs front, the focus of the Union Budget 2022 was on promoting 'Make in India' and taking measures to facilitate trade. In the Budget speech, the Finance Minister mentioned that Customs' reforms have played a very vital role in domestic capacity creation, providing level playing field to our MSMEs, enhancing ease of doing business and being an enabler to other policy initiatives such as Production Linked Incentive (PLI) Schemes and Phased Manufacturing Plans (PMP).
 - In Budget 2022, the tax rates under customs have been rationalised per different sectors, including electronic products, wearable devices, wrist wearable devices and smart meters. The Union Budget 2022 also proposes gradual phasing out of over 350 exemption entries. These include exemption on certain agricultural produce, chemicals, fabrics, medical devices and drugs and medicines for which sufficient domestic capacity exists. Further, the Government has also proposed some legislative changes in Customs law to enhance trade facilitation . Click [here](#) to read the detailed budget publication on Union Budget 2022.
 - Here are the major legislative changes announced in the Budget on the customs front:
 - A. Changes in Indian Customs Act
 - a) **Definition of “Proper Officer” amended retrospectively:** The definition of the proper officer propose to be amended to include the Officers of DRI, Audit and Preventive Formation in the class of officers of Customs to perform various functions under the Customs Act and the rules made thereunder.
- The above amendment has been proposed to overcome the decision of the Supreme Court in Canon India Pvt. Ltd. v Commissioner of Customs in which it was held that DRI officers are not 'proper officer' under the Customs Act and therefore, the DRI

officers lack jurisdiction to issue show cause notices. Further, this amendment have retrospective effect.

b) Rules in respect of valuation of imported goods:

The Union Budget 2022 seeks to amend Section 14 of the Customs Act so as to empower Central Board of Indirect Taxes & Customs (CBIC) to make rules specifying additional obligations of importers, in respect of imported goods whose value is not being declared correctly.

c) Validity of Advance Rulings:

The provisions relating to Advance Ruling has been proposed to be amended to provide that advance rulings obtained shall be valid for a period of:

- three years; or
- until there is a change in law/facts; whichever is earlier.

Existing advance rulings as on date when Union Budget 2022 receives assent of the president would be valid for three years starting from the date of such assent.

d) Protection of data:

The Union Budget 2022 seeks to insert a new Section 135AA to provide unauthorised publication of import or export data, an offence **punishable with imprisonment for a term of six months or with fine which may extend to fifty thousand rupees, or both**. This amendment aims to protect the data and sensitive information that may be filed by importers and exporters with the customs authorities.

What's next?

The above legislative changes have been primarily proposed by the Government to facilitate trade, to enhance ease of doing business, to plug evasion and to correct infirmities in the law as observed by judicial forums.

However, these changes shall be effective only upon enactment of the Finance Bill (i.e., after the approval to the Finance Bill by the President).

B. Tariff changes:

a) Benefit of concessional duty under project import benefit to be gradually phased out:

Existing projects registered till 30 September 2022 under project imports scheme will be grandfathered till 30 September 2023 attracting basic customs duty rates of 0 percent / 2.5 percent/ 5 percent as applicable.

New projects registered after 30th September 2022 under project imports scheme will attract 7.5 percent basic customs duty rate.

After 30 September 2023, all projects registered under project imports scheme will attract 7.5 percent basic customs duty rate.

b) PMP for specific electronic goods:

The government has introduced the PMP to promote indigenous manufacturing for following products:

- Wrist Wearable devices (Smart watches);
- Hearable devices; and
- Smart Meters

The Government has specified the tariff changes with respect to above specified electronic goods and their parts to be implemented in phased manner with the intent to promote its indigenous manufacturing.

c) Changes in Indian Customs tariff to give effect to supplement to HSN 2022:

Amendments have been proposed in the Finance Bill, 2022, to align the Indian Customs Tariff with the Complementary Amendments to the HSN 2022 published by WCO, as signatory to HS Convention. These complementary amendments include minor changes across chapters in the Tariff, all aimed at bringing greater clarity to the HSN. Further, New Tariff entries are being introduced by accommodating the requests from different Ministries and Departments to be effective from 01-05-2022 unless otherwise specified.

d) Tariff changes: Other tariff changes can be seen in the detailed budget publication, whose link is given above in Part A.

What's next?

The above changes have been made to provide an impetus to domestic manufacturing and get into the global value chain.

C. Changes proposed in Special Economic Zone (SEZ) Law

The Union Budget 2022 speech, Finance Minister informed about reforms in SEZ, along with reforms in customs administration of SEZ. Reforms expected by 30 September 2022. It is proposed to replace existing law governing SEZs with a new legislation to enable States to become partners in 'Development of Enterprise and Service Hubs'.

Government will also undertake reforms in customs administration of SEZs with a view to promote ease of doing business. The details of proposed SEZ Act are not available in the public domain till date.

What's next?

The changes to be made in SEZ law are with a objective to make SEZ a success in India in coming times. Industry need to wait for fine prints of these changes.

II. Comprehensive Economic Partnership Agreement (CEPA) between India & UAE

- India and UAE signed the CEPA on 18 February 2022. The Indian Ministry of Commerce and Industry has published the CEPA

between India and the UAE on 27 March 2022. This is one major Free Trade Agreement (FTA) signed by India after the India Mauritius FTA that was inked last year. This trade agreement is likely to come into force from early May 2022.

- Under the current FTA, labour intensive industries like Textiles, Gems and Jewellery, Leather goods and Footwear and Food Processing industry would be prominent among those to benefit the most. Further, around 90 percent of products exported from India to UAE will attract zero duty with implementation of the Agreement. Indian jewellery exporters will also get duty-free access to the UAE, which currently imposes a 5 percent customs duty on such products and thus it will raise jewellery exports. Additionally, tariff rate on products (around 11,908) exported from UAE to India is likely to be eliminated or reduced over a period of 10 years. Amongst other products that will attract zero duty includes cooking coal, mobile phones, digital cameras and personal computers.
- The signing of the FTA between India and UAE is likely to provide a boost to bilateral trade to USD 100 billion in the next five years from current USD 60 billion.

What's next?

With the signing of the trade agreement between the two countries, several products from both countries will enjoy the benefit of greater market access at concessional duties. Further, trade agreement would also help in providing impetus to exports from India to UAE and also open doors for the rest of Middle East and some parts of Africa and Europe.

III. Economic Cooperation and Trade Agreement (ECTA) between India & Australia

- India and Australia have signed an interim trade agreement [i.e., Economic Cooperation and Trade Agreement (ECTA)] on 2nd April 2022, to establish negotiating committee's to finalize the bilateral Comprehensive Economic Cooperation Agreement (CECA) by the end of 2022. India-Australia bilateral trade for both merchandise and services is valued at US\$ 27.5 billion in 2021.
- The ECTA amongst others covers Trade in goods, rules of origin, value addition requirement, product specific rules, trade-in service, Trade in Services, Technical Barriers to Trade (TBT), Sanitary and Phytosanitary (SPS) measures, Dispute Settlement, Telecom, Customs Procedures, Pharmaceutical products, and Cooperation in other areas. Presently only the press release has been published through the Press information bureau by 'Ministry of Commerce and Industry' and framework agreement has not been issued in the public domain as of now.
- The India-Australia ECTA is the first trade agreement of India with a developed country after more than a decade. Under ECTA, India will have the preferential market access for almost all of its tariff lines while on the other hand Australia will have the preferential access to over 70 percent of its tariff lines.

What's next?

Australia is the 17th largest trading partner of India and India is Australia's 9th largest trading partner. The India-Australia ECTA will further cement the already deep, close and strategic relations between the two countries and will significantly enhance bilateral trade in goods and services, create new employment opportunities, raise living standards, and improve the general welfare of the peoples of the two countries.

IV. Changes in Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (IGCR Rules, 2017)

In the Union Budget 2022, the IGCR Rules, 2017 are being amended to provide the following facilities:

- a) Bringing automation by way of submitting all details electronically through customs common portal
- b) Procedure to claim the notification benefit is being simplified by standardizing the various forms and doing away with need of transaction-based permissions/intimations
- c) Leveraging the advantage of such submissions electronically, the need for any transaction based permissions and intimations are all being done away with.
- d) Submission of monthly statement (earlier quarterly statement) by the importer on the Common Portal.
- e) An option for voluntary payment of the necessary duties and interest, through the Common Portal is being provided to the importer.

Further, CBIC has issued clarifications for smooth implementation of amendments made in the IGCR Rules, 2017 w.e.f. 1 March 2022. Following are the key takeaways:

- The importer shall mention the IGCR Identification Number (IIN) and the continuity bond number and details while filing the bill of entry at the port of import. On the basis of the same, the officer shall allow the benefit of exemption notification.
- In case the importer is already covered under the existing provisions of IGCR Rules, it shall record the details of goods being imported in Form IGCR-1 and generate IIN against the same.
- Where the bond/ bank guarantee has already been furnished to the jurisdictional officer, there is no requirement to give fresh bond/ guarantee. The officer shall enter the details of such bond in the customs automated system and generate bond number.
- In case where importer intends to clear capital goods or unutilized/ defective imported goods for home consumption, payment of requisite duties and interest should be made using manual challan at the port of import.
- The importer shall submit monthly statement in place of quarterly return.
- Penalty prescribed in Rule 8A of IGCR Rules for contravention of provisions is in addition to any other action taken under Customs Act, 1962 for recovery of duties.
- Transitional measures have also been prescribed for migrating into new procedures.

Notification No. 07/2022 - Customs (N.T) dated 1 February 2022, Circular No. 04/2022-Customs dated February 27, 2022 and Advisory No: 06/2022 Date: 1st March,2022)

What's next?

The Government through the above-mentioned amendments are clearly aimed at 'trade facilitation' and to serve the purpose of ease of doing business. With the above changes, the government is trying to facilitate the process of compliance to be done under the IGCR in order to avail the concessional rate of duties on imported goods.

V. Other changes in customs

General trade facilitation measures

- **SWS levy rationalisation and clarification:**

The government has issued Circular clarifying that the amount of Social Welfare Surcharge payable would be 'Nil' in cases where the aggregate of customs duties (which form the base for computation of SWS) is zero even though SWS has not been specifically exempted.

This clarification has been issued to overcome the judgment of the Hon'ble Supreme Court in M/s Unicorn Industries.

(Circular No. 03/2022-Customs dated 1st February, 2022)

What's next?

The importers were facing the trouble of computing SWS in cases where the BCD amount is nil due to exemptions and the stand to pay the SWS or not were litigative. The above-mentioned circular will help address the industry's concerns.

- **Provisions of chapter VIIA of Customs Act, has been notified in relation to the electronic cash ledger (ECL) and electronic duty credit ledger from 1st June 2022**

The Government has issued the Notification to make provisions of Chapter VIIA of Customs act as brought in by Finance Act, 2018 to be effective from 1st June 2022 which provides for the payment of duty, interest, penalty etc. through the electronic cash ledger and electronic duty credit ledger.

Also, the Customs (Electronic Cash Ledger) Regulations, 2022 has been issued in this behalf to provide for the manner of deposit in ECL, making payment and applying for refund from the ECL.

Further, following deposits has been exempted from applicability of aforementioned Regulations:

- In respect of goods imported and exported in customs stations where customs automated system is not in place
- Accompanied baggage

- Other than used for payment of:
 - Customs duty (including cess and surcharge)
 - Integrated tax
 - Goods and Services Tax Compensation Cess
 - Interest, penalty, fees or any other amount payable under Customs Act or the Customs Tariff Act

(Notification No. S.O. 1511(E), Notification No. 19/2022-Customs (N.T.) and Notification No. 20/2022-Customs (N.T.) dated 30 March 2022)

- **Extension of Foreign Trade Policy and Handbook Procedure, 2015-20 till 30.09.2022**

Directorate General of Foreign Trade has issued Notification and Public Notice by which the validity of the Foreign Trade Policy 2015-2020 (FTP) and Handbook of Procedures 2015-2020 (HBP) has been extended by 6 months i.e., till 30.09.2022. Earlier the validity of the FTP and HBP was only till 31.03.2022

(Notification No. 64/2015-2020 and Public Notice No. 53/2015-2020 dated 31st March 2022)

- **Extension of exemption from Integrated Tax (IGST) and Compensation Cess on goods imported against Advance Authorization (AA) /Export Promotion Capital Goods (EPCG) authorizations by three months i.e., up to 30.06.2022**

The government has issued Notification to extend the exemption from IGST and compensation cess when goods are imported against AA and EPCG authorisation by three (03) months i.e. up to 30.06.2022.

(Notification 19/ 2022 – Customs; dated 31.03.2022)

- **Extension of exemption from Integrated Tax (IGST) and Compensation Cess on imports by Export Oriented Unit (EOU) till 30.06.2022**

The government has issued Notification to extend the exemption from IGST and compensation cess on imports by EOUs till 30.06.2022.

(Notification 18/ 2022 – Customs; dated 31.03.2022)

Import policy

The Government has amended the import policy for the following items (products):

Product/ITC(HS)	Existing policy	New policy	Reference
I. Flat Panel Display Modules:	Restricted	Free	Notification no. 55/2015-20, dated 24 February 2022
1. Of Liquid crystals (8524 11 00)			
2. Of organic light- emitting diodes (OLED) (8524 12 00)			
3. Other (8524 19 00)			
4. Of Liquid crystals (8524 91 00)			
5. Of organic light- emitting diodes (OLED) (8524 92 00)			
6. Other (8524 99 00)			
II. Transmission Apparatus For Radio -Broadcasting or television, Television Camera, Digital Cameras and Video Camera Recorder			
1. Other (8525 89 00)			

Export policy

The Government has amended the export policy for the following items (products):

Product/ITC(HS)	Existing policy	New policy	Reference
1. Injection Remdesiver and Remdesiver Active Pharmaceutical Ingredient (API)	Restricted	Free	Notification No.56/2015-20, dated 24 February 2022
2. Amphotericin- B Injections			
3. Enoxaparin (Formulation and API)			
4. Intra-Venous Immunoglobulin (IVIG) (Formulation and API)			
Syringes with or without Needles of the following denominations:	Restricted	Free	Notification no. 52/2015-20, dated 31 January 2022
a. 0.5ml /1ml AD syringes			
b. 0.5ml /1ml/2ml/3ml disposable syringes			
c. 1ml/2ml/3ml RUP syringes			
Human hair, unworked whether or not washed or scoured; waste of human hair	Free	Restricted	Notification no. 51/2015-20, dated 25 January 2022

What's next?

The change related to import policy for products under heading 8524 and 8525 is big relief to industry. Also, relaxation in export policy of drugs related to COVID -19 will provide boost to Indian pharma sector to export such medicine..

News on levy of Anti-Dumping Duty (ADD)

- **Levy of definitive ADD:** The central government has imposed and further extended the ADD on the following products:

Product	Originating or exported from	Effective period	Reference
Axles for Trailers	People's Republic of China	For a period of five years from 24 January 2022	Notification no. 04/2022 – customs (ADD), dated 24 January 2022
Aluminium foil of thickness ranging from 5.5 micron to 80 micron	People's Republic of China	Till 15th June 2022	Notification no. 08/2022 – customs (ADD), dated 14 February 2022
Glazed/Unglazed Porcelain /Vitrified Tiles in polished or unpolished finish with less than 3 percent water absorption	People's Republic of China	For a period of five years 24 February 2022	Notification no. 09/2022 – customs (ADD), dated 24 February 2022
Jute products	Bangladesh and Nepal	Till 30th June 2022	Notification no. 10/2022 – customs (ADD), dated 24 February 2022

What's next?

The Government commonly levies ADD on the basis of representations from the industry and to protect the domestic industries.

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