Representation on Issues relating to Indian Exports to US

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Issues relating to Indian Exports to US

1. Paper Industry (Notebook) – High Countervailing Duty (CVD) & Anti-Dumping Duty (ADD)

a. Background

US imports ~₹7500 Cr of Lined Paper Products led by China and Vietnam. Lined Paper Products (having size greater than A5 and without case binding) is subject to CVD and ADD in US if imported from certain countries.

On September 28, 2006, US Dept. of Commerce (DoC) levied ADD on Lined Paper from India and China and CVD on Lined Paper imports from India. Both CVD and ADD are subject to sunset review every five years.

Major binding types imported by US under Lined Paper Products is as follows:

a. Spiral Notebooks
b. Composition Notebooks
c. Filler Paper

Country wise share for last three Calendar Years along with applicability of CVD and ADD is given below:

US Imports (Rs. Cr)^				General Country Rate	
Country	**2023**	**2022**	**2021**	**CVD**	**ADD**
China	2287	2762	2274	Nil	**Yes**
Vietnam	1895	1757	1202	Nil	Nil
Mexico	925	937	768	Nil	Nil
India	**697**	**725**	**529**	**Yes (9.42%)**	**Yes (3.91%)***
Taiwan	277	254	189	Nil	Nil
Others	1333	1231	1091	Nil	Nil
Total	**7414**	**7667**	**6052**		

^ Source: DataWeb (usitc.gov)

***** *General rate of ADD at 3.91% is applicable to a new entity exporting to US for the first time unless a different duty rate has been assessed by the US Dept. of Commerce (US DoC)*

CVD is a country specific duty of 9.42% which is levied only on India's exports to US.

ADD on the other hand, is a supplier specific duty which is applicable on exports from Indian & Chinese suppliers. This rate is ascertained by US DoC based on its review of selected exporters of Lined Paper Products. Rate assessed for Indian Exporters selected for review by US DoC for the period Sep'21- Aug'22 is 23.16% (except for one player for whom the ADD rate was assessed as Nil). *It may be noted that preliminary rate basis review for the period Sep'22 to Aug'23 has been determined as **Nil** and the final rate will be notified by Apr'25.*

Refer **Annexure 1** for ADD Review process by US Dept. of Commerce.

On 4th August, 2023, US DoC completed its third five-year review and concluded that revocation of these orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Hence, CVD of 9.42% and ADD of 3.91% (or as applicable to specific entities) continue for a further period of five years until next sunset review in 2028.

b. Issues & Recommendation

1. **High CVD** - CVD is imposed as an additional duty on an imported product when such products are given tax concession in the country of their origin. At present India has withdrawn benefit provided under the Merchant Exporter incentive scheme (MEIS) and the rates as notified under RoDTEP scheme are significantly lower than the MEIS rates.

Product	CTH	RoDTEP Rate	MEIS Rate
Exercise Books or notebooks	48	1.10%	3%

Further, Duty drawback benefit in case of Exports to US is only 1%. Thereby making overall benefit to 2.1% (Duty drawback 1% & RoDTEP 1.1%). However, CVD continues to be levied on India for Exports to US at 9.42% which was determined by US DoC in 2006.

Selective levy of CVD @9.42% applicable only on India (same is NIL for all other countries) with no commensurate export incentives with ADD on Indian Exports to US puts Indian Exporters at a disadvantage against other countries such as Vietnam, Egypt, Brazil and Indonesia etc. A level playing field is requested for Indian exporters by reduction of ADD and removal / reduction of CVD.

2. **High & arbitrary ADD** - The current practice of continuing with the previously assessed ADD rate (as detailed in 'Annexure I') till rates are finalised under next review creates a competitive disadvantage to entities assessed at higher rates in earlier period. The customers in US typically import on FOB basis and considering uncertainty in rates do not want to place order with suppliers having high ADD rates.

As each assessment period is unique, considering the prevailing general duty rate of 3.91% as the base rate for all exports of Lined Paper Products from India to US till the completion of final assessment by US DoC would ensure a level playing field. Differential duty, if any, can be paid by the assessee after conclusion of the assessment for the relevant period.

Further, the logic of applying ADD on entities (other than the mandatory respondents) as explained in Annexure I is also arbitrary. US DoC should either continue with the previously assessed rate for balance entities or continue with the prevailing general duty rate of 3.91%.

It is requested that the methodology for levy of ADD be streamlined and levied basis data for individual entities or at a lower general duty rate.

2. Discriminating Tariff Quota – Affecting Indian Tobacco Exports to US

Background

The Tariff Rate Quota (TRQ) on Tobacco in the USA came into existence on 13th September, 1995 with 1986-88 as the base year for Quota Allocation. During the finalization of TRQ, India was categorized under 'Others' group of countries and no individual quota was allotted to it, compared to specific countries like Brazil that have an individual quota of 80 M. Kg. Similarly, other countries like Zimbabwe, Argentina, Chile and Thailand have individual Quotas of around 25 M.kg combined. It may be noted that import tariff under quota will be Nil or significantly low (specified duty per kg) as compared to imports of goods without quota which is at 350% of specified duty.

In spite of a complete transformation in the global tobacco trade, which saw the rise of India emerge as the second largest tobacco exporting nation, there has not been any change of the US TRQ towards the supplying nations in general and India in particular. The quota fixed in the base year 1986-88 continues to guide US imports of cigarette type tobaccos. No other country with TRQ restrictions on tobacco uses a method that is discriminatory towards suppliers as that of the US TRQ.

Tariff Rate Quota for Last two years

a. As on September 13, 2023:

Country	Quota MT (2023)	Actual MT (2023)	Fulfilled %
Argentina	10,750	2,772	25.8%
Brazil	80,200	41,530	51.8%
Chile	2750	0	0.0%
EU	9956	2,654	26.7%
Guatemala	10000	8,139	81.4%
Malawi	12000	4,680	39.0%
Philippines	3000	1,875	62.5%
Thailand	7000	575	8.2%
Zimbabwe	12000	3,646	30.4%
Other Countries	3,000	3,000	100.0%
UK	44	0	0.0%
Total	1,50,700	68,870	45.70%

b. As on September 12, 2022:

Country	**Quota MT (2022)**	**Actual MT (2022)**	**Fulfilled %**
Argentina	10,750	5139.8	47.8%
Brazil	80,200	47,175.50	58.8%
Chile	2750	0	0.0%
EU	9956	2573.4	25.8%
Guatemala	10,000	6217.8	62.2%
Malawi	12,000	5030.9	41.9%
Philippines	3,000	1289.7	43.0%
Thailand	7,000	370.3	5.3%
Zimbabwe	12,000	3222.3	26.9%
Other Countries	3,000	3000	100.0%
UK	44	1.265	2.9%
Total	**1,50,700**	**74,021**	

Country wise Quota Allocation and Fulfilment in Last 7 years:

Country	Quota MT	2023	2022	2021	2020	2019	2018	2017
Argentina	10,750	25.8%	47.8%	46%	49%	39%	54%	36%
Brazil	80,200	51.8%	58.8%	46%	51%	62%	51%	68%
Chile	2750	0.0%	0.0%	0%	0%	0%	0%	0%
EU	9,956	26.7%	25.8%	22%	25%	30%	30%	62%
Guatemala	10,000	81.4%	62.2%	84%	64%	56%	42%	59%
Malawi	12,000	39.0%	42%	45%	16%	55%	32%	92%
Philippines	3,000	62.5%	43%	30%	16%	35%	41%	15%
Thailand	7,000	8.2%	5.3%	10%	12%	14%	17%	16%
Zimbabwe	12,000	30.4%	26.9%	24%	24%	27%	3%	2%
Other Countries	3,000	100%	100%	100%	100%	97%	100%	100%
UK	44	0.0%	2.9%	-	-	-	-	-

- From the above it can be inferred that the quota allocation is not aligned to the current Tobacco production trends in the world. Hence, large proportion of the quota remains unutilized. Thus necessitating immediate re-look at the quotes and including quotas for major Tobacco exporting in the world.
- The average Import Duty charged on any quantity over the tariff allocation is at 350%.
- The Present TRQ Allocation was done in 1986. It does not even capture the tobacco production per country, therefore resulting in mere 46% fulfilment compared to the allocation.
- India is the 2nd Largest Producer of FCV Tobacco with 351 M Kg of estimated production in 2024 but there is no separate quota provided to India. Therefore, India has to compete under Other Countries quota of just 3,000 MT.
- **Comparing the top 3 Tobacco Producing countries and their allocation:**

Country	Tobacco Production (MT)	TRQ Allocation (MT)
Brazil	550,000	80,200
India	270,000	Nil
Zimbabwe	240,000	12,000

- As can be noted, many countries are not able to fulfill their quota of exports to the US whereas India has to compete with the rest of the world under the restricted “Others” quota of 3000 tons.

Conclusion

In view of the above it is felt that the current US TRQ regime is not complaint either with the production patterns or with the MFN norms of WTO and hence need to be done away with immediately. This will ensure level playing field in tobacco trade and ensure promotion of efficient production systems.

3. Countervailing Duties (CVD) on Imports of Frozen Shrimp in USA from India high compared with competing origins like Ecuador, Vietnam etc.

India is one of the largest shrimp exporters in the world, mainly exporting to the US, EU and the Middle East with current exports touching 5.7 LMT (FY YTD Nov 24). Indian shrimp exports to USA has shown a minimal growth of 1.6% with current year exports (FY YTD Nov 24) touching 2.26 LMT.

Indian Shrimp exporters are facing severe competition from Ecuador & Vietnam on account of high production volumes with ~20LMT of yearly production. This production comes at a lower cost due to favourable climatic condition, efficient farming practices, high-quality perception and government support.

The Indian shrimp industry has faced challenges on account of various duties to be paid on export of shrimp to US coupled with reduction in RoDTEP rates.

Effective 10th October, 2024 RoDTEP rates for both Vannamei & Black Tiger Shrimps has been reduced by 0.1% from 3.1% to 3%. This decrease in export incentive creates an imbalance in competitive pricing.

India is currently paying 1.36% as Anti-Dumping duty for all exports to US. Further, US International Trade Commission is evaluating to increase CVD on imports of Frozen shrimp to USA from India (4.36% to 5.77%) whereas the same is proposed to be decreased for Ecuador (7.55% to 3.78%) and kept the same for Vietnam (2.84%). Such increase in CVD Rates for India will further create more imbalance in existing status quo and impact farmer margins disproportionately.

To provide a level playing field to Indian Shrimp exports, it is requested that CVD for exports of Shrimps be equalized among competing regions.

4. Foods Industry

a. High Import Duties

There is no trade agreement between the United States and India. India has been categorized under Normal Trade Relations (NTR) since its termination from the USA's GSP (Generalized System of Preferences) Program in 2019. GSP is a voluntary trade measure implemented by developed countries that provide an advantageous, or "preferential", tariff treatment to imports from developing countries. Indian exporters face both tariff and non-tariff barriers while exporting to the US.

Higher Import Tariff

Since India is no longer qualified under GSP regime, import tariff is applicable on many products which were previously duty free-

- **Ad Valorem Duty** - An ad valorem duty is expressed as a percentage of the value of the imported goods (e.g., 10% of value).
- **Specific Duty** - A specific duty is not related to the value of the imported goods but to the weight, volume, surface, etc. of the goods. The specific duty stipulates how many units of currency are to be levied per unit of quantity (e.g., 2.00 Swiss Francs per Kg).
- **Compound Duty** - A compound duty comprises an ad valorem duty to which is added or subtracted a specific duty: 10% plus $2.00/KG; 20% less $2.00/KG.

Refer **Annexure 2** for differential duty structure.

Recommendation

It is requested to restore Indian's status under GSP regime, which will allow duty free access for products like Atta, Snacks, Pasta, Beverages, etc. Food processing sector should be given preference for trade concession. Products under staples category should not be subject to tariff barriers.

b. Additional Duty & Tariff Rate Quota (TRQ) on Dairy Products

Additional duty, over and above NTR duty rates is levied on Dairy products (**Ghee and Milkshake)** by the US Government. Refer **Annexure 3**.

Certain dairy products are subject to annual import quotas administered by the Department of Agriculture and may be imported at the low-tier tariff rate only under import licenses issued by the department. Under the TRQs (Tariff Rate Quota), the low-tier rate applies to imports up to a specified quantity. A high-tier rate applies to any imports in excess of that amount.

Recommendation

US Authorities should be requested to remove additional duty and Tariff Quota on dairy products. If this is not feasible, an exception could be made for Ghee (Clarified Butter) as it is a product in which India is an expert and the product is primarily consumed by people of Indian diaspora.

c. Prohibitions, Restrictions, Other Agency Requirements for Meat, Poultry and Egg Products

The U.S. Department of Agriculture maintains a trade prohibition on the import of poultry and unprocessed poultry products from countries where the H5N1 High Pathogen Avian Influenza strain has been detected. India is mentioned on the Centers for Disease Control Website under Past Reported Global Human Cases with Highly Pathogenic Avian Influenza A(H5N1) (HPAI H5N1) by Country, 1997-2023 | Avian Influenza (Flu) (cdc.gov) (Last Case reported in 2021). Hence, Imports from India with meat are also not allowed by USA.

Recommendation

Products of companies of repute, complying with laid International Quality Standards and undergo thermal processing as part of their manufacturing process, should be allowed to be exported to the US. Thermal processing makes the meat based products safe for human consumption.

In conclusion, removing trade barriers between India and the United States is essential to creating a more equitable and efficient trading environment. Restoring India's GSP status would significantly reduce tariff burdens on numerous products, especially in the food processing sector, which holds immense potential for trade growth.

Additionally, advocating for the removal of additional duties and tariff rate quotas on dairy products, or securing exceptions for ghee, would support Indian exporters and cater to the demands of the Indian diaspora in the U.S.

5. Nil Import / CVD on Paperboard should continue

Import duty into USA is NIL for paperboard products exported from India. It is proposed to maintain duty free access of Indian manufacture to USA to help keep US industry competitive and to hasten the process of migration to plastic free and less plastic packaging products.
Indian paperboard manufacturers have developed significant capabilities to manufacture and export low density, high bulk & high strength packaging paper boards to complement the dense Solid Bleached Sulphate (SBS) Paperboards by the US industry. These low-density grades enable Light-Weighting (moving from heavier substrates to lighter ones), resource optimization, resulting in downstream conservation of resources in terms of lower conversion and supply chain costs, thereby contributing to sustainability goals.

Paperboards extruded with LDPE (low-density polyethylene) are widely used in USA for barrier product applications like hot & cold beverage cups, food servicing & deep-freeze food packaging. Large scale manufacturing facilities with these technologies and capabilities commensurate to the market size / demand are not available in USA. Indian industry has developed competencies and economies to impart barrier properties to papers and paper boards by using aqueous coating and such products have received acceptance from global markets. Exporting such grades to US will contribute towards reducing the plastic intensity of US manufacturing, food servicing and food packaging industry. Several brands and supporting box-makers in the US are looking for such grades to move away from more environmentally harmful Poly-Coated Grades to other friendlier substitutes. This is an area where both countries would benefit.

Hence, it is recommended that for the categories of paper & paper boards, to continue with the current policy of Nil duty for imports from India into the US.

Annexure 1 – ADD Review process by US Dept. of Commerce (US DoC) and computation of ADD

- The review covers exports made during the year from September to August.
- The exporting companies during the relevant period are shortlisted for review either through self-nomination / nomination from local manufacturers in US (petitioners)
- Out of the Companies shortlisted, US DoC normally selects 2 Companies for review ("mandatory respondents" and issues initial/supplementary questionnaires divided into multiple sections requiring details about the exporting company, details of lined paper products sold in domestic / US market, selling & distribution expenses and cost of production.
- Based on review of data submitted by selected companies, the US DoC assesses the ADD rate applicable for the relevant period.
- For other shortlisted companies, average of ADD rate applicable to companies reviewed by US DoC is assessed as the final rate *(Refer illustration below)*

Scenario	No. of Cos. shortlisted	Companies Reviewed	Rate applicable to Cos. Reviewed	Rate applicable to balance shortlisted Cos.
1	10	2	A - 3%; B - 23%	13% (i.e., avg. of 3% and 23%)
2	10	2	A - Nil; B - 23%	23% (Nil Rate is excl. for calculating avg.)

- Once the ADD rate has been assessed for an exporter, the said rate is considered as the base rate applicable for all exports made after the date of notification and till the final rate for the next assessment period is notified by US DoC.
- *After completion of assessment for the subsequent period, the final duty rate is ascertained and the differential between the duty payable and paid is either paid by / refunded back to the entity bearing the duty as per the terms of export.*

Annexure 2 – ADD Review process by US Dept. of Commerce (US DoC) and computation of ADD

Product	HSN Code	Description	General or normal trade relations (NTR) rates	Generalized System of Preferences (GSP)
Pasta	19023000	Other Pasta	6.40%	Free
Wheat Flour	11010000	Wheat or meslin flour	0.7¢/kg	Free
Ghee	4059020	Other (Clarified Butter)	$1.865/kg + 8.5%	
Instant Mixes, Meals and Frozen Breads	21069099	Food preparations not elsewhere specified or included: Other	6.40%	Free
Waters, Non-Alcoholic beverages and Juices	22029920	Not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	4.5¢/liter	Free

Product	HSN Code	Description	General or normal trade relations (NTR) rates	Generalized System of Preferences (GSP)
Waters, Non-Alcoholic beverages and Juices	22029935	Other	7.85¢/liter	Free
Waters, Non-Alcoholic beverages and Juices	22029991	Other	0.2¢/liter	Free
Milk-based drinks	22029910	Chocolate milk drink	17%	Free
Milk-based drinks	22029922	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	17.5%	Free
Milk-based drinks	22029924	Described in additional U.S. note 10 to chapter 4 and entered pursuant to its provisions	17.5%	Free
Pineapplejuice	20094120	Not concentrated, or having a degree of concentration of not more than3 .5	4.2¢/liter	Free
Pineapplejuice	20094140	Others	1¢/liter	Free
Grapejuice (including grape must):	20096100	Of a Brix value not exceeding 30:	4.4¢/liter	Free
Grapejuice (including grape must):	20096900	Other	4.4¢/liter	Free
Juice of any other single fruit, nut or vegetable	20098100	Cranberry juice, lingonberry juice	0.5¢/liter	Free
Mixture of Juices	20099020	Vegetable	0.2¢/liter	Free
Mixture of Juices	20099040	Other	7.4¢/liter	Free
Potato Chips	20052000	Potato Chips	6.40%	Free
Bridges	21069099	Other	6.40%	Free
Frozen Snacks (Vegetarian)	20049010	Antipasto	3.20%	Free
Frozen Snacks (Vegetarian)	20049080	Beans	2.1¢/kg on entire contents of container	Free
Frozen Snacks (Vegetarian)	20049085	Other	11.20%	Free
Frozen Snacks (Non-Vegetarian)	21069099	Other	6.40%	Free
Vegetables prepared or preserved (Not frozen)	20059910	Carrots in airtight containers	6.40%	Free
Vegetables prepared or preserved (Not frozen)	20059920	Onions	4.50%	Free
Vegetables prepared or preserved (Not frozen)	20059930	Sauerkraut	4.80%	Free
Vegetables prepared or preserved (Not frozen)	20059950	Pimientos (Capsicum anuum)	8.10%	Free

Product	HSN Code	Description	General or normal trade relations (NTR) rates	Generalized System of Preferences (GSP)
Vegetables prepared or preserved (Not frozen)	20059955	Other	14.90%	Free
Vegetables prepared or preserved (Not frozen)	20059980	Artichokes	14.90%	Free
Vegetables prepared or preserved (Not frozen)	20059985	Chickpeas (garbanzos)	0.8¢/kg on entire contents of container	Free
Vegetables prepared or preserved (Not frozen)	20059997	Other	11.20%	Free
Sauces and preparations, mixed condiments and seasonings	21039040	Non-alcoholic preparations of yeast extract (other than sauces)	3.20%	Free
Sauces and preparations, mixed condiments and seasonings	21039072	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	7.50%	Free
Sauces and preparations, mixed condiments and seasonings	21039074	Described in additional U.S. note 4 to this chapter and entered pursuant to its provisions	7.50%	Free

Annexure 3 - Additional Duty and Import Licencing and Tariff Rate Quotas (TRQs) for Dairy Products

An additional duty is levied on Dairy products (**Ghee and Milkshake)** by the US Government.

Product	Article Description	Additional duties
Ghee (0405.90.20)	Butter substitutes containing over 45 percent by weight of butterfat, provided for in subheadings 0405.20.30,0405.90.20, 2106.90.26 or 2106.90.36:	
	If entered during the effective period of safeguards based upon value:	
	Valued less than 60¢/kg	67.5¢/kg
	Valued 60¢/kg or more but less than 80¢/kg	53.5¢/kg
	Valued 80¢/kg or more but less than $1/kg	40.9¢/kg
	Valued $1/kg or more but less than $1.20/kg	30.9¢/kg
	Valued $1.20/kg or more but less than $1.40/kg	21¢/kg
	Valued $1.40/kg or more but less than $1.60/kg	14.9¢/kg
	Valued $1.60/kg or more but less than $1.80/kg	8.9¢/kg
	Valued $1.80/kg or more but less than $2/kg	2.9¢/kg
	Valued $2/kg or more	No additional duty

Product	Article Description	Additional duties
	If entered during the effective period of safeguards based upon quantity announced by the Secretary of Agriculture	
	Provided for in subheading 0405.90.20	62.2¢/kg + 2.8%
Milkshake (Dairy Product - 2202.99.28 : Others)	Dairy products described in additional US note 1 to chapter 4, provided for in subheadings 0402.29.50, 0402.99.90, 0403.20.50, 0403.90.95, 404.10.15, 0404.90.50, 0405.20.70, 1517.90.60, 1704.90.58, 1806.20.82, 1806.20.83, 806.32.70, 1806.32.80, 1806.90.08, 1806.90.10, 1901.10.26, 1901.10.44, 1901.10.56, 1901.10.66, 1901.20.15, 1901.20.50, 1901.90.62, 1901.90.65, 2105.00.40, 2106.90.09, 2106.90.66, 2106.90.87 or 2202.99.28	
	If entered during the effective period of safeguards based upon value	
	Provided for in subheadings 0402.29.50, 0402.99.90, 0403.20.50, 0403.90.95, 1901.10.26, 1901.10.85, or 2202.99.28:	
	Valued less than 65¢/kg	78.4¢/kg
	Valued 65¢/kg or more but less than 95¢/kg	57.2¢/kg
	Valued 95¢/kg or more but less than $1.25/kg	40.2¢/kg
	Valued $1.25/kg or more but less than $1.55/kg	25.2¢/kg
	Valued $1.55/kg or more but less than $1.85/kg	15.6¢/kg
	Valued $1.85/kg or more but less than $2.05/kg	9.6¢/kg
	Valued $2.05/kg or more but less than $2.25/kg	3.6¢/kg
	Valued $2.25/kg or more	No additional duty