

THE STATE TRADING CORPORATION OF INDIA LTD. : NEW DELHI

Sub. : Guidelines for Trading in Back-to-Back Transactions*

1.	Selection of Products:
1.1	Selection of products for trading shall be made carefully and only those products shall be chosen which are freely saleable i.e. which do not form specialized requirement of a particular associate and which can be sold to other customers in the market in the case of default by the associate. Trading of tailor-made products, products having short life and those whose value can not be objectively determined (e.g. scrap, sophisticated equipments etc.) shall be avoided. Any deviation in this regard shall only be with the approval of COM notwithstanding the amount of the transaction.
1.2	The concerned managers are expected to acquire adequate product knowledge (technical specifications, shelf life etc.) and market information (prices, sources, end users, competition etc.) while submitting trade proposals.
2.	Selection of Associates:
2.1	It shall be ensured that the associate selected for doing business is financially sound, enjoys creditworthiness in the market and has relevant past experience that justifies his capability to handle the proposed transaction. For this purpose, annual accounts for the last three years, bank reports, IT PAN No., VAT/Sales Tax Registration No. and other relevant details shall be obtained and examined in consultation with associate finance. Turnover achieved by the associate from business in specific commodity during last two years shall be essentially obtained.
2.2	In the event of transacting business with a new associate for the first time, a formal assessment or rating of the associate shall essentially be obtained through a professional agency like D&B. The D&B report shall not be more than six month old in case of new associate. In respect of party already doing business with STC, such reports may be obtained every year.
2.3	While putting up a trade proposal with an associate with whom STC already has dealings, a complete analysis of previous transactions indicating item-wise date-wise amounts sanctioned/ released/ recovered (including L/Cs opened, whether due or not) during the preceding one year shall be put up. The credibility shall be got re-assessed by D&B more frequently than stated at 2.2 above, in case considered desirable, or if the value of the proposed transaction is significantly higher than the previous transactions.
2.4	In cases where STC is expected to arrange supplies for exports, the concerned division/branch shall be free to solicit offers from any supplier or suppliers whom it considers competent. There shall be no need to maintain a panel of suppliers or inviting offers through tender for such purposes unless any specific instructions are received in this respect from the nominating Department of the Government. However, to the extent possible, sourcing shall be made directly from manufacturers.

* As amended upto 30.08.2013

2.5	To mitigate the possible risk factors, all import and domestic trading transactions shall be entered into with end users of the traded items. In case it is proposed to deal with traders, extreme caution shall be exercised, detailed due diligence carried out and duly recorded in the proposal.
2.6	Extra care shall be exercised while dealing with proprietorship/ partnership firms. A statement of assets and liabilities of such firms and their partners/ proprietors shall be obtained and assessed independently.
2.7	The parties referred to BIFR or otherwise known to have significant defaults in repayments shall not be considered.
2.8	While selecting an associate for doing business, a team comprising concerned managers from trading and finance divisions shall visit the party's plant and submit its report including, inter-alia, an in-depth analysis of their financial standing and past performances, manufacturing cycle, raw material requirement, consumption pattern, etc. Report of the team shall mandatorily be enclosed along with all trade proposals.
2.9	Before submitting any trade proposal, it shall be ensured that the buyer and supplier are not related parties as defined in Accounting Standard -18 issued by The Institute of Chartered Accountants of India.
2.10	The party should not be debarred by the Govt. or any organization owned by the Govt. An undertaking in this respect shall be taken from the party.
3.	Signing of MOA/MOU:
3.1	All MOUs/Agreements/Sureties/Guarantees, etc. shall be got vetted by the Legal and Finance Divisions before entering into the transactions.
3.2	All Agreements shall include suitable clauses to ensure that: 3.2.1 Interest is applicable at rates notified by STC's Finance Division from time to time. 3.2.2 Additional margin money is recovered in case of decline in the value of goods due to fall in market prices. 3.2.3 The trading margin is increased proportionately in case of delayed recovery/roll over. 3.2.4 STC has the "first charge" on goods procured using STC funds or STC's L/C limits. 3.2.5 All stocks held by or pledged to STC is inspected every 45 days. Surveyors are appointed and paid for by STC and surveyor's fees is borne by the Associate. 3.2.6 The agreed delivery schedule is recorded in the Agreement. 3.2.7 The obligations of the associate in execution of the contract are clearly defined. If the goods are not lifted within the usance period and/ or all outstanding amounts including interest, costs, trading margin and other expenses are not paid in time, it shall be considered as a default on the part of the associate, and the concerned associate shall have no objection to sale of the goods pledged in favour of STC in the market at associate's risk and cost and STC shall be free to recover the

	losses/damages suffered by it by adjusting margin money in part or in full and/or by encashing PDCs or by taking recourse to corporate or personal guarantees or by such other means as may be deemed fit.
3.3	<p>In all cases of back-to-back business (both import and export), a tripartite agreement between STC, the business associate and the foreign party shall be entered into in line with the instructions contained in the Legal Division's circular dated 18.3.2009. In cases where signing of tripartite agreement is not feasible, an Addendum to the main contract incorporating the specific clause must be signed by the three parties. This is necessary to ensure that any dispute in the transaction is restricted between the foreign party and the Indian associate and STC would not be a party to any such dispute.</p> <p>If any dispute or difference arises between STC and the overseas supplier in respect of the contract and an award/judgement/decreed/order is passed or a settlement is otherwise reached, the business associate shall be bound to accept the same and bear the liability resulting therefrom. Any payment made by STC in this regard shall be reimbursed by the business associate to STC.</p>
3.4	An Arbitration Clause, as per Legal Division's circular dated 18.03.2009, shall invariably be included in all the agreements (Annexure – I).
3.5	A confidentiality clause must invariably be included in all agreements in line with the instructions dated 10.9.2007 (Annexure – II).
3.6	Names and addresses of the Associate's bankers shall be obtained and mentioned explicitly in the MOA/MOU.
3.7	All contracts/MOAs/MOUs signed by STC with the associates shall strictly forbid any rollover/extension of LCs.
3.8	<p>The following clause must invariably be included in all future contracts/MOUs/MOAs, etc. signed with the associates :</p> <p>"That M/s (Name of the Associate) hereby undertakes not to pledge or create any charge on the goods pledged to STC in favour of any other party such as banks/financial institutions, etc. Any violation of the terms & conditions of the Contracts/MOU/MOA/Pledge deed shall be construed as criminal breach of trust and render M/s (Name of the Associate) liable for criminal prosecution by STC. Further, M/s. (Name of the Associate) hereby undertakes that the goods sold by STC under the contract shall be held in trust as per tripartite agreement entered or to be entered between STC, CWC/SWC/CMA and the Associate, until entire payment towards the cost of goods and other charges is made to STC and any violation of the terms & conditions of the trust deed shall render the Associate liable for criminal prosecution by STC for criminal breach of trust".</p>
4.	Extent of Financing:
4.1	Margin Money deposit shall be obtained before release of STC funds or opening of LC by STC which should normally be in the range of 10% - 15% of the contract value.
	The amount of margin money shall be fixed after considering fluctuations in the prices of the commodity in domestic and international market, salability of the product, creditworthiness of the associate and market practice. Relaxation of

	margin money amount vis-à-vis the laid down scale shall only be with the approval of Committee of Management.
4.2	Wherever customs duty is payable, it shall be obtained in advance from the associate by STC.
4.3	All other costs/expenses shall be paid for by the associate.
5.	Securities and Documentation:
5.1	In all cases where STC funds are involved, the lifting of goods shall be phased on a monthly basis as part of the agreement whereby the quantity to be lifted within the first, second and third month shall be separately indicated and lifting of total quantity shall be scheduled within a maximum of 90 days. Separate advance cheques must be obtained towards full value of month-wise quantities covering total quantity/value funded by STC.
5.2	All cheques shall be dated and complete in all respects and the signatures on the cheques should preferably be authenticated by the concerned Bank. The cheques shall be got replaced by fresh cheques from time to time to ensure that the cheques in STC possession are within the validity date. A letter from the associate shall necessarily be obtained mentioning that the cheques were being furnished towards the value of stocks and authorizing STC to encash the cheques on the due dates in case of delay in lifting.
5.3	In the case of domestic supplies to Defence/other Government Organisations, where STC is required to give margin money/PBG, the same shall be taken from the associate.
5.4	The PDCs and other securities e.g. margin money, Bank Guarantee etc. shall be kept in the safe custody of the Finance Division. A register shall be maintained showing full details of such securities and the same shall be reviewed and signed every month jointly by Marketing and Finance at levels not lower than DGM. However, monitoring and any further necessary action, such as, invoking of guarantees or presenting cheques for payment shall be the responsibility of concerned trading division.
5.5	All matters of delay in lifting vis-à-vis the agreed schedule shall be taken up immediately and strongly with the associate and additional margin money (as required) obtained. In case the division/branch considers it absolutely essential to extend the maximum period allowed for lifting, the proposal shall be put up with justification for approval of COM in consultation with concerned commodity Director. All receivables, particularly the overdue amounts, shall be monitored on a daily basis.
5.6	It shall be ensured that the stocks taken over by STC as security must be 'Pledged' to STC and not 'Hypothecated'. The legal format available with Legal Division shall be used for this purpose. The High Seas Sale Agreement in case of imports and pledging of goods in favour of STC shall be done simultaneously.
5.7	It shall be ensured that the stocks pledged to STC are valued correctly. Third

	party valuation may be resorted to, if considered necessary.
5.8	Personal/ corporate guarantees shall be obtained in all cases as per the format approved by Legal Division and kept on record. A declaration shall also be obtained about the assets owned by the guarantor containing details such as address of the properties, bank account numbers of the individuals/ companies/ directors/ partners of the firms and address of the banks, names in which assets held, etc.
5.9	The prices shall be monitored closely and, in case of any decline in the value of stocks vis-à-vis the outstanding amount, Branches/ Divisions will arrange to collect additional Margin Money from the concerned associates or take any other suitable action in consultation with commodity Director.
5.10	It shall be ensured that the goods financed by and pledged to STC are not used by the associates for availing further finance from banks/other financial institutions. An undertaking to this effect shall be obtained from the associate declaring that they shall not avail any further finance from any financial institution/bank in respect of the concerned stocks without STC's concurrence in writing.
5.11	The banker(s) of the Associate shall be apprised of the pledging of stocks to STC.
5.12	In the event of termination of the contract at any point of time by the international supplier/buyer, the agreement with the local associate shall stand terminated without any liability accruing to STC. Trading margin for the entire transaction shall be recovered from the margin money/advance deposited by the associate irrespective of whether the transaction is cancelled by foreign buyer/supplier or the local associate. The above provision shall be applicable only in case the margin money/advance is available with the Corporation for recovery of trading margin.
5.13	In case of default by an associate, actions shall be initiated to persuade the party to pay in a time bound schedule. If default persists, actions shall be taken with the approval of Director (Marketing) for recovery which may include invoking guarantees, proceeding under Section 138 of the NI Act, selling of stocks pledged to STC, initiating winding-up proposals, ascertaining names of all Directors (of the defaulting company) and writing to them, taking up with the associates' bankers, RBI, credit rating agencies, DGFT, etc.
5.14	In all cases where EPC is availed, it shall be ensured that (i) foreign L/C is established with STC as the beneficiary and is advised through STC's bankers (ii) shipment is effected with STC as the exporter and shipping documents negotiated at the counter of STC's Bank, and (iii) export proceeds are credited to STC's account.
5.15	All bank guarantees received by the Corporation shall be got confirmed by the respective issuing banks.
5.16	In respect of all transactions (excluding bullion) involving utilisation of STC funds/limits, forward foreign exchange cover shall be taken at the cost of the

	associate. Alternatively, the associate must provide additional 5% margin money.
5.17	Financial closure of all transactions in non-Govt. business shall be achieved within one month after last delivery/transaction.
5.18	Export LCs must be negotiated 'clean' and never 'under reserve'.
6.	Rate of Interest
6.1	The recovery of interest in all cases shall be made at the rates notified by STC's Finance Division from time to time.
6.2	In all cases of outstanding dues, interest from the parties shall be recovered (to be actually recovered and not only debited to party's account) on a monthly basis.
7.	Pricing / Trading Margin
7.1	Attempt shall be made to maximize STC's trading margin which shall be fixed keeping in view the following : <ul style="list-style-type: none"> - Nature of product - Market practice - Competition - Expected turnover - Risks involved - Any other relevant factor
7.2	While opening L/C or otherwise paying for the goods, it shall be recorded jointly by the Marketing & Finance Divisions that the price is reasonable and is in line with the prevailing market. Before opening of LC, reduction, if any, in the market price vis-à-vis the contract price, shall be collected from the associate for the entire transaction.
7.3	In case of sudden increase or decrease in the international prices of a commodity, the Division / Branch shall closely monitor ongoing business and exercise caution in doing further business.
7.4	STC shall pay interest on margin money at SBI Savings A/c rate from the date of receipt of amount till the date of settlement provided that lifting of the material is completed by associates within the originally agreed overall time limit. No interest shall be payable by STC on the margin money in cases where lifting of material is not completed within the originally agreed overall time limit. Parties shall be charged interest at rates as per agreement on the full outstanding amount without adjusting the margin money. For any pre-payment made by the associates before the due date, STC shall pay interest at short term deposit rates of State Bank of India subject to such period not being less than 7 days. Such payment shall be made only at the time of final settlement. The revised clause 7.4 shall be applicable in respect of fresh trade proposals

	approved on or after issue of these instructions
7.5	No proportionate adjustment of margin money shall be made while issuing delivery orders. Such amounts may be adjusted only at the time of last delivery.
8.	Insurance:
8.1	Insurance cover for 110% of the value of goods showing STC as full beneficiary shall be taken at associate's cost for all possible losses. In this regard, guidelines issued by Insurance Division shall be complied with (Annexure – III).
9.	Roll over/extension of LCs:
9.1	Request for roll-over of L/Cs beyond 90 days shall be submitted only in exceptional cases.
9.2	The roll over requests shall be put up to COM at least two weeks prior to the due date of payment and physical verification of stocks shall be carried out before recommending the request.
9.3	Proposals for rollovers must invariably indicate the market price at the time of entering into the transaction vis-à-vis at the time of consideration of roll over request and the reasons for delay in implementation of the transaction.
9.4	For the extended period, the trading margin shall be increased pro rata on monthly basis for unlifted quantities.
9.5	STC's trade margin, interest upto the last date of usance period and additional LC charges shall be recovered upfront before acceding to the request of roll over and revised rate of interest may be decided for the extended period.
9.6	All applicable bank charges shall be borne by the associate.
9.7	No roll over of margin money shall be allowed from one contract to another.
10.	Monitoring of stocks:
10.1	Goods shall always be purchased in STC name and kept under STC's physical custody.
10.2	Goods shall remain free from all encumbrances at all times and STC shall have the first charge on the goods.
10.3	Physical verification of all stocks pledged to STC shall be carried out by STC managers along with the surveyors every 45 days. The report shall be certified by STC manager conducting the physical verification and submitted to the concerned Director (Marketing) duly endorsed by BM/divisional head.
10.4	The movement of goods after High-Seas Sales shall be continuously monitored/ supervised by the concerned Branch/Division i.e. from clearance of goods by the Clearing & Handling Agent till the goods reach STC nominated warehouse. The goods shall be pledged in favour of STC at the time of High Seas sale.

	<p>Concerned commodity Manager shall monitor inventory in respect of owned/pledged stocks. Commodity manager shall maintain proper records of quantity contracted, received, issued and balance quantity including remaining shelf life of each commodity. Commodity Manager shall also track all contracts where either commodity is perishable or prices are lower than book value. Proposals for corrective action including taking mark to market margin to cut further losses shall be submitted by the commodity manager through BM/Divisional Head to concerned commodity Director who may take suitable decision in the matter or bring proposal to COM for liquidation, if considered necessary.</p>
10.5	<p>In all the back-to-back contracts, the concerned Division/branch shall closely and regularly monitor the execution of the contract by the supplier. The concerned Managers shall visit the manufacturing unit/godowns/ports as also see the progress in shipments. A system of strict quality check shall be followed. In addition to stipulated quality inspection procedure in the contract, additional quality checks shall be undertaken, if considered necessary. In export contracts where the quality/quantity is final at the discharge port, extra quality checks shall be undertaken.</p> <p>Concerned commodity manager shall report the status of execution of contract to BM/Divisional Head every week, including inter-alia, status of project plan, turnover achieved, rates/charges agreed, margin money/collaterals received, adherence to lifting schedule, quality and quantity of commodity, mark-to-market losses, receivables, etc. BM/Divisional Head shall review the status of various contracts on a monthly basis and provide a report to concerned commodity Director. All Divisional Heads/Branch Managers would monitor on regular basis and send quarterly reports in respect of status of implementation of all trade proposals to MSD through their respective Directors.</p> <p>Concerned Associate Finance shall specifically monitor and report to Head of Finance at Branch/CO on financial matters, particularly in respect of LCs opened, recovery against LCs overdue, position of exposure vis-à-vis exposure limits, etc. A consolidated report in respect of each division/branch shall be submitted to Director (Finance) on monthly basis.</p>
10.6	<p>The goods pledged in favour of STC shall preferably be stored / warehoused in CWC/SWC Godowns. Storage of goods in the premises of business associates shall not be agreed to. If for any reason, e.g. nature of goods being such that it has to be stored within the premise of Business Associate, the reasons shall be recorded and the following safeguards must be ensured:-</p> <ul style="list-style-type: none"> - CWC/SWC must be appointed as Collateral Management Agency. - STC team must inspect the goods every fortnight and place the inspection report on record. - STC stocks shall be clearly segregated and barricaded from stocks of other parties. In case of liquid cargo, separate Tank shall be earmarked for the pledged cargo. - A board stating - "Stocks Pledged to the State Trading Corporation of India Ltd" shall be prominently displayed to identify STC stocks. <p>A security agency shall be nominated by STC for security of the cargo, in case considered necessary.</p>

	<p>In such cases, STC shall enter into a tripartite/quadripartite agreement to safeguard STC's interest in such warehousing arrangements, whereby delivery of cargo shall be made only against the delivery order issued by STC.</p> <p>Payment to CWC, SWC and security agencies shall be made directly by STC and simultaneously recovered from the associate.</p> <p>It shall be ensured that security agencies and surveyors are not already engaged by the same associate for any other assignment in the same warehouse.</p>
10.7	All customs formalities and port operations shall be undertaken by the Associate.
10.8	Stocks in the godown shall be fumigated regularly wherever necessary. Any other precaution or steps required to keep the stocks in sound and healthy conditions shall also be undertaken regularly and the cost for the same shall be borne by the Associate.
10.9	Loss on account of quality, quantity, if any, in the entire operation, shall be recovered from the associate.
10.10	In case of stocks owned by or pledged to STC, annual valuation by third party shall be got carried out mandatorily.
11.	Submission of Trade Proposals to COM
11.1	<p>All proposals seeking approval of COM for trading transactions shall be as per the format enclosed (Annexure-IV). The proposals emanating from Branches shall also be drafted in the same format.</p> <p>The proposals shall be self-contained. Enclosures shall be kept to minimum and main issues shall be brought in the body of the proposal. If an enclosure is inevitable, the aspects intended to be highlighted must be referred to in the note.</p> <p>Copies of proposals received from branches or from parties or proposed MOUs or internal notings shall not be attached with the COM note, unless specifically asked for.</p>
11.2	The subject of the COM note shall be clear including, inter-alia, the name of item, name of party, name of branch, whether for export or import or domestic, amount, etc.
11.3	<p>All COM proposals for trading, particularly those involving commitment of STC funds, shall include:</p> <p>11.3.1 A note on the credentials of the party indicating D&B rating for new parties and an analysis of previous transactions in case of existing parties.</p> <p>11.3.2 A brief research note covering market trends – demand and supply, analysis of domestic and international price trends, reports on future prices etc.</p>

	<p>11.3.3 Deviations in the proposal, if any, vis-a-vis trading guidelines.</p> <p>11.3.4 Details of securities available to STC in case of default by the party.</p> <p>11.3.5 A list of issues requiring approval of COM.</p>
11.4	A checklist in prescribed proforma shall compulsorily be included while submitting trade proposals for approval of COM.
11.5	Proposals shall include clear recommendation of the division/branch and phrases like “May take a view” or “May please consider” shall be avoided.
11.6	All COM notes must be signed by the senior most officer in the group at the level of CGM/GM/JGM/DGM jointly with his associate Finance. Heads of the trading group at CO, namely, the concerned CGM or GM must be present at the time of the COM meeting to reply to the queries.
11.7	All COM notes must be concluded with the following statement “Approved for putting up to COM” and duly signed by concerned Director (Marketing).
11.8	Branches shall make use of their official e-mail accounts for submission of trade proposals to C.O. Wherever the information required to be transmitted is available in the form of hard copy documents, the same may be scanned and then e-mailed.
12.	General:
12.1	<p>For every contract, a contract manager shall be designated by the Director-incharge of the item from his group/branch and the guidelines issued in this regard vide circular dated 1.09.2005 shall be followed invariably (Annexure – V).</p> <p>For every contract, the contract manager shall prepare time bound milestones for various stages in the life cycle of a proposal/contract.</p>
12.2	<p>In case of all imports, pre-shipment inspection report must invariably form part of negotiable documents. An inspection agency must be appointed directly by STC and not by the Associate through a properly issued appointment letter which shall mention the role and responsibilities of the agency, reference to the relevant contract, specifications /quality parameters, reporting system, etc. Inspection shall be carried out at the port of loading and also on arrival of goods at the discharge port. Loss on account of quantity, quality, if any, in the entire operation, shall be to the Associate’s account. To the extent possible, payment to the inspection agency shall also be released directly by STC and be recovered from the business associates as per terms of the trade.</p> <p>Appointment of Inspection Agency by STC shall also be applicable in export and domestic transactions.</p>
12.3	STC shall be always kept fully indemnified of all costs, expenses and claims such as cost of goods, freight, levies, present and future taxes, port expenses, insurance, bank charges, transportation, storage charges, fumigation, vessel demurrage/ dispatch, quality deterioration due to prolonged storage, shortages, CHA charges, survey and inspection fees, legal expenses, exchange fluctuations and any other incidental charges. All such costs shall be to the Associate’s account.

12.4	Credit limits shall not normally be extended to such parties who have initiated legal/arbitration proceedings against STC or against whom STC has pending claims/arbitration/legal proceedings.
12.5	The system of floating tender for purchases may be dispensed with in cases where the buyer has identified the overseas suppliers. The proposal of the business associate may be considered provided the overseas supplier is reputed, the price is reasonable and competitive, the contract meets all the Indian statutory Regulations and provides adequate safeguards. For ascertaining reasonableness of the contract price, Reuters News Service or any other available sources shall be referred to.
12.6	Associates shall be asked to furnish a copy of the resolution adopted by their Board of Directors authorizing to obtain credit limits from STC.
12.7	All documents as required under the MOU/ MOA duly completed and signed shall be obtained from the associate and verified by the Trade Division and Finance Division before releasing STC funds/limits. Finance division shall also ensure compliance of all guidelines and conditions as per competent authority approval to the trade proposal before releasing of funds or opening of L/C.
12.8	Quarterly and annual accounts of all business associates with whom STC has financial dealings shall be kept on record and updated regularly.
12.9	Extra precautions in terms of margin money, storage and movement of stocks, timely lifting, etc. shall be taken while dealing in any perishable items.
12.10	Additional safeguards, as may be required, may be taken to ensure that applicable rules and procedures are not violated.
12.11	It shall be ensured that any party's total outstanding including up-to-date interest, all costs, trading margin, etc. shall not, at any stage, exceed the exposure limit.
12.12	A revised checklist, as per the format (Annexure-VI), shall compulsorily be attached with all trade proposals.
12.13	<p>With a view to have an objective assessment of all the risks associated with the business proposals, all trade proposals must compulsorily include an analysis of the risks as per the attached format (Annexure- VII). The procedure for calculation of values of different risk parameters is also given in Annexure – VII.</p> <p>While putting up business proposals, the concerned Division or Branch shall also indicate the risk mitigation steps proposed to be undertaken in respect of all major risks perceived by it.</p> <p>The operating manager shall periodically update the risk profile of each transaction under execution and inform any significant changes to the Divisional Head or Branch Manager, who in turn would keep the concerned Director (Marketing) informed.</p>

STATE TRADING CORPORATION OF INDIA LIMITED; NEW DELHI

LEGAL DIVISION

CIRCULAR NO1/2009

18th March, 2009

Sub: Incorporation of Arbitration, Force majeure clause & signing of Tripartite Agreement in commercial contracts relating to import/export.

1) ARBITRATION :

It has been observed that while entering into commercial contracts for import & export, Trading Divisions are not uniformly providing standard arbitration clause i.e., Indian Council of Arbitration clause for resolution of disputes arising out of the contract between the parties. It has also been observed that some times Trading Divisions and Branch Offices are providing vague arbitration clause in commercial contracts which creates difficulties while referring the disputes to such entities. In order to avoid such instances all Trading Divisions & Branch offices are requested to incorporate the following Indian Council of Arbitration clause while entering into commercial contracts relating to imports and exports with private parties.

(A) Arbitration clause in commercial contract between STC And Private Party:

Any dispute or difference whatsoever, arising between the parties out of or relating to the construction, meaning, operation or effect of this contract or the breach thereof, shall be settled by arbitration in accordance with the rules of Arbitration of the Indian Council of Arbitration, New Delhi and the award made in pursuance thereof shall be binding on the parties.

(B) Arbitration clause in commercial contract between two PSUs and between PSU and Government Departments.

Similarly in all commercial contracts with Govt. / Central Govt. PSU / Govt. Departments / State Govt. / State Govt. PSU, the arbitration clause prescribed by Permanent Machinery of Arbitration(PMA) should invariably be incorporated. The PMA arbitration clause is as under:

“In the event of any dispute or differences relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party to the Arbitration of one of the Arbitrators in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in charge of the Bureau of Public Enterprises. The Arbitration Act, 1940 shall not be applicable to the arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary when so authorized by the Law Secretary whose decision shall bind the parties finally and conclusively. The parties to the dispute shall share equally the cost of arbitration as intimated by the arbitrator”

2) FORCE MAJEURE CLAUSE

- i) If at any time during the existence of this contract either party is unable to perform in whole or in part any obligation under this contract because of war, hostility, civil commotion, sabotage, quarantine restrictions acts of God and acts of Government (including but not restricted to prohibition of exports or imports) fires, floods, explosions, epidemics, strikes, embargoes, then the date of fulfillment of engagement shall be postponed during the time when such circumstances are operative.
- ii) Any waiver/extension of time in respect of the delivery of any installment or part of the goods shall not be

- deemed to be waiver/extension of time in respect of the remaining deliveries.
- iii) If operation of such circumstances exceeds three months, each party shall have the right to refuse further performance of the contract in which case neither party shall have the right to claim eventual damages.
 - iv) The party which is unable to fulfill its engagements under the present contract must within 15 (fifteen) days of occurrence of any of the causes mentioned in this clause, shall inform the other party of the existence of the circumstances preventing performance of the contract. Certificate issued by the Chamber of Commerce in the country of Seller or the Buyer shall be sufficient proof of existence of the above circumstances and their duration. Non-availability of raw material will not be an excuse to the Seller for not performing their obligation under this contract.

3) Acceptance of post dated cheque as collateral security

Trading Divisions are accepting post dated cheques as collateral securities apart from Performance Bank Guarantees, Corporate Guarantee etc. while granting financial assistance to the parties for exports/imports. Recently the Supreme Court in one case i.e. M S Narayan Menon Vs State of Kerala & Others decided that where post dated cheques are given as security by a party for discharge of future liability / performance of contractual obligation, no criminal action is maintainable against the drawer of the cheque under Section 138 of the Negotiable Instruments Act 1881, if the cheque is dishonored by the Bank.

Keeping the above in view, in supersession of earlier guidelines all Trading Divisions are instructed to accept on dated cheque for the total amount of the

financial assistance granted to the party for imports and exports before releasing the amount. Subsequently, depending upon the recovery of outstanding, the cheque amount may be got increased / reduced as the case may be by receiving fresh cheque till the outstanding amount is fully recovered. As it is not practicable to prescribe particular format of the forwarding letter by which the cheque is to be furnished by the party to STC, the same depending on the nature of export/import transactions may be got approved from Legal Division in each case.

4) Tripartite Agreement between Foreign buyer/seller, STC and Indian Exporter/Importer in all cases where STC is either providing financial assistance or opening Letter of Credit at their request on back to back basis:

- A. Many times Indian exporter/Indian Importer (as the case may be) are approaching STC along with confirmed export/import order after having identified the foreign buyer/seller and after having finalized the price, terms and specifications of the required commodity, for providing L/c facility by STC, and/or extending financial assistance for the above purpose. In such cases it is desirable to enter into a tripartite contract amongst STC, foreign party and Indian associate specifying clearly the rights and obligations of the contracting parties.

In all such back to back export and import contracts the parties should be referred to as under:

a) Export Contract:

STC	-	Seller
Associate Supplier	-	Shipper
Overseas buyer	-	Foreign Buyer

b) Import Contract:

STC	-	Importer
Indian Buyer	-	Buyer
Overseas Supplier	-	Foreign Seller

For enforceability of the tripartite export & import contract(s), all the above parties should sign in parallel.

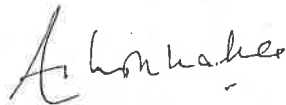
B. Tripartite contract should, inter-alia, have the following clauses :

- a) In the event of any dispute or difference between the parties of whatsoever nature including time schedule, quality, quantity and demurrage but not limiting to the same, the liability thereto, if any, will be that of foreign buyer and shipper (in case of export contract) and foreign seller and buyer (in case of import contract). It is clearly understood between the parties to the contract that any claim of whatever nature shall be settled between the foreign buyer and shipper (export contract) and buyer and foreign seller (import contract) directly themselves without recourse to STC as a party to the dispute.
- b) It is further agreed by shipper / buyer (as the case may be) that in the event STC is required to incur any expense for defending its interest at any forum the shipper / buyer undertakes to indemnify STC without any protest or demur and shall always keep STC fully indemnified and agree to hold STC harmless against any cost including taxes / duties, loss, claim, damage, demurrage, costs, penalties, liabilities; legal cost, short shipment, claims on account of quality / quality / making / weight / specifications etc., of whatsoever nature.

- 5) Further in terms the instructions issued vide Circular dt. 16.9.2005 it would be incumbent upon all Divisions / Branches to have the contract duly vetted by the Legal Division.

All concerned Divisions of Corporate Office and Branches are instructed to adhere to the instructions contained in the above circular strictly.

This is issued with the approval of Competent Authority.



(ASHOK KALRA)
CHIEF GENERAL MANAGER

ES to CMD

ES to All Directors.

ALL CGMs/GMs at C.O. GM(SNR)-LAW

Branch Managers, Mumbai/Ahmedabad/Chennai/Kolkata/Bangalore/
Hyderabad/Gandhidham.



MANAGEMENT SERVICES DIVISION

10.09.2007

Competent Authority has approved inclusion of the following Confidentiality Clause in all future MOUs/Agreements/contracts entered into by STC :

"CONFIDENTIALITY

This agreement/MOU/MOA, its provisions and existence, as well as any commercial data including price or technical data and any information provided in accordance herewith to the other party shall be considered as confidential. Such information shall not be disclosed to any third party unless required by any applicable law or authorised in writing by the other party.

All such information shall be used by the other party only for the purposes of performance of this agreement/MOU/MOA.

The restrictions here-in-above shall not apply to any information generally available to the public or received in good faith from a third party without restriction. The parties hereto agree to keep as confidential all documentation furnished or received by either party at any time in connection with this agreement/MOU/MOA.

This provision, as far as practicable, shall apply to all the concerned officials of either party.

This clause shall survive upon termination of this agreement/MOU/MOA."

All Divisions and Branches are requested to note for strict compliance.


(Brijesh Prasad)
Manager

All Divisional Heads/BMs

CC : All CGMs/Directors

CMD



INSURANCE DIVISION

No.STC/INSURANCE/02/2013

DATE: 30.08.2013

CIRCULAR

Sub: Instructions/Guidelines on Insurance Related Matters.

Detailed guidelines/instructions on insurance related matters were issued earlier vide circular dated 08.09.2009. Subsequently, a number of instructions were issued on the subject matter from time to time by Insurance Division. For ease of reference, all previous guidelines on insurance related matters have been consolidated below for strict adherence by all concerned:

1. The onus of taking appropriate and adequate insurance cover, renewal thereof and preferring and ensuring settlement of claims by submission of all requisite documents, etc. in time is the prime responsibility of the operating Branch (For transactions handled by the Branch) and the concerned Divisions at C.O.(in case the matter is being dealt by C.O). Insurance Division at C.O. shall, however, continue to act as a nodal Division to interact with the Insurance Companies at the request of Branches/Divisions for speeding up the settlement of Insurance claims.

It should be ensured that no property/stocks useable or any other item where the interest of the corporation is involved remains uninsured from the time such interest accrues and appropriate and adequate insurance coverage continues ceaselessly till such interest of the corporation continues.

2. Proper insurance covers be taken/renewed well before time in respect of all commodities/assets where STC holds interest. This applies to the stocks in possession/premises of associates/handling agents also which have been pledged/hypothecated to STC. Such insurance covers be taken well before the event and strict adherence to the contract/agreement/MOU should be envisaged. An All Risk insurance cover is always preferable over other types of insurance covers so as to safeguard the interest of the Corporation.
3. All types of insurance policies should be taken from only approved insurance companies through their nominated insurance consultants.
4. While taking Marine insurance Policy for imports (C&F Contracts), it should be ensured that All Risk Policy viz. ICC(A) cover with war and SRCC as additional add-on covers with Nil excess is taken. In case, it is not possible due to any reason, to obtain such a

policy, prior approval of competent authority be obtained. The insurance cover should preferably be on warehouse-to-warehouse basis.

5. In case of marine insurance proposals emanating from various trade divisions at C.O. for getting Marine Insurance policy for consignment under C&F contracts, the Insurance proposal(s) should invariably reach the Insurance division at C.O. at least seven working days prior to the dispatch of the consignment for arranging proper and timely insurance cover to cover the risk of any unforeseen event during transit. Further, in case of C&F imports, STC's standard contract with foreign supplier should be suitably modified to ensure that the age of liner vessel and other vessel should not be, in any case, more than 25 years and that the carrying vessel complies with the approved classification society clause.
6. While taking Fire insurance policies for assets and stocks, it should be ensured that an All Risk policy i.e. Standard Fire and Special Perils Policy with earthquake, terrorism and any other type of add-on covers depending on the nature of commodity be decided by concerned Division/Branch, be taken. In addition, burglary policy with Theft extension should also be essentially taken with fire insurance policies.

In case of Fire and Burglary insurance policies in respect of stocks where STC holds interest, adequate sum insured based on higher of either of total book value of landed cost (prime cost including custom duty plus freight and insurance i.e. CIF) or current market price considering forex fluctuations and Indian market changes, if any, as intimated by the respective associate finance plus incidental charges of 10% be taken as sum insured.


7. Insurance related work at Branches be centralized and should be handled by a Manager preferably from Finance Division of the Branch, who should properly coordinate with the various Divisions in the Branch to safeguard the interest of the Corporation.
8. While taking insurance policy for buildings owned by STC and furniture/fixtures, the total insured value should be on reinstatement basis. This fact should also be got endorsed on the insurance policy by incorporation of a suitable reinstatement value clause. For electronic items, the total insured value should be at present day replacement value. For motor insurance, sum insured should be at Insured's Declared Value assessed by the insurance company.
9. While taking insurance cover of the goods by STC or by its business associates on behalf of STC where STC is beneficiary, it must be ensured that the excess clause contained in the insurance policy is Nil. In cases, where Nil is not possible, it should be in line with the guidelines issued by Insurance Regulatory Development Authority/Tariff Advisory Committee. In any case, any special conditions imposed regarding excess clause by the Insurance Companies will not be acceptable to STC. However, in exceptional cases, where it becomes inevitable to obtain insurance cover with excess clause not being Nil and/or some special conditions imposed on it, prior approval of the competent authority must be obtained.

10. After obtaining Insurance policies, all Branches/Divisions at C.O. should ensure to go through all terms and conditions of the policies for strict compliance so as to avoid repudiation of insurance claims at a later date.
11. Proper utilization of the services of the nominated insurance consultant by the branches/ all Divisions at C.O. be made for taking correct insurance policies as per extant guidelines, lodging and settlement of insurance claims in the best interest of the corporation.
12. A certificate from nominated insurance consultant confirming that all insurance policies taken by the Branch/ Trade Divisions at C.O. during a particular quarter are in accordance with the Corporate guidelines and fully cover STC's interest, be obtained and sent to Insurance Division at C.O. regularly within 15 days of the close of each quarter This applies to insurance policies taken by associates as well.
13. Monthly statement of stocks held along with respective insurance particulars should be sent by each Branch/Trade Divisions at C.O. to Insurance Division at C.O. in the prescribed format by 7th of the following month.
14. In case the insurance policy is taken by the Associate, it should be ensured that the beneficiary is STC and the original policy should be obtained and kept in safe custody of Branch/Division. Further, an undertaking should be obtained from the associate, in writing, that the insurance policy taken by him shall not be got cancelled during the entire coverage period/validity of the policy or till such time the policy remains in force.
15. The above guidelines apply to all insurance policies taken either directly by the divisions/branches or through the associates and also to the stocks in possession of the associates/handling agents.

The above instructions/guidelines are not exhaustive and all concerned should take care of Corporation's interests with their best business prudence and in case of doubt, seek clarification from the Insurance Division at C.O.

All BMs/HODs at C.O. are requested to give wide circulation to these guidelines/instructions in their respective branches/divisions at C.O. and ensure strict adherence of the same so as to avoid any loss to the Corporation either due to ignorance or negligence

This issues with the approval of Competent Authority.


(B K Tuli)
CGM

ALL HODs AT C.O/ BMs

Copy to:

- ES to CMD

- PS to all Directors/CVO

THE STATE TRADING CORPORATION OF INDIA LIMITED : NEW DELHI

NOTE FOR CONSIDERATION OF COMMITTEE OF MANAGEMENT

ITEM NO. _____

Date : _____

Subject : _____

1. **Background Information**

(To inter-alia include details of items, market scenario e.g. production, demand, supply, analysis of domestic and international price trends from various sources, reports on future prices, end-use, note on the credentials of the associate indicating D&B rating, analysis of previous transactions, etc.).

2. **Proposal**

(To inter-alia include details such as modus-operandi, extent of exposure, credit period, rate of interest, quantum and form of margin money, collateral securities, etc. The offer of associate and Branch/C.O. recommendation thereon (duly confirmed by the associate) should be separately indicated for all parameters, deviations in the proposal vis-a-vis prevalent guidelines accompanied with corresponding risk mitigation measures proposed).

3. **Justification for the approval**

4. **Issues requiring approval**

5. **Contract Managers**

Mr. _____ from Trading Division and Mr. _____ from Finance Division shall be the Contract Managers responsible for implementation of the contract.

6. **List of Enclosures**

- a. Check List
- b. Risk Assessment & Analysis Format
- c. Proposed Risk Mitigation measures
- d. Any other (PI specify).....

(Associate Finance)

(Senior most officer of the rank of
CGM/GM/JGM/DGM in Trading
Division)

Approved for putting up to COM.

Director (Marketing)

THE STATE TRADING CORPORATION OF INDIA LIMITED

September 1, 2005

Sub: Assigning of specific responsibility for smooth implementation of contracts.

STC undertakes business worth about Rs.100 billion annually. The total turnover of the Corporation is contributed by a large number of individual contracts, big and small. Success of the Corporation lies in smooth implementation of each and every contract.

Generally, a number of managers are involved in negotiating, finalizing, implementing, monitoring and closing every contract. It has been observed that, in some cases, responsibility tends to get diluted as a result of lack of proper demarcation. To avoid such problems and to ensure that specific accountability in all cases is known to all concerned, COM, in its meeting held on 25.8.2005 has decided that a manager from the concerned branch/trading group shall be assigned to each and every contract entered into by the Corporation. The scheme of implementation will, broadly, be as under:

- Director in-charge of the item will designate a manager from his group/branch as the contract manager for every contract.
- The decision of the Director with regard to nomination of a particular manager shall be final.
- The contract manager may be of the rank of Assistant Manager to Chief General Manager depending upon the value of the contract, importance of the transaction or any other parameters considered relevant by the Director.
- The contract manager will be involved at all stages of the contract including negotiating, drafting the contract/MOU, obtaining approval of the competent authority, implementation, monitoring, final settlement and closure of the contract
- A manager from Finance group will also be assigned for every contract by Director (Finance) or his nominee.
- If, at any stage, the contract manager finds that deviations have occurred or are likely to occur from the terms of MOU/Contract whether by an associate/buyer/supplier/bank or even by STC, he should apprise the position to his senior and act as per the advice received.

- The name of the contract manager and also of the associate finance manager will be recorded on top of all files relating to the transaction.
- Competent authority will not approve any trading proposal unless the contract manager and the associate finance have been designated.
- In case of transfer or change in the allocation of work, the concerned manager will hand over charge in respect of all contracts being monitored by him to the nominated officer before being relieved.
- In case of temporary absence of the contract manager due to leave, he will take stock of the status of all contracts under his charge on returning from leave and will highlight any lapses remaining unattended.
- All Directors will put up to COM a quarterly statement indicating names of contract managers and quarterly status of implementation (in brief) of all contracts executed/under execution.

The above will come into force with effect from 1.9.2005.


(RANA SOM)
DIRECTOR

TO ALL CONCERNED

REVISED CHECK LIST FOR TRADE PROPOSAL

Division: _____ **Branch :** _____

1. Name of Associate : _____ Existing/New
 2. Nature of business : Exports / Imports / Domestic
 3. Exposure Limit : i) Approved _____ (ii) Available _____ (iii) Proposed _____
 4. Item : _____
 5. Quantity : _____
 6. The supplies are required for : Self consumption Trading
 7. Quantity consumed by the party during last two years : _____ MT (Year 1)
(In case of import/domestic procurement of raw material) _____ MT (Year 2)
 8. Turnover of the party in specific commodity:
during the last two years. Rs _____ lakh (Year 1)
Rs _____ lakh (Year 2)
 9. Is the D & B report acceptable? Yes No Rating
 10. Date of D & B report : _____
 11. Is the item freely tradable? Yes No
 12. Is the bankers report satisfactory? Yes No
 13. Is the report of STC Team satisfactory?
(The report should not be more than six months old) Yes No
 14. Date of report of STC Team visiting Associates' plants : _____
 15. Whether entire lifting committed within 90 days with
lifting schedule for each 30 day period? Yes No
 16. Is the past performance record of party satisfactory? Yes No
 17. Is the party agreeable to deposit additional
Margin Money as per 'Mark to Market'? Yes No
 18. Has the party agreed to take forward foreign
exchange cover? Yes No
- If not, amount of additional margin money proposed : ₹ _____ Lakh
19. Has the party furnished an undertaking regarding
its not being debarred by the Govt. or any
organization owned by the Govt.? Yes No
 20. The goods will be stored in : CWC warehouse / Associate's Premises / Others
 21. Margin Money : Cash _____ % BG _____ %
 22. Trading Margin : _____ %

()
Head of Trading Division

()
Head of Associate Finance

()
Branch Manager

RISK ANALYSIS AND ASSESSMENT															
Sr. No.	Risk Parameter	Grading Index on 10 Point Scale											Actual Value of Parameter	Risk Index (0-10)	
		0	1	2	3	4	5	6	7	8	9	10			
		Low			Moderate				High						
1	Current Ratio	2 or Above	1.8	1.6	1.4	1.2	1.0	0.8	0.6	0.4	0.2	0.1 or Below			
2	Leverage Ratio	1 or Below	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.6	2.8	3 or Above			
3	Ratio of STC's Exposure to Party's Networth	Upto 25% : '3'				Above 25% & Upto 50% : '5'			Above 50% & Upto 100% : '8'			Above 100%			
4	Past Payment History (Last 12 Months)	Within Credit Period : '0'				15 Days OD	30 Days OD	45 Days OD	60 Days OD	90 Days OD	120 Days OD	150 Days OD			
5	Avg. Annual Price Volatility	Below 10%	20%	25%	30%	40%	50%	60%	70%	80%	90%	100% or Above			
6	Margin Money	Above 20% : '3'				Above 10% & Upto 20% : '5.5'			10% or Below : '9'						
7	Storage of Goods	CWC/SWC Storage : '3'				Private Storage with CMA : '5.5'			Associate's Premises with CMA : '9'						
8	Payment Terms (Import)	CAD : '3'				Usance L/C '4.5'		Sight L/C '6.5'		Advance Payment / Confirmed L/C : '9'					
	Payment Terms (Export)	Advance Payment / Confirmed L/C : '0'				Sight L/C '4.5'		Usance L/C '6.5'		CAD : '9'					
9	Lifting Schedule	At Sight	30 Days	60 Days	90 Days	91 Days - 120 Days '5.5'			121 Days - 180 Days '9'						
10	Lead Period for Shipment	Upto 30 Days : '3'				31 Days - 60 Days '5.5'			61 Days - 90 Days '9'						
11	Any other relevant parameter														

Total Risk Score : _____

The proposal's Risk Index (%) = $\frac{\text{Total Risk Score} * 100}{10 * \text{No. of Parameters}}$ = _____ %

GUIDELINES FOR COMPUTING VALUES OF VARIOUS PARAMETERS FOR ARRIVING AT RISK INDEX OF ANY TRADE PROPOSAL

1. Current Ratio

$$\text{Current Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

The above data could be found in the Balance Sheet of a company. The Current Assets include Inventories, Sundry Debtors, Cash & Bank Balances, Loan & Advances and other current assets. Similarly, the Current Liabilities include Sundry Creditors, Provisions against Liability, etc.

2. Leverage Ratio

$$\text{Leverage Ratio} = \frac{\text{Short Term Debt} + \text{Long Term Debt}}{\text{Networth}}$$

The above data could be found in the Balance Sheet of a company. The numerator includes the total Loan Funds comprising Secured and Un-secured whereas the denominator includes the (i) Share Capital and (ii) Reserves & Surplus of the company.

3. Ratio of STC's Exposure to Party's Net Worth

$$\text{Ratio of STC's Exposure to Party's Net Worth} = \frac{\text{Financing Value}}{\text{Net Worth of the Company}} \times 100$$

The Financing Value shall include the current outstanding (if any) of the associate along with the financing proposed in the current proposal. The Net Worth of the associate company could be found from its Balance sheet and it would include the Share Capital and Reserves & Surplus of the Company.

4. Past Payment History

Previous 12 months' payment & lifting track record of the associate shall be considered and the maximum number of days by which the party defaulted in any transaction in lifting/payment vis-à-vis the originally agreed time schedule shall be considered, irrespective of the quantity for which the default occurred.

In case there was no business with the Associate during the previous 12 months; but the Associate had done business with STC earlier, then payment record for the latest past transaction will be considered.

5. Average Annual Price Volatility

$$\text{Average Annual Price Volatility} = \frac{A - B}{B} \times 100\%$$

Where:

A = Highest Price of the Commodity during preceding twelve calendar months excluding the current month in which the proposal is submitted.

B = Lowest Price of the commodity during preceding twelve calendar months excluding the current month in which the proposal is submitted).

Wherever possible, the reference prices of the commodity should be taken from registered domestic or international commodity exchanges like CBOT, LIFFE, LBMA, NCDEX, MCX, NSPOT etc and/or reputed publications like IGC, FAO, USDA, Agriwatch, Reuter, Bloomberg, Commodity online, etc.

6. Margin Money

In case of imports, the Margin Money should be indicated as percent to CIF value while in case of exports, it should be indicated as percent to the FOB value of goods at the place of procurement.

7. Storage of Goods

As per Risk Analysis & Assessment Proforma

8. Payment Terms

As per Risk Analysis & Assessment Proforma

9. Lifting Schedule

The period of lifting should be calculated from the date of Bill of Lading.

10. Lead Period for Shipment

The difference between the date of signing the contract and last date of making shipment should be calculated to find the lead period for shipment.
