

Record Note of Discussions of the first Quarterly Co-ordination

Committee Meeting held on 30th August 2018

AS & DG welcomed the participants to the first Quarterly Coordination Committee Meeting held on 30th August 2018v at 11.30 a.m. in office of Directorate General Trade Remedies (DGTR) at New Delhi. List of participants is annexed.

Initiating the discussions, AS&DG apprised the participants about the objectives of the meeting. He informed the participants about the initiatives taken in the recent past by DGTR to expedite the investigations and the limitations faced by DGTR in completing the investigations. The expectation of the Government is that DGTR will work with greater efficiency and transparency and will match the best standards of other Trade Remedial Agencies in terms of time taken from receipt of petitions to issue of notification by the Department of Revenue as well as quality of investigation. These expectations can be fulfilled only when all stakeholders act in perfect sync with each other. Therefore, it was decided that the Coordination Committee Meetings shall henceforth be conducted every quarter.

[Action point: DGTR]

The agenda-wise record note of the meeting is as under:

1. Data support for filing trade remedial measures and effective disposal of trade remedial measures of DGTR

(a) DGCIS Data:

AS&DG appreciated the efforts made by the DGCI&S in streamlining the process of providing transaction wise data to the various interested parties. He also mentioned that since last six months, there are no complaints regarding the procurement of transaction wise import data from DGCI&S. The process will get further streamlined once the **online portal** for procurement of data is made operational. To make the various interested parties aware of the new portal, AS&DG desired that a ticker for DGCI&S online portal should be placed on the website of DGTR and the point should also be specifically highlighted in all the outreach programmes conducted by the officers of DGTR. A one-page step by step instruction for obtaining data from the portal should also be prepared.

[Action point: DGTR, DGCI&S]

Sh. Amitava Saha, Director, DGCI&S mentioned that the said system is now almost ready and beta version of the portal will be launched shortly. All the changes suggested by the technical team of DGTR have been incorporated. They requested DGTR to give a unique number to every authorization provided.

[Action point: DGTR, DGCI&S]

Dr. A. Saha informed that the average time taken by them in disseminating the data is about 5.25 days, which is likely to reduce further after the activation of the online portal. He explained that one of the issues faced by them is that banks take at least 2 days in confirming the high payments transferred to them through NEFT. However, this is likely to be resolved once the on-line system is in place.

Summary of Receipt & Disposal Status of DGTR Requests

For Private Parties

Period:	April - June 2018
No. of Requests Received	24
No. of Requests Disposed	24
Average Time Taken (in Days)	5.25
Maximum time taken to supply data (in Days)	14
Minimum time taken to supply data (in Days)	1

For DGTR Officers

Period:	April - June 2018
No. of Requests Received	10
No. of Requests Disposed	10
Average Time Taken (in Days)	3.1
Maximum time taken to supply data (in Days)	7
Minimum time taken to supply data (in Days)	1

As regards 'description based data' as requested by DI on several occasions, it was clarified that the exact description may vary on each transaction and it may be very difficult to visualize all the descriptions. Further, even a change in comma or full stop may exclude the transaction. In view of above, any data based on description based search may not be exhaustive and therefore, may not be capturing all the 100% transactions. In

view of above, it was agreed that transaction wise import data should be HSN Code wise only as provided by DGCI&S.

As regards **details of exporters**, it was clarified by Dr. Amitava Saha that name of exporter is not present in their database and hence they cannot provide it to the DGTR. However, it was submitted by the DGTR Officers that exporters details are necessary to verify the submissions made by the Exporters or Importers. As DGCI&S does not provide exporters details, they have to obtain details from two sources i.e., DGCI&S and DG (Systems) to obtain the complete details of imports during any investigations. Therefore, investigations shall be expedited, if complete transaction wise import data is available from one source.

Considering the importance of obtaining complete imports data information from single agency including the name of the exporter, the AS&DG desired that a letter from Commerce Secretary to Revenue Secretary may be sent. Accordingly, the DGCIS was requested to send draft DO letter/explanatory note to the DGTR to take up the matter further.

[Action point: DGTR, DGCI&S]

(b) Alleged high cost for providing data:

Dr. Amitava Saha clarified that the cost is only Re 1 per transaction which is nominal. As regards differential rates for SSIs and MSMEs, it was clarified that their policy provides for these rates and therefore, it could be difficult for them to prescribe differential rates. Further, most of the requests are coming from consultants only. However, it was informed that DGCI&S has waived off 10% service charges from last month as a measure to reduce transaction data costs.

(c) Production – Sale – Quantity for Standing and NIP

As regards production quantity details for standing and NIP purposes, it was clarified by GSTN Officer that they don't maintain quantitative details after the introduction of GST. Therefore, GSTN at present can provide sales clearance quantity data for a product at 2 digit/ 4 digit level only. Four-digit information is mostly available for assesses with annual turnover of more than Rs. 5 crore.

It was further clarified that CBEC maintains the data of Central Administered Assesses, whereas respective State Governments maintain the data of Assesses administered by them. TRU Official stated that even they are using estimates only as

quantitative records are not being captured after the financial year 16-17. Further, almost two-third of the Assesses are managed by the respective state governments. However, it was felt that four digit HSN Codes may be too wide and covering multiple articles. Therefore, it was agreed that this information may not be relevant for DGTR as DGTR needs minimum 6 digits or 8 digits HSN Code wise data.

As regards names of producers/manufacturers of a product in the country, it was clarified that no such record is maintained by the GSTN Authorities. Therefore, list of producers as per excise records at best can be provided, which may need to be updated for the period after the introduction of GST.

Scope for production data details from other Independent Authorities like DIPP and Pollution Control Board could also be explored. However, it was felt that DIPP might not be capturing the details with respect to SSIs or MSMEs. Therefore, it was agreed that the validity of DIPP data may need to be tested.

It was mentioned that the details of production in case of Steel Industry may be available with Joint Plant Committee (JPC). MCA assured that they are ready to share whatever useful data is available with them. As regards Cost Audit Reports, these shall be provided only with respect to companies, where it is applicable. Therefore, it was agreed to look into the details available with MCA. The format / fields required need to be finalised before putting the system in place.

[Action point: DGTR]

2. Discussions on issues relating to notification of Final Finding

(a) Time taken in issue of notification

It was clarified that even though the existing rules allow a period of three months to the Department of Revenue for issue of Customs Notification after the Final Finding has been issued by the Designated Authority, no amendment in the rules is being proposed at this stage. However, in view of discussions at the highest level to expedite the relief to the domestic industry from dumping, there may be need for self-imposed discipline. Further, Delhi High Court has recently inter-alia decided in case of M/s Forech India Ltd. (W.P.(C) 4810/2014) and M/s Kumho Petrochemical Co. Ltd. (W.P.(C) 4886/2014 and W.P.(C) 1749/2017, CM APPL. 7796/2017) that this three-month period is not a stand-alone authorization to the Government. It has to be harmoniously read with the strict timeline fixed in the statute under section 9A(5) of the Act.

AS&DG placed on record the following facts of the case:

- (i) There have been time gaps between the expiry of an AD measure and its revival.
- (ii) The anti-dumping investigation is a time bound investigation and hence the whole exercise has to be completed following the detailed procedure within the time limits in terms of Laws and Rules. The Designated Authority has issued number of Trade Notices, in order to conduct a review investigation in timely manner.
- (iii) These instructions were revised vide Trade Notice 2/2017 dated 12.12.2017, which was issued to prescribe procedure and timeline for filing review application.
- (iv) The Designated authority has time and again tried to conduct the whole process of initiation and conclusion of review investigation within the prescribed limit as per Section 9A(5) and as per the Rules in order to avoid any contradiction and gaps in the investigation proceedings as faced in the present situation.
- (v) As a quasi-judicial authority, DGTR need not file any SLP in this regard in the Supreme Court.
- (vi) M/s NOCIL Ltd. has already filed an SLP in the Supreme Court to which the Designated Authority is also made a party.

Sh. Gaurav Singh, Deputy Secretary, TRU stated that issue of a notification requires the approval of the Finance Minister so it gets delayed during the budget time. However, he assured that they will take steps to expedite the process of issue of a Trade Remedy Notification within 30 days of receipt of Final Findings from the Authority. Sh. Gaurav Singh also requested that a copy of the Final Finding should be provided to the TRU in word format within 24 hrs of issue of a Final Finding to enable them to process the file faster.

[Action point: DGTR, TRU]

(b) Issue of notification in case of negative findings:

Sh. Gaurav Singh, Deputy Secretary, TRU clarified that the Department of Revenue can either issue a notification for imposing an Anti-Dumping Measure or rescinding the same. In case of a negative finding, since no duty has been imposed earlier, they cannot

issue any notification. It was felt that there must be scope for review of negative Final Findings issued by DGTR by CESTAT as that would further strengthen the credibility of the system. However, it may require amendment in Rules. It was agreed that the same would be considered.

[Action point: DGTR]

(c) Issues related to PUC & HSN Code:

Sh. Gaurav Singh, Deputy Secretary, TRU clarified that description based duty notification cannot be issued by the DoR in case of anti-dumping investigations as the HSN code is very important because their system is based on HSN codes. Further, clearances are system driven, where there is no human interception and these codes are global. He further elaborated saying that, maximum misclassification is present in ITC HS chapters pertaining to chemicals (29-30) and the field officers are facing maximum problems while dealing with chemical imports as they are not experts. He suggested that the DGTR should be more careful especially when the PUC is chemical and HSN should be as specific as possible. He further suggested that DGTR officers should make efforts to update/revise chapters pertaining to chemicals (29 and 30).

[Action point: DGTR & DGFT]

As regards allegations of circumvention etc., it was mentioned by the TRU Officials that TRU or DGTR can't take over the work of investigating agencies, and we may leave this for field formations. Therefore, the issue is to institutionalize the co-ordination amongst the agencies. It was agreed that all the agencies namely DGFT, Customs field formation Officials, Importers and Exporters should sit together preferably in the next coordination committee meeting.

[Action point: DGTR, DGFT & CBEC]

3. Participation of Department of Revenue and Customs Officials in Outreach Programs related to Anti-Dumping related issues:

It emerged during discussions that there is need to simplify the procedures as a perception has been created in the minds of domestic industry or other user stakeholders that getting relief under Trade Remedial Measures is very complex. Therefore, Outreach Programmes are necessary especially in remote locations to bring awareness amongst the domestic industry. These Outreach Programmes should explain the complete details

of all the processes involved at each of the stage to guide the industry in accessing the trade relief measures. Further, the industry must be informed of the operational help desk in operation at DGTR, where officers are available to guide the industry about how to go ahead for trade relief measures.

In view of above, it was agreed that the officers of field formations and customs should also be present during the outreach programmes undertaken jointly by DGFT and DGTR officers.

[Action point: DGTR, TRU, CBEC & DGFT]

4. Corrigendum vs clarification:

Sh. Gaurav Singh raised the issue regarding frequent issue of corrigendum's and submitted that the Ministry of Law allows Corrigendum within one month of issue of notification only. Therefore, due care must be taken to rule out clerical errors at the time of issue of final finding. He further stated that where the recommended period of duty is less than five years, detailed justification thereof could be indicated in the Final Finding itself

[Action point: DGTR]

The meeting ended with vote of thanks to the Chairman.

**List of Participants in the First Quarterly Co-ordination Committee Meeting
for the quarter April 2018 to June 2018 held on 30th August 2018**

1. Sh. Sunil Kumar, Additional Secretary and Director General, DGTR
2. Sh. I.P. Singh, Principal Advisor (Cost)
3. Dr. Rajiv Arora, Additional Director General, DGTR
4. Sh. Jaikant Singh, Additional Director General, DGTR
5. Sh. A.K Soni, Advisor(Cost)
6. Sh. M. Thakur, Additional Director General, DGTR
7. Sh. Agneshwar Sen, Additional Director General, DGTR
8. Ms. Shubhra, Additional Director General, DGTR
9. Ms. Geeta Singh Rathore, Deputy Director General, M/o Corporate Affairs
10. Dr. A. Saha, Director, DGCI&S
11. Sh. Gaurav Singh, DS, TRU, Department of Revenue
12. Sh. Rohit Dwivedi, Joint Commissioner Dy. systems CBEC
13. Ms. Rita Mahna, Director, DGTR
14. Sh. N.I. Chowdhuri, Director (Cost), DGTR
15. Sh. A.K. Pal, Director (Cost), DGTR
16. Sh. G. Pradhan, Director (Cost), DGTR
17. Shri. Manish Goswami, Director (Cost), DGTR
18. Sh. E. Nagachandran, Deputy Director, MCA
19. Sh. Anup Singh, Under Secretary, Trade Policy Division, Department of Commerce
20. Sh. Mahipal Singh, Under Secretary, TRU, Department of Revenue
21. Sh. Debashis Mandal, Deputy Director, DGCI&S
22. Sh. J.M. Bishnoi, Deputy Director, DGTR
23. Sh. Vivek Singh, Deputy Director, DGTR
24. Ms. Arti Bangia, Deputy Director, DGTR
25. Ms. Devanshi Agarwal, Assistant Director, DGTR
26. Sh. Shobh Nath, Assistant Director, DGTR
27. Sh. Manish Joon, Assistant Director, MCA