

CUSTOMS TARIFF ACT, 1975

51 of 1975

[18th August, 1975]

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CUSTOMS TARIFF ACT, 1975

51 of 1975

[18th August, 1975]

An Act to consolidate and amend the law relating to Customs Duties. BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :-

1. Short title, extent and commencement :-

(1) This Act may be called the Customs Tariff Act, 1975.

(2) It extends to the whole of India.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

This Act came into force w.e.f. 2nd August, 1976 vide Notification No. 398-Cus., dated 31-7-1976.

2. Duties specified in the Schedules to be levied :-

The rates at which duties of customs shall be levied under the Customs Act, 1962 (52 of 1962), are specified in the First and Second Schedules.

3. Levy of additional duty equal to excise duty, sales tax, local taxes and other charges :-

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(1) Any article which is imported into India shall, in addition, be liable to a duty (hereafter in this section referred to as the additional duty) equal to the excise duty for the time being leviable on a like article if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article :

Provided that in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the Official Gazette, specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different States or, if a like alcoholic liquor is not produced or manufactured in any State, then, having regard to the excise duty which would be leviable for the time being in different States on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.

Explanation. In this sub-section, the expression "the excise duty for the time being leviable on a like article if produced or manufactured in India" means the excise duty for the time being in force which

would be leviable on a like article if-produced or manufactured in India or, if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest duty.

(2) For the purpose of calculating under sub-sections (1) and (3). the additional duty on any imported article, where such duty is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in Section 14 of the Customs Act, 1962 (52 of 1962), be the aggregate of

(i) the value of the imported article determined under sub-section (1) of Section 14 of the Customs Act, 1962 (52 of 1962) or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

(ii) any duty of customs chargeable on that article under Section 12 of the Customs Act, 1962 (52. of 1962). and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include

(a) the duty referred to in sub-sections (1), (3; and (5);

(b) the safeguard duty referred to in Sections 8-B and 8-C;

(c) the countervailing duty referred to in Section 9; and

(d) the anti-dumping duty referred to in Section 9-A: Provided that in case of an article imported into India,

(a) in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs, is the goods specified by notification in the Official Gazette under sub-section (1) of Section 4-A of the Central Excise Act, 1944 (1 of 1944), the value of the imported article shall be deemed, to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price

as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section (2) of Section 4-A of the Central Excise Act, 1944 (1 of 1944).

Explanation. Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

(3) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or not] such additional duty as would counter-balance the excise duty leviable on any raw materials, components and ingredients of the same nature as, or similar to those, used in the production or manufacture of such article, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty representing such portion of the excise duty leviable on such raw materials, components and ingredients as, in either case, may be determined by rules made by the Central Government in this behalf.

(4) In making any rules for the purposes of sub-section (3), the Central Government shall have regard to the average quantum of the excise duty payable on the raw materials, components or ingredients used in the production or manufacture of such like article.

(5) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or, as the case may be, sub-section (3) or not] such additional duty as would counter-balance the sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty at a rate not exceeding four per cent of the value of the imported article as specified in that notification.

Explanation, In this sub-section, the expression "sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India" means the sales tax, value added tax, local tax or other charges for the time being in force, which would be leviable on a like article if sold, purchased or transported in India or, if a like

article is not so sold, purchased or transported, which would be leviable on the class or description of articles to which the imported article belongs, and where such taxes, or, as the case may be, such charges are leviable at different rates, the highest such tax or, as the case may be, such charge.

(6) For the purpose of calculating under sub-section (5), the additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in sub-section (2) of Section 14 of the Customs Act, 1962 (52 of 1962), be the aggregate of

(i) the value of the imported article determined under sub-section (1) of Section 14 of the Customs Act, 1962 (52 of 1962) or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

(ii) any duty of customs chargeable on that article under Section 12 of the Customs Act, 1962 (52 of 1962), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include

(a) the duty referred to in sub-section (5);

(b) the safeguard duty referred to in Sections 8-B and 8-C;

(c) the countervailing duty referred to in Section 9; and

(d) the anti-dumping duty referred to in Section 9-A.

(7) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(8) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.'

Section 3 shall be substituted.

3A. Special additional duty :-

⁴[Omitted]⁵

Substituted (w.e.f. 1-9-1978) by Section 2 of Act No. 26 of 1978.
Section 3A of the Customs Tariff Act shall be omitted by the

"Finance Act, 2005" Before Amendment the old are as under : 3A. Special additional duty:- (1) Any article which is imported into India shall in addition be liable to a duty (hereinafter referred to in this section as the special additional duty), which shall be levied at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India : Provided that until such rate is specified by the Central Government, the special additional duty shall be levied and collected at the rate of eight per cent of the value of the article imported into India. Explanation. - In this sub-section, the expression "maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India" means the maximum sales-tax, local tax, other charges for the time being in force, which shall be leviable on a like article, if sold or purchased in India, or if a like article is not so sold or purchased which shall be leviable on the class or description of articles to which the imported article belongs. (2) For the purpose of calculating under this section the special additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in S.14 of the Customs Act, 1962 or section 3 of this Act, be the aggregate of - (i) the value of the imported article determined under sub-section (1) of S.14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; (ii) any duty of customs chargeable on that article under S.12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but not including the special additional duty referred to in sub-section (1); and (iii) the additional duty of customs chargeable on that article under section 3 of this Act. (3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force. (4) The provisions of Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, but excluding drawback, shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act. (5) Nothing contained in this section shall apply to any article, which is chargeable to additional duties levied under sub-section (1) of S.3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957. (b) the First Schedule shall be amended in the manner specified in the Third Schedule. Excise country or territory, it shall be referred to the Central Government for decision and the decision of the Central Government shall be final and shall not be liable to be questioned in any court of law.

4. Levy of duty where standard rate and preferential rate are specified :-

(1) Where in respect of any article a preferential rate of revenue duty is specified in the First Schedule, or is admissible by virtue of a notification under Section 25 of the Customs Act, 1962, the duty to be levied and collected shall be at the standard rate, unless the owner of the article claims at the time of importation that it is chargeable with a preferential rate of duty, being ³[the produce or manufacture of such preferential area] as is notified under sub-section (3) and the article is determined, in accordance with the rules made under sub-section (2), to be such produce or manufacture.

(2) The Central Government may, by notification in the Official Gazette, make rules⁷ for determining if any article is ⁸[the produce or manufacture of any preferential area].

(3) For the purposes of this section and the First Schedule, ⁹[preferential area] means any country or territory, which the Central Government may, by notification in the Official Gazette, declare to be such area.

(4) Notwithstanding anything contained in sub-section (1), where the Central Government is satisfied that, in the interests of trade including promotion of exports, it is necessary to take immediate action for discontinuing the preferential rate, or increasing the preferential rate to a rate not exceeding the standard rate, or decreasing the preferential rate, in respect of an article specified in the First Schedule, the Central Government may, by notification in the Official Gazette, direct an amendment of the said Schedule to be made so as to provide for such discontinuance of, or increase or decrease, as the case may be, in the preferential rate.

(5) Every notification issued under sub-section (3) or sub-section (4) shall, as soon as may be after it is issued, be laid before each House of Parliament.

Substituted (w.e.f. 1-9-1978) by Section 3 of Act No. 26 of 1978.
See Annexure V.

Substituted (w.e.f. 1-9-1978) by Section 2 of Act No. 26 of 1978.

5. Levy of a lower rate of duty under a trade agreement :-

(1) Whereunder a trade agreement between the Government of India and the Government of a foreign country or territory, duty at a rate lower than that specified in the First Schedule is to be charged on articles which are the produce or manufacture of such

foreign country or territory, the Central Government may, by notification in the Official Gazette, make rules' for determining if any article is the produce or manufacture of such foreign country or territory and for requiring the owner to make a claim at the time of importation, supported by such evidence as may be prescribed in the said rules, for assessment at the appropriate lower rate under such agreement.

(2) If any question arises whether any trade agreement applies to any country or territory, or whether it has ceased to apply to India or any foreign

6. Power of Central Government to levy protective duties in certain cases :-

(1) Where the Central Government, upon a recommendation made to it in this behalf by the Tariff Commission established under Tariff Commission Act, 1951, is satisfied that circumstances exist which render it necessary to take immediate action to provide for the protection of the interests of any industry established in India, the Central Government may, by notification in the Official Gazette, impose on any goods imported into India in respect of which the said recommendation is made, a duty of customs of such amount, not exceeding the amount proposed in the said recommenda- tion, as it thinks fit.

(2) Every duty imposed on any goods under sub-section (1) shall, for the purposes of this Act, be deemed to have been specified in the First Schedule as the duty leviable in respect of such goods.

(3) Where a notification has been issued under sub-section (1), the Central Government shall, unless the notification is in the meantime rescinded, have a Bill introduced in Parliament, as soon as may be, but in any case during the next session of Parliament following the date of the issue of the notification to give effect to the proposals in regard to the continuance of a protective duty of customs on the goods to which the notification relates, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder: Provided that if the notification under sub-section (1) is issued when Parliament is in session, such a Bill shall be introduced in Parliament during that session: Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of

its introduction in Parliament, the notification shall cease to have effect on the expiration of the said period of six months, but without prejudice to the validity of anything previously done thereunder.

7. Duration of protective duties and power of Central Government to alter them :-

(1) When the duty specified in respect of any article in the First Schedule is characterised as protective in ¹⁰ [Column (5)] of that Schedule, that duty shall have effect only up to and inclusive of the date, if any, specified in that Schedule.

(2) Where in respect of any such article the Central Government is satisfied after such inquiry as it thinks necessary that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India and that circumstances exist which render it necessary to take immediate action, it may, by notification in the Official Gazette, increase or reduce such duty to such extent as it thinks necessary.

(3) Every notification under sub-section (2), insofar as it relates to increase of such duty, shall be laid before each House of Parliament if it is sitting as soon as may be after the issue of the notification, and if it is not sitting within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period

(4) For the removal of doubts, it is hereby declared that any notification issued under sub-section (2), including any such notification approved or modified under sub-section (3), may be rescinded by the Central Government at any time by notification in the Official Gazette.

Substituted (w.e.f. 1-9-1978) by Section 3 of Act No. 26 of 1978.

8. Emergency power of Central Government to increase or levy export duties :-

(1) Where, in respect of any article, whether included in the Second Schedule or not, the Central Government is satisfied that the export duty leviable thereon should be increased or that an export duty should be levied, and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, direct an amendment of the

Second Schedule to be made so as to provide for an increase in the export duty leviable or, as the case may be, for the levy of an export duty, on that article.

(2) The provisions of sub-sections (3) and (4) of Section 7 shall apply to any notification issued under sub-section (1) as they apply in relation to any notification increasing duty issued under sub-section (2) of Section 7 .

8A. Emergency power of Central Government to increase import duties :-

SECTION . . -

(1) Where in respect of any article included in the First Schedule, the Central Government is satisfied that the import duty leviable thereon under Section 12 of the Customs Act, 1962 should be increased and that circumstances exist which render it necessary to take immediate action, it may, by notification in the Official Gazette, direct an amendment of that Schedule to be made so as to provide for an increase in the import duty leviable on such article to such extent as it thinks necessary: Provided that the Central Government shall not issue any notification under this sub-section for substituting the rate of import duty in respect of any article as specified by an earlier notification issued under this sub-section by that Government before such earlier notification has been approved with or without modifications under sub-section (2).

(2) The provisions of sub-sections (3) and (4) of section 7 shall apply to any notification issued under sub-section (1) as they apply in relation to any notification increasing duty issued under sub-section (2) of section 7 .]

8B. Power of Central Government to impose safeguard duty

:-

SECTION . . -

(1) If the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article : Provided that no such duty shall be imposed on an article originating from a developing country so long as the share of imports of that article from that country does not exceed

three per cent or where the article is originating from more than one developing countries, then, so long as the aggregate of the imports from ¹³ "developing countries each with less than three per cent import share" taken together does not exceed nine per cent of

(2) The Central Government may, pending the determination under sub-section (1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry: Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause serious injury to a domestic industry, it shall refund the duty so collected : Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(4) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition: Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty should continue to be imposed, it may extend the period of such imposition: Provided further that in no case the safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.

(5) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of serious injury or causes of threat of serious injury in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(6) For the purposes of this section, -

(a) "developing country" means a country notified by the Central Government in the Official Gazette for the purposes of this section;

(b) "domestic industry" means the producers -

(i) as a whole of the like article or a directly competitive article in India; or

(ii) whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

(c) "serious injury" means an injury causing significant overall impairment in the position of a domestic industry;

(d) "threat of serious injury" means a clear and imminent danger of serious injury.

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.]

In the Customs Tariff Act, 1975, in section 8B of in the first proviso to sub-section (1), for the words "all such countries", the words "developing countries each with less than three per cent. import share" shall be substituted, by the Taxation Laws (Amendment) Act, 2006 .

8C. Power of Central Government to impose transitional product specific safeguard duty on imports from the Peoples Republic of China. :-

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(1) Notwithstanding anything contained in Section 8-B, if the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India, from the People's Republic of China, in such increased quantities and under such conditions so as to cause or threatening to cause market disruption to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article :

Provided that the Central Government may, by notification in the Official Gazette, exempt such quantity of any article as it may specify in the notification, when imported from the People's Republic of China into India, from payment of the whole or part of the safeguard duty leviable thereon.

(2) The Central Government may, pending the determination under subsection (1), impose a provisional safeguard duty under this subsection on the basis of a preliminary determination that increased imports have caused or threatened to cause market disruption to a

domestic industry :

Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause market disruption to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a notification issued under sub-section (1) or any safeguard duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation. For the purposes of this section, the expressions "hundred per cent export-oriented undertaking", "free trade zone" and "special economic zone" shall have the meanings respectively assigned to them in Explanation 2 to sub-section (1) of Section 3 of the Central Excise Act, 1944 (1 of 1944).

(4) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(5) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition :

Provided that if the Central Government is of the opinion that such article continues to be imported into India, from the People's Republic of China, in such increased quantities so as to cause or threatening to cause market disruption to domestic industry and the safeguard duty should continue to be imposed, it may extend the period of such imposition for a period not beyond the period of ten years from the date on which the safeguard duty was first imposed.

(6) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide

for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of market disruption or causes of threat of market disruption in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(7) For the purposes of this section,

(a) "domestic industry" means the producers

(i) as a whole of a like article or a directly competitive article in India; or

(ii) whose collective output of a like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

(b) "market disruption" shall be caused whenever imports of a like article or a directly competitive article produced by the domestic industry, increase rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry;

(c) "threat of market disruption" means a clear and imminent danger of market disruption.

(8) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

Section 8C shall be inserted by Finance Act, 2002 (20 of 2002), Published in the Gazette of India, Extra, Part II, Section 1, dated May 13, 2002, No.23.

9. Countervailing duty on subsidized articles :-

(1) Where any country or territory pays, bestows, directly or indirectly, any subsidy

Explanation. - For the purposes of this section, a subsidy shall be deemed to exist if -

(a) there is financial contribution by a Government, or any public body ¹⁶"in the exporting or producing country or territory", that is, where -

(i) a Government practice involves a direct transfer of funds (including grants, loans and equity infusion), or potential direct transfer of funds or liabilities, or both;

(ii) Government revenue that is otherwise due is foregone or not collected (including fiscal incentives);

(iii) a Government provides goods or services other than general infrastructure or purchases goods;

(iv) a Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i) to (iii) above which would normally be vested in the Government and the practice in, no real sense, differs from practices normally followed by Governments; or

(b) a Government grants or maintains any form of income or price support, which operates directly or indirectly to increase export of any article from, or to reduce import of any article into, its territory, and a benefit is thereby conferred.

(2) The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the amount of subsidy, impose a countervailing duty under this sub-section not exceeding the amount of such subsidy as provisionally estimated by it and if such countervailing duty exceeds the subsidy as so determined, -

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such countervailing duty; and

(b) refund shall be made of so much of such countervailing duty which has been collected as is in excess of the countervailing duty as so reduced.

(3) Subject to any rules made by the Central Government, by notification in the Official Gazette, the countervailing duty under sub-section (1) or sub-section (2) shall not be levied unless it is determined that -

(a) the subsidy relates to export performance;

(b) the subsidy relates to the use of domestic goods over imported goods in the export article; or

(c) the subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article unless such a subsidy is for -

(i) research activities conducted by or on behalf of persons engaged

in the manufacture, production or export;

(ii) assistance to disadvantaged regions within the territory of the exporting country; or

(iii) assistance to promote adaptation of existing facilities to new environmental requirements.

(4) If the Central Government, is of the opinion that the injury to the domestic industry which is difficult to repair, is caused by massive imports in a relatively short period, of the article benefiting from subsidies paid or bestowed and where in order to preclude the recurrence of such injury, it is necessary to levy countervailing duty retrospectively, the Central Government may, by notification in the Official Gazette, levy countervailing duty from a date prior to the date of imposition of countervailing duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section and notwithstanding anything contained in any law for the time being in force, such duty shall be payable from the date as specified in the notification issued under this sub-section.

(5) The countervailing duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(6) The countervailing duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition: Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension: Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

(7) The amount of any such subsidy as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules¹⁷ for the

identification of such article and for the assessment and collection of any countervailing duty imposed upon the importation thereof under this section.

18 "(7A)Unless, Otherwise,Provided the provisions of the Custom Act,1962(52 of 1962)and the rules and the regulations are made thereunder,relation to the date for determination of rate of duty, non-levy, Short-levy,refunds, interest,appeals,offences, and penalties shall as far may be apply to the duty chargeble under this section as they apply in relation to duties leviabile under the Act."

(8) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

In the Custom Tariff Act,1962(51 of 1962) (herein after referred to as Custom Tariff Act), in section 9 ,in sub-section (1), in the explanation , in clause (a) the words "within the territory of the exporting or producing country" the words "in the exporting or producing country or territory" shall be substistuted, by the Finance Act , 2006.

See Annexure X.

In the Custom Tariff Act,1962(51 of 1962) (herein after referred to as Custom Tariff Act), in section 9 , sub-section (7A) shall be inserted as follows :- "(7A)Unless, Otherwise,Provided the provisions of the Custom Act,1962(52 of 1962)and the rules and the regulations are made thereunder,relation to the date for determination of rate of duty, non-levy, Short-levy,refunds, interest,appeals,offences, and penalties shall as far may be apply to the duty chargeble under this section as they apply in relation to duties leviabile under the Act." by the Finance Act , 2006.

9A. Anti-dumping duty on dumped articles :-

SECTION . . -

(1) Where any article is exported from any country or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an antidumping duty not exceeding the margin of dumping in relation to such article.
Explanation. - For the purposes of this section, -

(a) "margin of dumping", in relation to an article, means the difference between its export price and its normal value;

(b) "export price", in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is

unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

(c) "normal value", in relation to an article, means -

(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either -

(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6) : Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

(2) The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the normal value and the margin of dumping in relation to any article, impose on the importation of such article into India an anti-dumping duty on the basis of a provisional

estimate of such value and margin and if such anti-dumping duty exceeds the margin as so determined : -

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such anti-dumping duty; and

(b) refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.

(3) If the Central Government, in respect of the dumped article under inquiry, is of the opinion that -

(i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and

(ii) the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied,

(4) The anti-dumping duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition: Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension: Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

(6) The margin of dumping as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider

necessary and the Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for any anti-dumping duty under this section may be identified, and for the manner in which the export price and the normal value of, and the margin of dumping in relation to, such articles may be determined and for the assessment and collection of such anti-dumping duty.

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

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(8) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, relating to non-levy, short levy, refunds and appeals shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.";

[R1]Inserted by S.89 of "Finance Act, 2000"

9AA. Refund of anti-dumping duty in certain cases :-

(1) Where an importer proves to the satisfaction of the Central Government that he has paid any anti-dumping duty imposed under sub-section (1) of Section 9-A on any article, in excess of the actual margin of dumping in relation to such article, he shall be entitled to refund of such excess duty: Provided that such importer shall not be entitled to refund of so much of such excess duty under this sub-section which is refundable under sub-section (2) of Section 9-A.

Explanation. For the purposes of this sub-section, the expressions "margin of dumping", "export price" and "normal value" shall have the meanings respectively assigned to them in the Explanation to sub-section (1) of Section 9-A.

(2) The Central Government may, by notification in the Official Gazette, make rules to

(i) provide for the manner in which and the time within which the importer may make an application for the purposes of sub-section (1);

(ii) authorise the officer of the Central Government who shall dispose of such application on behalf of the Central Government

within the time specified in such rules; and

(iii) provide the manner in which the excess duty referred to in sub-section (1) shall be

(A) determined by the officer referred to in clause (ii); and

(B) refunded by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, after such determination.';

(c) the First Schedule shall be amended in the manner specified in the Second Schedule.

9B. No levy under section 9 or section 9A in certain cases :-
SECTION . .

(1) Notwithstanding anything contained in section 9 or section 9A ,
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(a) no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;

(b) the Central Government shall not levy any countervailing duty or anti-dumping duty -

(i) under section 9 or section 9A by reasons of exemption of such articles from duties or taxes borne by the like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;

(ii) under sub-section (1) of each of these sections, on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favoured nation agreement (hereinafter referred as a specified country), unless in accordance with the rules made under sub-section (2) of this section, a determination has been made that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India; and

(iii) under sub-section (2) of each of these sections, on import into India of any article from the specified countries unless in accordance with the rules made under sub-section (2) of this section, a preliminary findings has been made of subsidy or dumping and consequent injury to domestic industry; and a further

determination has also been made that a duty is necessary to prevent injury being caused during the investigation: Provided that nothing contained in sub-clauses (ii) and (iii) of clause

(b) shall apply if a countervailing duty or an anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India;

(c) the Central Government may not levy -

(i) any countervailing duty under section 9 , at any time, upon receipt of satisfactory voluntary undertakings from the Government of the exporting country or territory agreeing to eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the article and if the Central Government is satisfied that the injurious effect of the subsidy is eliminated thereby;

(ii) any anti-dumping duty under section 9A , at any time, upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Central Government is satisfied that the injurious effect of dumping is eliminated by such action.

(2) The Central Government may, by notification in the Official Gazette, make rules²⁰ for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section, the factors to which regard shall be at in any such investigation and for all matters connected with such investigation.

See Annexures X and XI.

9C. Appeal :-

SECTION . . -

(1) An appeal against the order of determination or review thereof regarding the existence, degree and effect of any subsidy or dumping in relation to import of any article shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal constituted under Section 129 of the Customs Act, 1962 (hereinafter referred to as the Appellate Tribunal).

(2) Every appeal under this section shall be filed within ninety days

of the date of order under appeal : Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against.

(4) The provisions of sub-sections (1), (2), (5) and (6) of Section 129C of the Customs Act, 1962 shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under Customs Act, 1962 .

(5) Every appeal under sub-section (1) shall be heard by a Special Bench constituted by the President of the Appellate Tribunal for hearing such appeals and such Bench shall consist of the President and not less than two members and shall include one judicial member and one technical member.]

10. Rules to be laid before Parliament :-

Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

11. Power of Central Government to alter duties under certain circumstances :-

(1) Where the Central Government is satisfied that it is necessary so to do for the purpose of giving effect to any agreement entered into before the commencement of this Act with a foreign Government, it may, by notification in the Official Gazette, increase or reduce the duties referred to in section 2 to such extent as each case may require : Provided that no notification under this sub-section increasing or reducing the duties as aforesaid shall be

issued by the Central Government after the expiration of a period of one year from the commencement of this Act.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

11A. Power of Central Government to amend First Schedule

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" . 21

(1) Whereas the Central Government is satisfied that it is necessary so to do in the public interest, it may, by notification in the Official Gazette, amend the First Schedule :

Provided that such amendment shall not alter or affect in any manner the rates specified in that Schedule in respect of goods at which duties of customs shall be leviable on the goods under the Customs Act, 1962 (52 of 1962).

(2) Every notification issued under sub-sec. (1) shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised one session or in two or more successive sessions, and, if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previous done under the notification."

Inserted by THE CUSTOMS TARIFF (AMENDMENT) ACT, 2003 (Act 25 of 2003)

12. Repeal and saving :-

(1) Tariff Act, 1934, and the Indian Tariff (Amendment) Act, 1949 (I of 1949), are hereby repealed.

(2) Notwithstanding the repeal of any of the Acts mentioned in sub-section (1), anything done or any action taken (including any notification published and any rules and orders made or deemed to have been made under the provisions of those Acts and in force immediately before the commencement of this Act) shall, insofar as such thing or action is not inconsistent with the provisions of this

Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

13. Consequential amendment of Act 52 of 1962 :-

In Customs Act, 1962 , in sub-section (1) of Section 12 and in sub-section (1) of Section 14 , for the words and figures "Indian Tariff Act, 1934", the words and figures "Customs Tariff Act, 1975" shall be substituted.