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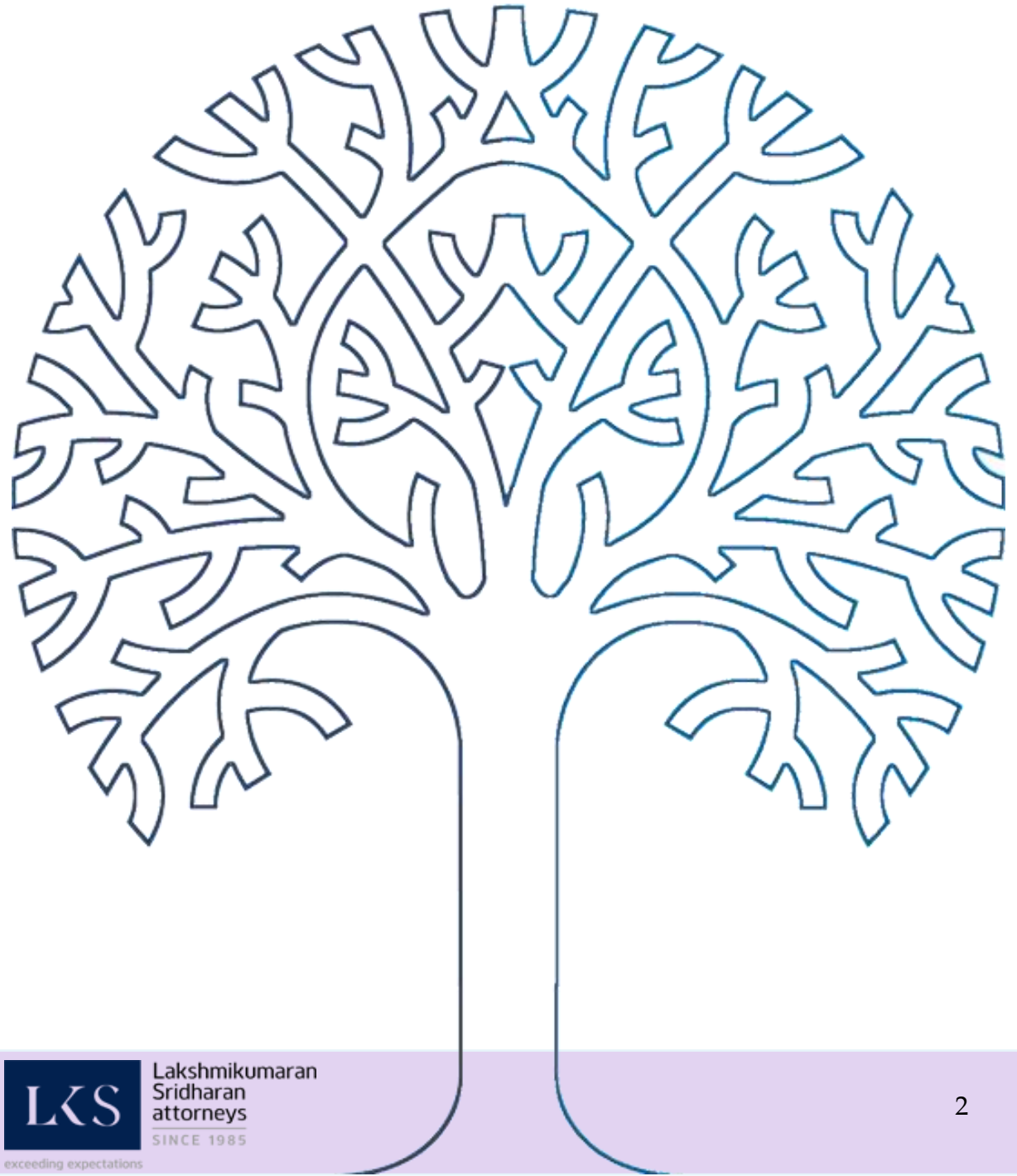
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# Article

## A legal analysis of plurilateral rule making at WTO

*By Jayant Raghu Ram*

The WTO is seeing a trend where certain Members are forming plurilateral clubs and negotiating agreements outside the multilateral framework. Few such recent Agreements are Agreement on Electronic Commerce (notified on 26 July 2024), Investment Facilitation for Development Agreement and the Reference Paper on Services Domestic Regulation. The article discusses the legal basis for these agreements and assesses their compatibility with the broader principles of multilateral rule-making at the WTO. It considers Articles III and IX of the Marrakesh Agreement Establishing the WTO and observes that such plurilateral joint initiatives have neither been blessed by the Ministerial Conference nor by the broader WTO Membership. The author hence believes that such initiatives are not in harmony with the WTO's constitution. According to him, the Membership must collectively examine these plurilateral clubs which pose a threat to the WTO and the larger interests of its Membership, the majority of which are developing country Members.



# A legal analysis of plurilateral rule making at WTO

*By Jayant Raghu Ram*

## Introduction

Multilateralism is the founding principle of the World Trade Organization ('WTO'). Except for certain agreements like the Agreement on Government Procurement, and certain understandings such as the Information Technology Agreement – I and II, multilateralism has been the basis for rule making at the WTO. However, inspite of the strong foundations in multilateralism, the WTO's record in achieving consensus on certain critical issues in the recent past has seen limited success on certain issues.

While the WTO has been able to achieve outcomes such as the Fisheries Subsidies Agreement, the Ministerial Decisions forming part of the Geneva Package, etc. in the recent past, these outcomes pale in comparison to the level of ambition outlined by the WTO's Members for securing agreements on key topics. The Doha Development Agenda is one such example where Members eventually abandoned negotiations under the agenda as such.

Interestingly, while the WTO is seeing limited success in negotiating outcomes on a multilateral basis, a trend is slowly

emerging at the WTO where certain Members are forming plurilateral clubs and negotiating disciplines on issues of vital importance. The latest example in this regard is the formation of the Agreement on Electronic Commerce on 26 July 2024 by certain WTO Members who are part of the Joint Statement Initiative on Electronic Commerce.

Besides the agreement on electronic commerce, there are two other plurilateral initiatives where certain WTO Members have concluded agreements on two other topics – the Investment Facilitation for Development Agreement and the Reference Paper on Services Domestic Regulation. These are discussed later in this article.

When examined holistically, the initiative of certain WTO Members forming plurilateral clubs to negotiate and conclude agreements seems to have somewhat been driven by the absence of any clear direction towards rule-making by the broader WTO Membership on these issues. However, since multilateralism is the founding principle of the WTO, and these agreements have been negotiated without the sanction of the overall WTO Membership, a question arises as to whether the plurilateral

rules formed by these select clubs within the umbrella of the WTO are appropriate.

This article is intended to discuss the legal basis for these plurilateral agreements and assess their compatibility with the broader principles of multilateral rule-making at the WTO.

## Details of Plurilateral Agreements at the WTO

On 26 July 2024, over 80 Members of the WTO forming part of the Joint Statement Initiative on Electronic Commerce announced that they have developed a text on the Agreement on Electronic Commerce.<sup>1</sup> Concluded after negotiations that lasted over five years, this agreement establishes disciplines on various topics related to e-commerce such as facilitation, removal of barriers, telecommunications, etc.

Not long before the conclusion of the Agreement on Electronic Commerce, on December 2021, 67 WTO Members declared, that they had concluded negotiations on a Reference Paper on Services Domestic Regulation.<sup>2</sup> This Reference Paper was concluded under the aegis of the Joint Initiative on Services Domestic Regulation, which was formed in December 2017.

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<sup>1</sup> See *Joint Statement Initiative on Electronic Commerce*, INF/ECOM/87 dated 26 July 2024, World Trade Organization (available [here](#)).

A few months before the formation of the Joint Initiative on Services Domestic Regulation, certain developing country Members of the WTO formed the Investment Facilitation for Development (IFD) Initiative. This group negotiated and concluded an Investment Facilitation for Development (IFD) Agreement in November 2023.<sup>3</sup>

A common thread that runs through these plurilateral agreements is that though they are being negotiated under the WTO's roof, they are being negotiated outside the multilateral framework. Further, neither of these agreements nor the initiatives by which negotiations on these agreements began, have been sanctioned either by the Ministerial Conference or the General Council.

## Plurilateral agreements at the WTO – A legal analysis

The WTO is not new to plurilateral agreements. In fact, Annex 4 to the Marrakesh Agreement Establishing the WTO ('**Marrakesh Agreement**') covers a list of plurilateral agreements that are applicable only between WTO Members that are

<sup>2</sup> See *Declaration on The Conclusion of Negotiations on Services Domestic Regulation*, WT/L/1129 dated 2 December 2021 (available [here](#)).

<sup>3</sup> *Investment facilitation for development*, World Trade Organization (available [here](#)).

signatory to those agreements. From this list, the Agreement on Government Procurement is the best example of a plurilateral agreement within the WTO which enshrines disciplines and records commitments by Members in a rather important area concerning international trade in goods and services.

However, what distinguishes the plurilateral agreements under Annex 4 from those being negotiated under the joint initiatives is the absence or presence of approval by all the WTO Members under the Marrakesh Agreement.

Article IX of the Marrakesh Agreement concerns decision making. As per para 1 of Article IX, the WTO can only make decisions by consensus. Para 1 goes on to state that, except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In case of joint initiatives, there seems to be no record of the broader WTO Membership having blessed these initiatives.

Reference is also invited to Article III of the Marrakesh Agreement, which concerns the WTO's functions. Para 2 of Article III concerns the WTO's negotiating functions of the WTO. The first sentence of para 2 provides that the WTO shall be the forum for negotiations on existing agreements under the Marrakesh Agreement.

The second sentence of para 2 concerns negotiations on new issues. It provides that that the WTO may provide a **forum** for further negotiations among its Members concerning their multilateral trade relations, and a **framework** for the implementation of the results of such negotiations. However, the second sentence categorically adds that such forum and framework are to be decided by the Ministerial Conference.

In the present case, there is not an iota of doubt that the plurilateral joint initiatives have not been blessed by the Ministerial Conference. Therefore, this makes the entire exercise of forming plurilateral clubs and negotiate agreements under these clubs as suspect, when it is being done without the approval of the Ministerial Conference.

## Conclusion

One of the key purposes of the WTO is to negotiate agreements on international trade. Unfortunately, the negotiating arm of the WTO has seen limited success for more than a decade now. However, does this situation permit certain WTO Members to negotiate plurilateral agreements without the sanction of the broader WTO Membership? If examined from a legal perspective, it would appear that such initiatives are not in harmony with the WTO's constitution.

The WTO has always been a rules-based Member driven organization. Unlike certain other international organizations, consensus of all WTO Members has been the driving spirit for rule-making at the WTO. If plurilateral agreements are to be negotiated at the WTO, they must strictly be in accordance with the relevant provisions of the Marrakesh Agreement.

It is pertinent to note that certain WTO Members like India and South Africa have already raised serious objections to such plurilateral rule-making initiatives.<sup>4</sup> However, the broader WTO

Membership is yet to react and decide on a course of action concerning these plurilateral initiatives.

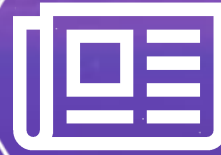
The Membership must collectively examine whether plurilateral clubs undermine the multilateral nature of the WTO. If left unchecked, they could pose a grave threat to the WTO and the larger interests of its Membership, the overwhelming majority of which are developing country Members.

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<sup>4</sup> See *The Legal Status of 'Joint Statement Initiatives' and their Negotiated Outcomes – Revision*, WT/GC/W/819/Rev.1 dated 30 April 2021, General Council, World Trade Organization. (available [here](#)).

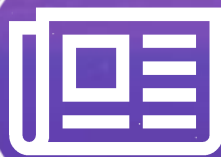
# Trade Remedy News.



- Acrylic Fibre from China PR, Peru, Thailand – India initiates anti-dumping investigation
- Anodized aluminium frames for solar panels/modules from China PR – India' DGTR recommends imposition of anti-dumping duty
- Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India – USA issues preliminary finding that certain entities made sales at less than normal value from 1 June 2022 till 31 May 2023
- Continuous Cast Copper Wire Rod from Indonesia, Malaysia, Thailand, Vietnam – India initiates sunset review of countervailing duty
- Frozen Warmwater Shrimp from India – USA issues determination of sale at less than normal value during 1 February 2022 till 31 January 2023
- Glass Fibre and articles thereof from Bahrain, China PR and Thailand – India initiates anti-dumping investigation
- Glufosinate and its salt from China PR – India initiates anti-dumping investigation
- Glycine from India – USA issues preliminary determination that countervailable subsidies were provided by Kumar Industries from 1 January 2022 till 31 December 2022
- High Chrome Cast Iron Grinding Media from India – USA postpones preliminary determination in the countervailing duty investigation
- Hot rolled carbon flat products from India – USA initiates sunset review of anti-dumping duty
- Hot rolled carbon steel flat products from India – USA initiates sunset review of countervailing duty
- Isobutylene-Isoprene Rubber from China PR, Russia, Saudi Arabia, Singapore, and USA – India's DGTR recommends imposition of anti-dumping duty



# Trade Remedy News



- Liquid Epoxy Resin from China PR, Korea RP, Saudi Arabia, Taiwan and Thailand – India initiates anti-dumping investigation
- Mattresses from India – USA issues determination of sale at less than fair value from 1 July 2022 till 30 June 2023
- Melamine from India – USA issues preliminary determination of provision of countervailable subsidies from 1 January 2023 till 31 December 2023
- New/unused pneumatic radial tyres, having nominal rim diameter code above 16" from China PR – India continues with countervailing duty after sunset review
- Paper Shopping Bags from India – USA issues countervailing duty and anti-dumping duty orders
- Polyethylene Terephthalate from India – European Union initiates expiry review of anti-subsidy measures
- Polyethylene Terephthalate from India – United Kingdom initiates transition review of countervailing measures
- Purified Terephthalic Acid from Korea RP and Thailand – India initiates sunset review of anti-dumping duty
- Quartz surface products from India – USA issues preliminary determination of no sale below normal value from 1 June 2022 till 31 May 2023
- Thiram in any form from European Union – India initiates anti-dumping investigation
- T-Shaped Elevator/Lift Guide Rails and Counterweight Guide Rails from China PR – India initiates anti-dumping duty investigation
- Unframed glass mirror from China PR – India's DGTR recommends imposition of anti-dumping duty

## Trade Remedy actions by India

Product	Country	Notification No.	Date of notification	Remarks
Acrylic Fibre	China PR, Peru, Thailand	F. No. 6/16/2024-DGTR	29 July 2024	Anti-dumping investigation initiated
Anodized aluminium frames for solar panels/modules	China PR	F. No. 6/07/2023-DGTR	29 July 2024	Anti-dumping duty recommended to be imposed
Continuous Cast Copper Wire Rod	Indonesia, Malaysia, Thailand, Vietnam	F. No. 07/07/2024-DGTR	29 July 2024	Sunset review of countervailing duty initiated
Glass Fibre and articles thereof	Bahrain, China PR and Thailand	F. No. 6/17/2024-DGTR	29 July 2024	Anti-dumping duty investigation initiated
Glufosinate and its salt	China PR	F. No. 6/19/2024-DGTR	29 July 2024	Anti-dumping investigation initiated
Isobutylene-Isoprene Rubber	China PR, Russia, Saudi Arabia, Singapore, and USA	F. No. 6/05/2023-DGTR	29 July 2024	Anti-dumping duty recommended to be imposed
Liquid Epoxy Resin	China PR, Korea RP, Saudi Arabia, Taiwan and Thailand	F. No. 6/24/2024-DGTR	29 July 2024	Anti-dumping investigation initiated

## Trade remedy measures against India

Product	Investigating Country	Document No.	Date of Document	Remarks
Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel	USA	FR Doc No: 2024-14764	5 July 2024	Preliminary finding that certain entities made sales at less than normal value from 1 July 2022 till 31 May 2023
Frozen Warmwater Shrimp	USA	FR Doc No: 2024-15180	10 July 2024	Determination of sale at less than normal value during 1 February 2022 till 31 January 2023
Glycine	USA	FR Doc No: 2024-14766	5 July 2024	Preliminary determination that countervailable subsidies were provided by Kumar Industries from 1 January 2022 till 31 December 2022
High Chrome Cast Iron Grinding Media	USA	FR Doc No: 2024-15103	10 July 2024	Preliminary determination in the countervailing duty investigation postponed
Hot rolled carbon flat products	USA	FR Doc No: 2024-14459	1 July 2024	Sunset review of anti-dumping duty initiated

Product	Investigating Country	Document No.	Date of Document	Remarks
Hot rolled carbon steel flat products	USA	FR Doc No: 2024-14459	1 July 2024	Sunset review of countervailing duty initiated
Mattresses	USA	FR Doc No: 2024-15984	22 July 2024	Determination of sale at less than fair value from 1 July 2022 till 30 July 2023
Melamine	USA	FR Doc No: 2024-15981	22 July 2024	Preliminary determination of provision of countervailable subsidies from 1 January 2023 till 31 December 2023
Paper Shopping Bags	USA	FR Doc No: 2024-15747 and FR Doc No: 2024-15746	18 July 2024	Countervailing duty and anti-dumping duty orders issued
Polyethylene Terephthalate	European Union	C/2024/4678	26 July 2024	Expiry review of anti-subsidy measures initiated
Polyethylene Terephthalate	United Kingdom	Press Release	10 July 2024	Transition review of countervailing measures initiated
Quartz Surface Products	USA	FR Doc No: 2024-14832	9 July 2024	Preliminary determination of no sale below normal value from 1 July 2022 till 31 May 2023





# WTO News

- European Union seeks consultations with Chinese Taipei on local content requirements in investments in off-shore wind installations
- EU's measures affecting import of South African citrus fruits – Dispute Settlement Panel established

## European Union seeks consultations with Chinese Taipei on local content requirements in investments in off-shore wind installations

The European Union has on 26 July requested consultations with Chinese Taipei (Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu) regarding the latter's certain measures relating to local content requirements in investments in off-shore wind installations. As per document circulated in WTO on 31 July, according to the EU, the measure at issue appears to be inconsistent with Chinese Taipei's obligations under Article III:4 of General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 2.1 of the Agreement on Trade-Related Investment Measures (TRIMs Agreement), and Article XVII of the General Agreement on Trade in Services (GATS).

## EU's measures affecting import of South African citrus fruits – Dispute Settlement Panel established

The WTO's Dispute Settlement Body has agreed a request by South Africa for establishment of a panel to adjudicate the dispute involving certain European Union measures affecting the import of South African citrus fruit into the EU (DS613)(DS624). The EU imposes import restrictions on South African citrus fruit by reason of the pest *Thaumatotibia leucotreta* (Meyrick) (False Codling Moth or FCM) and by reason of the pest *Phyllosticta citricarpa* (McAlpine) Van der Aa (*P. citricarpa*). According to South Africa, the measures are inconsistent with various provisions of the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and the GATT 1994.

# India Customs & Trade Policy Update



- Union Budget 2024 – Highlights of changes in Customs law and duty rates
- Compensation Cess exemption on imports by SEZ unit or developer for authorised operations – Retrospective applicability proposed
- Aircraft components and parts as prescribed in various manuals are liable to 5% IGST, subject to conditions
- Equipment and buoys for specific monsoon prediction programme exempted from IGST, subject to conditions
- Irregular Aluminium Powder – SCOMET applicability clarified
- Potato imports from Bhutan permitted without licence till 30 June 2027
- Rice export to European countries – Non-requirement of Certificate of Inspection from EIC/EIA to certain countries in Europe extended for another six months

## Union Budget 2024 – Highlights of changes in Customs law and duty rates

The Union Budget 2024 was presented by the Finance Minister on 23 July with many changes across different sectors. The proposals relating to customs duties, as per the speech of the Finance Minister, intend to support domestic manufacturing, deepen local value addition, promote export competitiveness, and simplify taxation, while keeping the interest of the general public and consumers surmount. A comprehensive review of the rate structure is also being proposed over the next six months to rationalise and simplify it for ease of trade, removal of duty inversion and reduction of disputes.

Some of the important changes are highlighted below:

- Section 28 DA of the Customs Act, 1962 is being amended to enable the acceptance of different types of proof of origin provided in trade agreements (FTAs). This will align the said section with trade agreements, which provide for self-certification.
- Section 65 of the Customs Act, 1962 is being amended to allow the Central Government to notify manufacturing process and operations that shall not be permissible within

a Manufacturing and Other Operations in Warehouse ('MOOWR') unit.

- Section 143AA of the Customs Act is being amended to allow CBIC to notify procedures for instances such as transparency in documentation, clearance of goods and related transaction costs for 'any other persons' as well.
- Similarly, Section 157 is being amended to allow CBIC to make regulations to provide measures and separate procedure or documentation for a class of importers or exporters or for 'any other persons' or categories of goods or on the basis of the modes of transport of goods.
- Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 have been amended to insert a provision for New Shipper Review. This is effective from 24 July 2024.
- Time-period of duty-free re-import of goods (other than those under export promotion schemes) exported out from India under warranty has been increased from 3 years to 5 years, further extendable by 2 years. *Refer Notification No. 39/2024-Cus. amending Notification No. 45/2017-Cus.*



- Aircrafts and vessels imported for maintenance, repair and overhauling can now be re-exported within 1 year (instead of 6 months), further extendable by 1 year. *Refer Notification No. 38/2024-Cus. amending Notification No. 153/94-Cus.*
- BCD has also been reduced on shea nuts, goods relating to aquafarming & marine exports, 27 critical minerals, Ferro Nickel, Blister Copper, Ammonium Nitrate, certain goods for textile and leather sector, 3 cancer drugs, precious metals, certain medical equipment, certain specified goods of IT and Electronics sector (covering mobile phone, charger/adaptor, PCBA, etc.), capital goods for use in manufacture of solar cells or solar modules, and capital goods for petroleum exploration operations
- BCD exemption has been extended till 31 March 2026 on Ferrous scrap and certain specified raw materials for manufacture of CRGO steel.
- Tariff rate of BCD has been increased to 25% for Poly vinyl chloride (PVC) flex films. This is effective from 24 July 2024
- Tariff rate of BCD has been increased to 150% for Laboratory Chemicals. This is effective from 24 July 2024. However, it may be noted that *vide* Notification No. 41/2024-Cus., dated 31 July 2024, all goods (except

undenatured ethyl alcohol of any alcoholic strength) for use in laboratory or for research and development purposes, are liable to 10% BCD with effect from 1 August 2024, subject to certain conditions.

- Tariff rates of BCD are also being revised for roasted nuts and seeds, and other nuts otherwise prepared or preserved, both including arecanuts, with effect from 1 October 2024, to 150%.
- BCD has been increased on Printed Circuit Board Assembly (PCBA) of specified telecom equipment, from 10% to 15%.
- Export duty on raw skins, hides & leather is being simplified and rationalized.

### Compensation Cess exemption on imports by SEZ unit or developer for authorised operations – Retrospective applicability proposed

The Ministry of Finance has exempted all goods imported by a unit or a developer in the Special Economic Zone (SEZ) for authorised operations, from the whole of Goods and Services Tax Compensation Cess that is leviable on them under Section 3(9) of the Customs Tariff Act, 1975 read with Section 8(2) of the Goods and Services Tax (Compensation to States) Act, 2017.

Notification No. 27/2024-Cus., dated 12 July 2024 is effective from 15 July 2024. It may however be noted that notification is being validated retrospectively with effect from 1 July 2017 by clause 104 of the Finance (N0.2) Bill, 2024 presented by the Finance Minister on 23 July 2024.

- 1. Aircraft components and parts as prescribed in various manuals are liable to 5% IGST, subject to conditions**
- 2. Equipment and buoys for specific monsoon prediction programme exempted from IGST, subject to conditions**

CBIC has added S. No. 544A, S No. 613 and Condition 118 to Notification No. 50/2017-Cus. As per new S. No. 544A components or parts which are prescribed in manuals of Aircraft Maintenance Manual, Component Maintenance Manual, Illustrated Parts Catalogue, Structural Repair Manual or Standard Procedure Manual of the OEMs will be liable to effective date of IGST @ 5% on imports, subject to conditions.

Further, exemption from IGST has been granted under new S. No. 613 to equipment or buoys required for Research Moored Array for African Asian Australian Monsoon Analysis and

Prediction programme, subject to conditions specified under new Condition No. 118. This exemption has a sunset clause of 31 July 2026. Notification No. 28/2024-Cus., dated 12 July 2024 amends Notification No. 50/2017-Cus., for this purpose, effective from 15 July 2024.

### **Irregular Aluminium Powder – SCOMET applicability clarified**

The Central Board of Indirect Taxes and Customs has issued Instruction No. 18/2024-Cus., dated 10 July 2024 to circulate a clarification issued by the Directorate General of Foreign Trade (DGFT) on applicability of SCOMET Policy on irregular Aluminium Powder, falling under the three categories viz 3A301.c, 6A008.c & 6A008.h. Accordingly, it is stated that if the aluminium powder is spherical or spheroidal in shape, then it will be falling under SCOMET for category 3A301.c & 6A008.c, and a report of any government or NABL accredited laboratory can be produced for this purpose. For category 6A008.h, Aluminium Powder irrespective of any size or shape, which is in the nature of reactive material would be covered under SCOMET. The clarification in this regard also states that powder manufactured under vacuum conditions or by use of noble gases is known as reactive material.

## Potato imports from Bhutan permitted without licence till 30 June 2027

Import of potatoes falling under ITC(HS) Code 0701 90 00 is now permitted without any import licence till 30 June 2027. The exemption from import licence was earlier available till 30 June 2024. It may be noted that import of potatoes, fresh or chilled, is otherwise restricted under Import Policy. Ministry of Commerce Notification No. 20/2024-25, dated 5 July 2024 amends Chapter 07 under Schedule I of the ITC(HS) 2022 for this purpose.

## Rice export to European countries – Non-requirement of Certificate of Inspection from EIC/EIA to certain countries in Europe extended for another six months

The Ministry of Commerce has extended the non-requirement of Certificate of Inspection from Export Inspection Council or Export Inspection Agency in respect of export of rice (basmati and non-basmati) falling under specified ITC(HS) Codes to certain countries in Europe, for another period of six months. Notification No. 19/2024-25, dated 5 July 2024 has been issued for this purpose.



# Ratio Decidendi

- Classification of goods – HSN Code of the commodity in exporting country cannot be the sole basis for its classification under Indian Customs Tarriff
- 'Injection Stretch Blow Moulding Machine' is classifiable as 'Blow Moulding Machine' and not as 'Injection Moulding Machine' – Not liable to anti-dumping duty
- Transponder, Muxponder and Optical splitter cards are classifiable as 'parts' under TI 8517 70 90



## Classification of goods – HSN Code of the commodity in exporting country cannot be the sole basis for its classification under Indian Customs Tarriff

In a case involving classification of Clear Float Glass, whether under Tariff Item 7005 10 90 or under TI 7005 29 90 in terms of Chapter Note 2(c) to Chapter 70 of the Customs Tariff Act, 1975, the CESTAT Chennai has held that the HSN Code of the commodity in the exporting country cannot be the sole basis for its classification under the Customs Tarriff Act, 1975 of India. The Tribunal in this regard noted that the exporting country can mention on the Country-of-Origin Certificate the HSN Code of the importing country thus indicated that the Code of the commodity in exporting country cannot be the sole basis for classification. The Tribunal further held that denial of the exemption benefit of Notification No. 46/2011-Cus (imports under Free Trade Agreement with ASEAN countries) is not justified though the Country-of-Origin Certificate mentioning the HSN Code as 7005 29 90. [*Float Glass Centre v. Commissioner* – 2024 VIL 795 CESTAT CHE CU]

## ‘Injection Stretch Blow Moulding Machine’ is classifiable as ‘Blow Moulding Machine’ and not as ‘Injection Moulding Machine’ – Not liable to anti-dumping duty

The CESTAT Ahmedabad held that Injection Stretch Blow Moulding Machine, imported from China and of being Chinese Origin as per certificate of origin, is to be classified under Tariff Item 8477 30 00 as ‘Blow moulding machines’ and not under TI 8477 10 00 of the Customs Tariff Act, 1975 as ‘Injection-moulding machines’, which is liable to anti-dumping duty under Notification No. 57/2015-Customs (ADD). The Tribunal in this regard noted that the machine was a composite machine, i.e., two machines fitted together forming a whole, part of which was Injection Molding Machine and remaining part was Blow Moulding Machine. It was noted that as per Note 7 of Chapter 84, where composite machines consisting of two or more machines are used to perform complementary/alternative function then composite machine is to be classified as per the principal function of that machine, which in this case was blow moulding used in pharmaceutical industry for the development of IV Fluid containers. [*Amanta Healthcare Limited v. Commissioner* – 2024 (7) TMI 766-CESTAT AHMEDABAD]

## Transponder, Muxponder and Optical splitter cards are classifiable as 'parts' under TI 8517 70 90

The CESTAT New Delhi held that the correct classification for Transponder, Muxponder, and Optical splitter cards is under Tariff Item 8517 70 90 as 'parts' and not under TI 8517 69 90 of the Customs Tariff Act, 1975 as 'other communication apparatus'. The Tribunal relied upon the twin test laid down in *Vodafone Idea Limited* (Customs Appeal No. 52287 of 2019 decided on 20 September 2022) and came to the conclusion that

the cards were not Network Interface Card (NIC) as all the three cards were dependent on other components of the main equipment and become functional only when they were plugged into the slot of modular chassis of the main equipment.

Therefore, not being able to function independently, the goods were to be considered as parts. *The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.* [*Vodafone Idea Limited v. Principal Commissioner – 2024 VIL 717 CESTAT DEL CU*]

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