

Dear All,

You are aware that the Directorate General of Trade Remedies has undertaken the exercise of introducing certain changes/modifications/corrections in the Trade Remedy Rules to bring in greater transparency and uniformity in trade remedy investigations.

Comments were invited earlier from all the stakeholders by 25th June, 2018 on some of these proposed changes in the Indian Anti-Dumping and Anti-Subsidy Rules with a view to making the entire process very inclusive.

Some further changes in the anti-subsidy rules are being proposed as illustrated below

All stakeholders are advised to offer their comments/ suggestions, if any, on these proposed changes latest by 10th July, 2018. Comments / suggestions should be mailed at policy-dgtr@gov.in

Regards,

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ADDITIONAL PROPOSAL FOR AMENDMENT IN ANTI SUBSIDY RULES

i) AMENDMENT IN RULE 4

Existing Rule 4	Proposed Rule 4
(d) to recommend the amount of countervailing duty, which if levied would be adequate to remove the injury to the domestic industry and the date of commencement of such duty; and	<p>d) to recommend to the Central Government</p> <p>(i) the amount of countervailing duty equal to the margin of subsidy or less, which if levied, would be adequate to remove the injury to the domestic industry, after considering the principles laid down in Annexure V to these Rules;</p> <p>(ii) the date of commencement of such duty;</p>

ii) INTRODUCTION OF ANNEXURE V TO ANTI-SUBSIDY RULES.

Existing Annexure V to Anti-Subsidy Rules	Proposed Annexure V to Anti-Subsidy Rules
None	Annexure V regarding determination of non-injurious price may be notified in anti-subsidy rules also in line with Annexure III notified for determination of NIP in anti-dumping rules.

INTRODUCTION OF RULE 24A RELATED TO NEW SHIPPER REVIEW IN ANTI-SUBSIDY RULES

Existing Rule 24 A	Proposed Rule 24 A
None	<p>Margin of subsidy for exporters not originally investigated. - (1) If a product is subject to countervailing duties, the designated authority shall carry out a periodical review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to India during the period of investigation, provided that these exporters or producers show that they are not related to any of the exporters or producers in the exporting country who are subject to the countervailing duties on the product. (2) The Central Government shall not levy countervailing duties under sub-section (1) of section 9 of the Act, on imports from such exporters or producers during the period of review as referred to in sub-rule (1) of this rule: Provided that the Central Government may resort to provisional assessment and may ask a guarantee from the importer if the designated authority so recommends and if such a review results in a determination of subsidy in respect of such products or exporters, it may levy duty in such cases retrospectively from the date of the initiation of the review</p>

INTRODUCTION OF RULE 25-28 RELATING TO ANTI-CIRCUMVENTION IN ANTI-SUBSIDY RULES

Existing Rule 25-28	Proposed Anti-Circumvention Rule 25-28
None	<p>25. Circumvention of countervailing duty. -</p> <p>(1) Where an article subject to countervailing duty is imported into India from any country including the country of origin or country of export notified for the purposes of levy of countervailing duty, in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India or in such country, such assembly, finishing or completion shall be considered to circumvent the countervailing duty in force if,-</p> <p>(a) the operation started or increased after, or just prior to, the countervailing duty investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of countervailing duty; and</p> <p>(b) the value consequent to assembly, finishing or completion operation is less than thirty-five percent of the cost of assembled, finished or complete article.</p> <p>Explanation I. – ‘Value’ means the cost of assembled, complete or finished article less value of imported parts or components</p> <p>Explanation II. - For the purposes of calculating the ‘value’, expenses on account of payments relating to intellectual property rights, royalty, technical know- how fees and consultancy charges, shall not be taken into account.</p> <p>(2) Where an article subject to countervailing duty is imported into India from country of origin or country of export notified for the</p>

	<p>levy of countervailing duty after being subjected to any process involving alteration of the description, name or composition of an article, such alteration shall be considered to circumvent the countervailing duty in force if the alteration of the description or name or composition of the article subject to countervailing duty results in the article being altered in form or appearance even in minor forms regardless of the variation of tariff classification, if any.</p> <p>(3) Where an article subject to countervailing duty is imported into India through exporters or producers or country not subject to countervailing duty, such exports shall be considered to circumvent the countervailing duty in force if the exporters or producers notified for the levy of countervailing duty change their trade practice, pattern of trade or channels of sales of the article in order to have their products exported to India through exporters or producers or country not subject to countervailing duty.</p> <p>Explanation.- For the purposes of this sub-rule, it shall be established that there has been a change in trade practice, pattern of trade or channels of sales if the following conditions are satisfied, namely:-</p> <p>(a) absence of a justification, economic or otherwise, other than imposition of countervailing duty;</p> <p>(b) evidence that the remedial effects of the countervailing duty are undermined in terms of the price and or the quality of like products.</p> <p>26. Initiation of investigation to determine circumvention.- (1) Except as provided herein below, the designated authority may initiate an investigation to determine the existence and effect of any alleged circumvention of the countervailing duty levied under section 9 of the Act, upon receipt of a written application by or on behalf of the domestic industry.</p> <p>(2) The application shall, inter-alia, contain sufficient evidence as regards the existence of</p>
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	<p>the circumstances to justify initiation of an anti-circumvention investigation.</p> <p>(3) Notwithstanding anything contained in sub-rule (1), the designated authority may initiate an investigation suo-motu if it is satisfied from the information received from the Commissioner of Customs appointed under the Customs Act, 1962 (52 of 1962) or any other source that sufficient evidence exists as to the existence of the circumstances pointing to circumvention of countervailing duty in force.</p> <p>(4) The designated authority may initiate an investigation to determine the existence and effect of any alleged circumvention of the antidumping duty in force where it is satisfied that imports of the article circumventing countervailing duty in force are found to be dumped:</p> <p>Provided that, the designated authority shall notify the government of the exporting country before proceeding to initiate such an investigation.</p> <p>(5) The provisions regarding evidence and procedures under rule 7 shall apply mutatis mutandis to any investigation carried out under this rule.</p> <p>(6) Any such investigation shall be concluded within 12 months and in no case more than 18 months of the date of initiation of investigation for reasons to be recorded in writing by the designated authority.</p> <p>27. Determination of circumvention.- (1) The designated authority, upon determination that circumvention of countervailing duty exists, may recommend imposition of countervailing duty to imports of articles found to be circumventing an existing countervailing duty or to imports of article originating in or exported from countries other than those which are already notified for the purpose of levy of the countervailing duty and such levy</p>
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	<p>may apply retrospectively from the date of initiation of the investigation under rule 26.</p> <p>(2) The designated authority shall issue a public notice recording its findings.</p> <p>(3) The Central Government may, pursuant to the recommendations made by the designated authority, extend the countervailing duty to imports of article including imports of such article from the date of initiation of the investigation under rule 26 or such date as may be recommended by the designated authority.</p> <p>28. Review of circumvention.-</p> <p>(1) The designated authority may review the need for the continued imposition of the duty, where warranted, on its own initiative or provided that a reasonable period of time has elapsed since the imposition of the measures, upon request by any interested party which submits positive information substantiating the need for the review.</p> <p>(2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of review.</p>
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