

Customs Tariff Act, 1975

Section 9 - COUNTERVAILING DUTY ON SUBSIDIZED ARTICLES

1) Where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, upon the importation of any such article into India, whether the same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been changed in condition by manufacture, production or otherwise, the Central Government may, by notification in the Official Gazette, impose a countervailing duty not exceeding the amount of such 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 within the territory of the exporting or producing country, 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 subsection (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 rules 14 for the identification of such article and for the assessment and collection of any countervailing duty imposed upon the importation thereof under this section. (8) 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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