F.No. VAL/TECH II/12/2011       Dated: 10.9.12

To
Chief Commissioner of Customs (All);
Chief Commissioner of Customs & Central Excise (All);
Director General of Revenue Intelligence, New Delhi;
Director General of Systems, New Delhi.

Madam/Sir

Sub: - Valuation Guidelines – Import of Stainless Steel, Hot Rolled/
Cold Rolled Coil, Secondary, Defective Products and Tin Plate
- Regarding

**Stainless Steel Flat Product:**


2. It has been represented by some of the field formations that there is no uniformity of approach in Customs formations on the assessment and loading of value on the basis of grade extra, thickness extra, and width extra. Further, it was also opined that there is the need of review/revision of the values to be loaded on account of grade extra, thickness extra, width extra etc as the values mentioned in DGOV guidelines are pertaining to the period 2004. After receiving the representation, opinion
were sought from the Commissioners of Customs (Import), Mumbai Zone-I, Chennai Customs, Jawaharlal Nehru Customs House and Kolkata, however, no reply on the issue has been received in this office.

3. The representation has been examined by this office. The earlier guidelines issued in the year 2006 were exhaustive and issued after thorough study. These guidelines are the tools to the assessing officers of Customs for assessment of Stainless Steel flat products to avoid any undervaluation in the import of such flat products and for a uniformity of valuation pattern in all over the country. These guidelines were issued by considering the international price of Stainless Steel Grade 304 as base price, as mentioned in London Metal Bulletin, issued weekly. For other grades, international prices can be derived by taking base value of SS Grade 304 along with considering the value of the contents of Nickel, Chromium, Molybdenum and Cobalt present in the particular grade. The international prices of Nickel, Chromium, Molybdenum and Cobalt are also published in the Metal Bulletin. These Prices are available on DGOV website [www.dov.in](http://www.dov.in) and the same are also circulated through hard copy to every Commissionerate on monthly basis.

4. After re-examination of the issue, it is to mention that earlier guidelines are exhaustive enough and even after 6 years, no major changes has been experienced requiring reconsideration of valuation method of these SS flat products, as the method adopted was based on the international base price of SS Grade 304, published in LME which varied as per the international market trend. Therefore, DGOV is of the opinion that there is no need for issuance of fresh guidelines on the assessment of Stainless Steel flat product. The earlier guidelines F.No.VAL/POLICY/10/2006, Mumbai, dated 11.9 2006 hold good.

**RELEVANT DATE FOR CONSIDERING LME**

5. Field formation also sought clarification on the relevant date for considering LME price being either bill of lading date, sales contract date, L/C opening date or B/E filing date or otherwise. Section 14 of Customs Act, 1962 which reads as “For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods
when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation......".

6. By keeping in mind the definition of Section 14 of the Customs Act, 1962, major Customs Houses had already issued guidelines through Standing Orders for uniformity and ensuring collection of correct duty of Customs.

6.1 LME rates are published weekly. The LME rate of the date prior to the date of irrevocable L/C, shall be taken to ascertain the prices. If the goods are imported against an irrevocable letter of Credit and shipment has been done within the validity period of irrevocable L/C, the assessment can be done at LME rate prevailing during the week price prior to the date of opening of irrevocable L/C.

6.2 In all other cases the date of Bill of Lading may be taken for the purpose of consideration of LME date.

**HOT/ COLD ROLLED FLAT PRODUCT**

7. The Valuation trend of the Hot / Cold Rolled flat products has also been examined by this office. The study of the valuation trend and LME prices are discussed below:-

7.1 The prices of prime goods for the last four months as per Metal Bulletin are as follows:-

<table>
<thead>
<tr>
<th>Period of Import</th>
<th>HR Coil (US$/MT)*</th>
<th>CR Coil (US$/MT)*</th>
<th>Galvanized Coil(US$/MT)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>April, 2012</td>
<td>646</td>
<td>712</td>
<td>755</td>
</tr>
<tr>
<td>May, 2012</td>
<td>628</td>
<td>689</td>
<td>736</td>
</tr>
<tr>
<td>June, 2012</td>
<td>606</td>
<td>665</td>
<td>702</td>
</tr>
<tr>
<td>Average</td>
<td>627</td>
<td>689</td>
<td>731</td>
</tr>
</tbody>
</table>

*China Exports FOB (USD per MT) – Average.
Taking into account freight @50 PMT and insurance, minimum price of the prime goods should be as follows –

<table>
<thead>
<tr>
<th>HR Coil (US$/MT)</th>
<th>CR Coil (US$/MT)</th>
<th>Galvanized Coil (US$/MT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>677</td>
<td>739</td>
<td>781</td>
</tr>
</tbody>
</table>

7.2 If discount of 10% and 20% on price of prime coils is given for secondary and defective coils respectively (DGOV guideline dated 11.9.2006 on stainless flat products, wherein 10% discount for Ex-stock & secondary SS Products and 20% discount for defective SS Products has been prescribed), the following could have been the minimum prices for secondary and defective hot/cold rolled steel coils/sheets, imported in the month of April to June, 2012 –

<table>
<thead>
<tr>
<th></th>
<th>HR Coil (USD/MT)</th>
<th>CR Coil(USD/MT)</th>
<th>Galvanized Coil 1mm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secondary</td>
<td>609</td>
<td>665</td>
<td>703</td>
</tr>
<tr>
<td>Defective</td>
<td>542</td>
<td>591</td>
<td>625</td>
</tr>
</tbody>
</table>

7.3 Import data from NIDB for the period of April, 12 to June, 12 analyzed for the purpose of valuation trend of Hot Rolled and Cold Rolled Secondary and Defective Coil. Astonishingly, it is noted that almost all the consignments are found declared as ‘Secondary/Defective’ or ‘Secondary and defective’ instead of specifically declaring goods as either secondary or defective. Secondary steel flat products are those which did not meet the original customer's specifications because of deviation from characteristics in regard to chemical analysis, mechanical properties, dimensional tolerances, appearance or other quality imperfections whereas defective steel products are those which have surface defects or internal faults. Secondary products are close to prime goods and are sold at higher prices than defective goods. Secondary and defective products can not be treated at par as they are different products and have different prices in the market.

7.4 The table below reflect, port-wise, import price trend (range) of HR Secondary/Defective Coils the period of study (April, 12 to June, 12):-
No import of Hot Rolled Secondary or defective coils has noticed at JNCH.
Further the import price trend of Cold Rolled Secondary/Defective coils in
the period of study is observed as under:-

<table>
<thead>
<tr>
<th>Port of Import</th>
<th>Mumbai Sea Port</th>
<th>Kolkata Sea Port</th>
<th>Chennai Sea Port</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price Range (USD/MT)</td>
<td>430 - 560</td>
<td>460 - 500</td>
<td>460 - 590</td>
</tr>
</tbody>
</table>

From the above data analysis it is observed that Secondary/Defective Hot Rolled and Cold Rolled Coil, during the period of study i.e. April, 2012 to June, 2012, were imported approximately in same price range. It is observed that the actual import value of Secondary and defective HR/CR Coil is much below the average international price of the product reflected in LME and this indicate leakage of revenue to exchequer.

7.5 Import data of HMS (Heavy Melting Scrap) was also analyzed for the period of April, 2012 to June, 2012 and the average weighted price of Heavy Melting Scrap is observed as USD 470/MT.

7.6 In view of observations of above paragraphs 7.3 and 7.4, it is clear that import of Heavy Melting Scrap (HMS) and Secondary/Defective HR/CR coil are being imported in the same price range. It is specifically mentioned that Hot Rolled/Cold Rolled secondary/defective coils are being imported at New Custom House, Mumbai, Kolkata Sea Port, Chennai Sea Customs and JNCH Nhava Sheva.

7.7 It is felt that importers of such products should be asked to declare flat steel product in specific being either secondary or defective, as the case may be. Further in case of such declaration, the goods are to be
examined in first check to ascertain as whether the goods are secondary or defective.

ISSUE RELATED TO ALLOW DISCOUNT FOR SEC/DEF PRODUCTS

8. It has also been represented by some of the field formations that representations have been received from the trade stating that in ITC Policy 2004-09 there was a minimum floor price restriction for seconds and defectives goods as also for prime goods and on comparison being shown price variation between prime and seconds/defective is about 33%. Hence, the trade has represented that the logic of extending discounts of 10% and 20% for secondary and defective goods which is based on DGOV guidelines F.No. VAL/POLICY/10/2006 Mumbai, the 11th September 2006 is not acceptable. Accordingly, Customs Houses Kolkata and Chennai have started extending 25% and 35% on CIF price of prime coils be given for secondary and defective coils/sheets respectively.

8.1 The matter was examined and it is opined that the discount structure referred in DGOV guidelines F.No. VAL/POLICY/10/2006 Mumbai, dated 11.9 2006 is for ex stock/stock lot, secondary, defectives Stainless Steel Flat products was after a thorough study of all the items. The ITC Policy 2004-09 referred a minimum floor price restriction for seconds and defectives goods as also for prime goods, is for the purpose of import Export Policy and those prices has nothing to do with the discount related issues. Further, the claim of 33% difference between prime and defective goods as per Import Policy 2004-2009, by Kolkata Customs, was wrongly calculated by taking base price of defective coils. On the other hand, it is to be calculated by taking base price of Prime Products and on this working it worked out as only 25%, correctly. As per the Import Policy, the price restrictions on prime steel items has been withdrawn w.e.f. 1.1.2000 vide notification no. 31 (RE-1999)/1997-2002 dated 1.11.1999. So also the Import Policy is fixed in order to check that the imports of such steel products do not get imported below a certain price and hence the price restrictions. In view of above, it is opined that secondary and defective flat rolled steel product may be given 10% and 20% discount from the
price of prime products respectively. Pending assessments on the issue, if any, should be finalized accordingly.

**IMPORT OF TIN PLATE:-**

9. Import data of Prime, Secondary, Mis-print Tin Plates are also analysed for the period from 15.11.11 to 15.5.12. The following facts are observed on analysis of the data:-

9.1 Prime Tin Plates were being imported during this period in the price range of USD 685 PMT to 1760 PMT. Though, the prices of such products depend upon the coating of tin and steel used, even though the wide difference between the lowest and highest price is indicating undervaluation in import of tin plates. Port-wise import price ranges of prime tin plates are as under:-

<table>
<thead>
<tr>
<th>Price Range in USD/MT</th>
<th>NCH Mumbai</th>
<th>Chennai Sea Customs</th>
<th>JNCH</th>
<th>Faridabad</th>
</tr>
</thead>
<tbody>
<tr>
<td>685 - 1315</td>
<td>1110 - 1390</td>
<td>740 - 1410</td>
<td>1040 - 1760</td>
<td></td>
</tr>
</tbody>
</table>

A lower price trend has been observed at NCH Mumbai and JNCH Nhava Sheva in comparison to Chennai and ICD Faridabad.

9.2 Import price for secondary and Mis-print are also studied. The import price range of Secondary Tin Plates were observed as USD 430 to USD 890 PMT. Import price range of Mis-prints Tin plate were observed in the Range of USD 510 to USD 630 PMT. A comparative port-wise import price chart of secondary and Mis-print is as under:-

<table>
<thead>
<tr>
<th>Type of Tin Plate</th>
<th>NCH Mumbai (USD/MT)</th>
<th>Kolkata Sea Port (USD/MT)</th>
<th>Chennai Sea Customs (USD/MT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secondary</td>
<td>430 - 850</td>
<td>540 - 590</td>
<td>500 - 890</td>
</tr>
</tbody>
</table>
9.3 On the basis of the analysis of NIDB data for Tin Plates, it is observed that Upper range of import price of Secondary Tin Plates is also higher than the lower range of prime tin plates. From the above, it can be concluded that the lower price range of import price of Prime Tin Plates shows undervaluation.

10. It is reiterated that the officers should keep appropriate check against possible undervaluation as well as mis-declaration (leading to undervaluation), especially in imports made by traders and small time manufacturers. The officers should ensure complete and correct description such as grade and thickness of the goods. They should also ensure that there are no mis-declarations about grade, thickness, prime or otherwise, etc.

11. DGOV guidelines are issued to ascertain the genuineness of the declared values. It may also be mentioned that the valuation guidelines / alerts / circulars issued by DGOV are for reference only. Individual cases have to be examined on merits for the acceptance or rejection of declared value, and re-determination of value as appropriate, by following the procedure laid down under the Customs Valuation Rules, 2007.

12. Guidelines issued by DGOV do not interfere with the application of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 by the assessing officers.

Yours faithfully,

Sd-
(AJIT KUMAR)
DIRECTOR GENERAL

Copy to: Under Secretary, Cus – V, CBEC, North Block, New Delhi.