Decision of Ministry of Environment, Forest and Climate Change with respect to discussion on issues pertaining to clarifications sought on Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016, as approved by the Competent Authority on the basis of recommendation of the 73rd Meeting of the Technical Review Committee (TRC) held on 21st July, 2022-reg.

AGENDA No. 1. Clarification with respect to Hazardous and other Wastes (Management & Trans-boundary Movement) Rules, 2016

Agenda 1.1 Regarding adverse impact of import of PET Waste/flakes in India.

MoEF&CC vide notification dated 12th November, 2021 has moved "Polyethylene terephthalate (PET)" having Basel No. 3011 from prohibited list (Schedule VI) to restricted list (Part B of Schedule III) of Hazardous and Other Wastes (Management and Trans boundary Movement) Rules, 2016. Accordingly, DGFT was requested to take further necessary action at their end. Now, an OM dated 24th March, 2022 has been received from Director General of Foreign Trade, Ministry of Commerce and Industry forwarding therewith representation received from Pt. Deendayal Upadhyay Smiriti Manch, Mumbai regarding the adverse impact of import of PET Waste/flakes in India for examine and furnish comments. Similar representations have also been received from Chemical & Petrochemicals Manufacturers Association (CPMA) and Recycle India Foundation with request to ban the import of PET Waste/ Flake.

The matter was last discussed in 72nd Meeting of TRC and the recommendation of the committee is as follows:

"*After detailed deliberation on the issue, the committee recommended that the capacity and production data from 2010 onwards and the data on domestic waste and imported waste used may be submitted by AIRFYMA as early as possible for further deliberation and decision in the matter. Till then the matter is deferred.* **"**

Thereafter, AIRFYMA has submitted the required details.

Deliberation: The committee deliberated upon the issue and heard the views of representatives from All India Recycled Fibre & Yarn Manufacturers Association (AIRFYMA), Pt. Deendayal Upadhyay Smiriti Manch, Mumbai (PDUSM) & Recycle India Foundation (RIF).

The committee noted that a very robust collection and recycling mechanism has sprung up in the country solely through the operation of commercial forces. As much as 85 per cent of the PET bottle waste being generated is collected and eventually recycled. The main point of contention between the recyclers is whether sufficient PET waste is available within the country and what impact the import of waste PET bottles/recycled PET may have on the domestic collection and also pollution associated with such recycling.

The committee noted that domestic PET consumption and collection had suffered a serious setback in 2020-21 on account of covid and capacity utilization of recyclers had fallen significantly. Capacity utilization in 2021-22 has improved. It was brought to the notice of the committee that some of the units are quite profitable, and the presence of imports will depress prices of locally collected PET bottles, thereby adversely affecting the earnings of those engaged in collecting PET waste. The committee feels that higher profitability by

itself is not an indication of higher availability- indeed as is to be expected from the operation of economic principles, higher profitability has spurred investments in newer capacity, which has or will increase the gap between availability and capacity.

The committee noted that there is a symbiotic relationship between the waste PET bottle collecting agents/agencies and the recyclers, which spans the informal, semi-formal and formal sectors of the economy. The recycling sector acts as an anchor for the collection agents, and without a robust recycling sector, the collection effort cannot be sustained. At the same time, unbridled imports shall certainly adversely affect domestic collection.

The committee therefore feels that an optimum has to be arrived at, so that neither domestic collection, nor capacity utilization are hampered. The committee noted that the existing regimes being followed in respect of tyres/lead battery waste have allowed imports in a certain proportion of production and a similar, but differentiated regime may be suitable for PET waste.

The committee also felt that while waste PET bottles may bring residual liquids as pollution, recycled PET flakes almost mimic virgin PET in pollution aspects. Indeed, the use of recycled PET reduces the energy use and pollution associated with the manufacture of virgin PET.

<u>Recommendation:</u> After detailed deliberation on the issue and keeping in mind that the need for sustaining a robust recycling chain, the need to balance adequate availability of waste PET and the likely impact of imports on domestic collection, the marginal difference between Recycled and virgin PET flakes as far as pollution potential is concerned, the committee recommended that import of PET Flakes only (and Not waste PET bottles) may be allowed subject to following conditions:

i. **A unit should be eligible for import only if it has used domestic waste to the extent at least 70% of the capacity in the previous year. (e.g production of 2021-22 to be considered for 2022-23 permissions).**
ii. **The imports for the year 2022-23 should be restricted to 20% of the production in the year 2021-22 and thereafter, 15% of the actual capacity utilised in the preceding year.**
iii. **An additional import up to 10% may be considered against exports of the products.**
iv. **Units would be eligible for import after at least one year of production.**
v. **The decision may be reviewed after 1 year for continuation of import of PET Flakes.**

Permissions which have already been issued will be revised as per the above decision.

<u>Agenda 1.2</u> Representations from FICCI, All India Pre-Owned Medical Equipment Supplier Association and CDSCO regarding query related to import of Pre-owned/ Refurbished devices & Clarification regarding import of Critical Care Medical Equipment.

FICCI has given reference to the list of critical care medical equipment finalized through Agenda 1.1 of 62nd meeting of the 'Technical Review Committee (TRC)' on 25th May 2017. In the meeting, the committee concluded on import prohibition of 25 used critical care medical equipment for re-use under the provisions of Schedule VI of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. From the conclusion of the meeting, it is understandable that the import of used medical equipment other than those of 25 critical care

medical equipment are permitted for import. Further, they have requested to clarify and confirm on the same.

AIPOMESA (All India Pre-Owned Medical Equipment Supplier Association) has mentioned that they are importers of refurbished Medical Equipment and Third Party Service Provider of various Medical Devices. They have sold numbers of refurbished equipment across the Country and Provide services for various medical devices to Hospitals/ Nursing Homes/Clinics, but due to import Restriction of refurbished medical devices by Ministry, they are unable to import the Required Spare parts for servicing of these devices.

The matter was last discussed in 72nd Meeting of TRC and the recommendation of the committee is as follows:

"After detailed deliberation on the issue the committee recommended that the combined representation from both association & other companies may be submitted clearly stating name of equipment/ items for the purpose of import from the list of equipment for the critical/ intensive care unit as per the Guidelines issued by the Indian Society of Critical Care Medicine. Representation should contain list of specific items sought to be imported, whether import is by the OEM (through Indian subsidiary or partner), or by third party, whether refurbishment is carried out in India or at the place of origin, the quality control and certification Protocols, warranties, servicing arrangements. The committee also recommended that after receiving the requisite details, DGHS, Ministry of Health and Family Welfares may be requested to revise the list of Critical Care Medical Equipment for further deliberation and decision in the matter, considering the healthcare status in the country and the nature of equipment's included in the list. Till then the matter is deferred''.

Now, FICCI and AIPOMESA and other associations have submitted their representation along with name of equipment and other details. The same have been forwarded to DGHS, Ministry of Health and Family Welfare for their comments/ view on the same.

<u>Deliberation:</u> The committee deliberated upon the issue and heard the views of representatives from AIPOMESA (All India Pre-Owned Medical Equipment Supplier Association), FICCI and other associations.

<u>Recommendation:</u> After detailed deliberation on the issue the committee recommended the following:

i. **Regarding admissibility of import of Pre-owned/Used equipment by actual user, the committee was of the opinion that there are already existing provisions under HOWM, Rules, 2016 [Schedule III Part B (Basel No. B1110)] under which 'Used Electrical and electronic assemblies including used medical devices' can be imported by the actual user only after obtaining necessary permission from MoEFCC. However, in case the items falling under [Schedule III Part D (Basel No. B1110)], Ministry permission is not required subject to re-export within one, two and three years apart from other conditions mentioned thereon. The same may be communicated to CDSCO for clarity and better understanding.**
ii. **Regarding request for removing of Ventilators, Hemodialysis Machine, Ultrasound and Echo Machine, Bedside X ray and IA(Intra-aortic) Balloon Pump from the list of Critical Care Medical Equipment as provided by DGHS vide OM No. P-18012/02/2015-Environment dated 8th March, 2017 [prepared as per guidelines**

issued by the Indian Society of Critical Care Medicines (provided by AIIMS)], the committee recommended that DGHS may be requested to review the list provided by them and furnish their views/ updated lists of critical care medical equipment to enable Ministry for further action in the matter as required under the rules.

iii. **Regarding import of already refurbished Used Medical Equipment other than Critical Care Equipment by OEM/ OEM Indian Subsidiary or partners/ third party who is registered under e-waste rules and not an actual user, the import may be allowed subject to following conditions: -**

a. **Such equipment has not been phased out from the importing country and is not considered obsolete in that country;**
b. **Such equipment does not contain any hazardous material/ substances listed under any international regulation/ law and or by government of India;**
c. **The equipment must have a minimum residual life of 7 years (as specified by Chartered Engineer of exporting country) for which supplier or manufacturer must provide hardware and software support including warranty;**
d. **The importer shall dispose the equipment after the end life as per the E-waste rules, 2016.**
e. **The permission would be given for import of only high end and high value medical equipment.**

In view of the prevailing status of medical facilities in the country and difficulties faced by small health care facilities in importing the high end devices and maintenance thereof, the committee recommends amendment in the HoWM Rules, so that OEM/ OEM Indian Subsidiary or partners/ third party who is registered under e-waste rules and not an actual user, may also import the above devices subject to the conditions imposed.

iv. **Regarding import of old/ used medical equipment for refurbishment and further use/ sale to customers in the country, the committee noted that the extant HOWM Rules cannot allow the same. In view, committee recommended that Ministry in consultation with CPCB may examine the issue of import of old/ used medical equipment for refurbishment in India for further use which do not contain major replacement of parts and associated environmental hazard.**

Agenda 1.3 Representation from Gujarat Paper Mill Association regarding Streamlining of Import of Waste Paper.

Gujarat Paper Mill Association (GPMA) has requested to withdraw the present norms under the Hazardous and Other Wastes (Management & Transboundary Movement) Rules 2016 and its subsequent amendments and OM issued by MOEF&CC dated 11-May-2010, specifying different out-throws for different kinds of waste paper. GPMA has also requested to merge all grades as only one item Waste Paper and have a uniform allowable non-fiber as per below chart:

Norms Proposed for import of Waste paper		
Item	**%**	**Remarks**
All Kind of Plastic	5	
Wood	2	Combined max allowed
Sand		

Metal		
Textile		
Glass		
Bio Medical Waste, Municipal Solid Waste, Post Consumer domestic waste	0	If found, will be sorted out and sent to Cement Factory for co-incineration

Further, they have mentioned that in the rare case of higher prohibitive content received, currently the matter is put to litigation and drags on for years and some shipments are abandoned. Under the vision of "Vivad Se Vishwas", such contaminations from rare shipments should be allowed to be incinerated at Kiln in Cement Industries for swift resolution, since Container detention and Ground rent at Port multiply daily leading to huge cost implications and Port congestions. Material can be taken to the paper mill, rejects to be sorted out and sent to Cement factory. Compliance format may be submitted to customs and SPCB's.

GPMA has further requested to stop Imports of all kinds of Waste Paper by Traders. This will ensure only genuine users are importing waste paper with sense of Responsibility and not profit only agenda.

The matter was last discussed in 72nd Meeting of TRC and the recommendation of the committee is as follows:

"Due to paucity of time, the committee only have an introductory meeting with representative of Gujarat Paper Mill Association (GPMA) and informed them that matter will be discussed in the next TRC meeting''.

Deliberation: The committee deliberated upon the issue and heard the views of representatives from Gujarat Paper Mill Association (GPMA).

Recommendation: After detailed deliberation on the issue, the committee recommended that the capacity utilization and import data of last 2 years may be submitted by GPMA. Committee also recommended that Ministry may request CPRRI to provide the maximum percentage of plastic allowed for coating with paper and CPRRI also indicate the maximum reasonable impurities in the waste paper. Till then the aforesaid information received, the matter is deferred.

Agenda 1.4. Representation from Federation of Indian Chambers of Commerce and Industry (FICCI) regarding Policy Simplification on Rule 9, Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

Federation of Indian Chambers of Commerce and Industry (FICCI) in its representation has stated that, as per Rule 9 of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, hazardous waste can be utilized by any industry only after obtaining permission from SPCBs. However, SPCB can permit or authorize the industry only if a Standard Operating Procedure (SOP) is developed and issued by CPCB for the particular waste with respect to a specific utilization. For Wastes where SOP or guidelines are not available for specific utilization, the approval has to be sought from the CPCB, which shall grant the approval on the basis of trail runs and thereafter SOP or guidelines shall be prepared and issued by the CPCB.

After the inspection of the Rules, 2016, many products/by-products were re-categorized as waste in Consent to Operate (CTO or CCA). These by-products are utilized in thousands of tonnes and are sold between Business-to-Business (B2B) with detailed quality checks and due diligence before use. Pharma, Agro, Pigments, etc. are major buyers of "Waste products" which are highly quality conscious.

As per the industry sources, over 800 SOP applications are still pending for approval. The process takes 1 - 3 years to complete as it requires multiple trial runs, documentation & other compliance-related work. Also, considering the fact that the chemical industry is a complex industry and the products have multiple applications/users, and raw material sources; the preparation of SOP for individual molecules is difficult and practically not feasible.

In view of the above they have given following recommendation/ actionable points Medium Term: A relook at Rule 9 and the Interim Policy for a smoother transition to the SOP driven process with an amendment to manage the waste for users who have applied for rule 9 permission till the relevant SOP is issued by CPCB. A transition period should be provided for industries and the SPCBs to complete the trial runs. This will avoid the standstill situation and non-compliances going forward.

Exempt from SOP/trial runs: Hazardous waste products under Rule 9 are used by industries (few internally) for years to make quality finished products for domestic and export markets while following all environmental norms as per consent. Thus, use of the following categories of "Hazardous Waste" be exempt from SOP/trial runs, etc.

- Products used captively by the company at the same or other location.
- Products that are used to make finished products for 100% export market Rationale: B2B category using these products are highly quality conscious and have systems and processes to handle these "raw materials".

<u>Deliberation:</u> The committee was informed regarding the issue of SOP/trial run under Rule 9 of HOWM Rules, 2016. No representative from the side of FICCI attended the meeting. During the discussion representative of CPCB informed that the application of SOP/trial run under Rule 9 of HOWM Rules, 2016 is at advance stage and all such applications are supposed to be disposed of by 31st August, 2022.

<u>Recommendation:</u> The committee decided to wait till 31st August, 2022. Thereafter, if there is any pendency/ issue relating to SOP/trial run under Rule 9 of HOWM Rules, 2016, the committee reconsider the proposal. Till then the matter is deferred.

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