

Original: English

Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures

NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

INDIA

Supplement

The following communication, dated 12 August 1999, has been received from the Permanent Mission of India.

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1. Please refer to India's notification document G/ADP/N/1/IND/2-G/SCM/N/1/IND/2 dated 15 August 1995 regarding the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.
 2. Attached is a Customs Notification (No. 44/99-Cus (NT)) dated 15 July 1999, issued by the Department of Revenue, amending the aforementioned Rules.
 3. It is requested that this Notification under Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 may please be brought to the notice of the Members.

To be published in Part I, Section 3, Sub-Section (i) of the Gazette of India Extraordinary, dated 15 July 1999

**Government of India
Ministry of Finance
Department of Revenue**

New Delhi, 15 July 1999
24 Ashadha, 1921 (SAKA)

NOTIFICATION
No. 44/99-Cus (NT)

GSR – 521 (E) – In exercise of the powers conferred by sub-section (b) of Section 9A and sub-section (2) of Section 9B of the customs Tariff Act, 1975 (51 of 1975), the Central Government hereby makes the following rules to amend the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, namely:

1. (i) These rules may be called the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 1999.
- (ii) They shall come into force on the date of their publication in the Official Gazette.
2. In the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the said rules), in rule 2, in clause (b), -
 - (a) for the words, "such producers shall be deemed", the words, "such producers may be deemed" shall be substituted;
 - (b) after the proviso, the following Explanation shall be inserted, namely:

"Explanation – For the purposes of this clause,

 - (i) producers shall be deemed to be related to exporters or importers only if, -
 - (a) one of them directly or indirectly controls the other; or
 - (b) both of them are directly or indirectly controlled by a third person; or
 - (c) together they directly or indirectly control a third person, subject to the condition that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers."
 - (ii) "a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter."

3. In rule 4 of the said rules, for clause (d), the following clause shall be substituted, namely:

"(d) to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry, and the date of commencement of such duty; and".

4. In rule 15 of the said rules, in sub-rule b), for the proviso, the following proviso shall be substituted, namely:

"provided that in case of any violation of an undertaking, the designated authority shall, as soon as may be possible, inform the Central Government of the violation of the undertaking and recommend imposition of provisional duty from the date of such violation in accordance with the provisions of these rules".

5. In rule 17 of the said rules, in sub-rule, (1),

(a) in clause (a), in the first proviso, for the words "in circumstances of exceptional nature", the words "in its discretion in special circumstances" shall be substituted;

(b) for clause (b), the following clause shall be substituted, namely:

"(b) recommending the amount of duty which, if levied, would remove the injury where applicable, to the domestic industry."

6. In rule 1B of the said rules, in sub-rule (1), the proviso shall be omitted.

7. In rule 20 of the said rules, after the second proviso, the following proviso shall be inserted, namely:

"Provided also that notwithstanding anything contained in the foregoing proviso, in case of violation of such undertaking, the provisional duty shall be deemed to have been levied from the date of violation of the undertaking or such date as the Central Government may specify in each case".

8. In Annexure I to the said rules, after paragraph 6, the following paragraph shall be inserted, namely:

"7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments."

9. In Annexure II to the said rules, in paragraph (iv), for the word "essential", the word "potential" shall be substituted.

(Rajendra Singh)

Under-Secretary to the Government of India

P. No. 573/7/94-CUS (TU) Pt.

Note: The principal rules were published in the Gazette of India Extraordinary vide notification No. 2/95 dated 01.01.95 (ASR) (E).
