

Government of India
Ministry of Commerce and Industry
Department of Commerce
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi,

Trade Notice No. 12/2011 Dated the 6th July, 2011

Sub: Allocation of quantities of cotton for export in terms of Public Notice No.55 dated 17.06.2011.

1. Public Notice No. 55(RE-2010)/2009-14 dated 17.06.2011 had stated that the declaration of allocation of quantities against the applications received from 20.06.2011 to 25.06.2011 will be made on 06.07.2011.
2. In response to this PN a total of 581 applications were received by e-mail. Some applicant had sent more than one e-mail. Some e-mails have been received from applicants who did not have any export performance in either of the past two cotton years. Some applicants had been defaulters. If all these applications are not counted then the number of eligible applicants come to 227.
3. The quantity of 1,70,000 MTs (10,00,000 bales) is available for allotment. In the last few days Orders from several High Courts have been received. The orders are of two types:
 - a) The orders, except **two** (discussed below at (b)), direct the DGFT to consider the application of the respective writ petitioner by ignoring para 4(i) of PN 55 of 17.06.2011. There are 82 such writ petitioners. In obedience of the Order of the High Court their cases have been considered. By ignoring para 4(i), their not having exported in the earlier two cotton years does not disqualify them. Para 4(iii) stipulates “**(iii) An applicant can apply for a quantity which is the higher of its export of cotton in the two previous cotton years(2008-09 and 2009-10) subject to a quantity ceiling of 4,250 MTs. All applications must be in Metric Tons (MTs) only.**”. Thus, though they are eligible to be considered, applying para 4(iii) to them would mean that they can apply for ‘zero’ quantity only. Because higher of 0 MT and 0 MT, subject to a ceiling of 4250 MT would be 0 MT only. Para 4(ii) prescribes a floor of 100 MT per IEC. Therefore, though strict application of the High Court Order by ignoring para 4(i) would have meant that their application is only for 0 MTs, by harmoniously applying para 4(ii) only to respect the interim order of the High Court, these writ petitioners may at best be eligible for allotment of 100 MTs each. For 82 such writ petitioners the quantity will come to 8200 MTs.
 - b) **Two** orders from Calcutta High Court dated 05.07.2011 direct DGFT to consider the application of the petitioner without taking into consideration para 4(i) and para 4(iii) of PN 55 dated 17.06.2011. Non application of para 4(i) would mean that absence of past export performance would not disqualify these writ petitioners. Non-application of para 4(iii) would mean that there will be no quantity ceiling applicable for these two writ petitioner. Irrespective of the amount applied for, the ceiling on quantity was put at 4250 MT per IEC as per para 4(ii), which para has not been assailed before the Hon’ble High Court. Therefore the maximum these writ petitioners could have been allotted would have been 4250 MT each. But the preliminary calculation of pro-rata allotment of 1,70,000 MTs among the eligible applicants leads to a maximum allotment of 1669.61 MTs. Therefore, at best this quantity would get allotted to these writ petitioners subject to the final Orders of Calcutta High Court.
4. The amount as discussed at para 3(a), i.e. 8200 MTs and as discussed at 3(b), i.e. 3339.22 MTs add to 11,539.22 MTs. This amount of 11,539.22 MTs is sequestered from the total of 1,70,000 MTs in obedience of all the High Court Orders received till now. Once the final Orders are received, further action will be taken either to allot them as per orders of High Court or in the alternative, allot the quantity (or the balance quantity as the case may be) among the two public sector applicants before us namely Cotton Corporation of India Ltd. (CCI) and Minerals and Metals Trading Corporation Ltd (MMTC). Such contingent allotment becomes necessary because the Government has mandated export of these additional 10 lakh bales in the current cotton

year and neither there would be time to go through another round of allocation by inviting fresh applications, nor such a small quantity be commercially viable for a fresh round of allocation.

5. Thus the quantity available for allocation now, by sequestering 11,539.22 MTs as described in para 4 above, comes to 1,58,460.78 MTs. The Annexure to this Trade Notice contains the allocation of 1,58,460.78 MTs of cotton [ITC (HS) Codes 5201 & 5203]. The fractional numbers, in the annexed allocations will be rounded off at the time of issue of Registration Certificates, in order to ensure commercially meaningful transaction.

6. The scrutiny of documents and consequent issue of RCs by concerned RAs would commence at 1000 Hours on Thursday 07.07.2011 and will close at 1500 Hours on Friday 15.07.2011 as was stipulated in Public Notice 55(RE-2010)/2009-14 dated 17.06.2011.