4th January, 2002

Notification No. 1 /2002 Customs (N.T.)

In exercise of the powers conferred by sub-section (6) of section 9 A and sub-section (2) of section 9B of the Customs Tariff Act, 1975 (51 of 1975), the Central Government hereby makes the following rules further 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.	(1)	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, 2002.
	(2)	They shall come into force on the date of their publication in the Official Gazette.
2.	In Annexure I to the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, for paragraph 8, the following paragraph shall be substituted, namely :-	
	"8. (1)	The term "non-market economy country" means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)
	(2)	There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economy country.

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	Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).		
	(3)	The designated authority shall consider in each case the following criteria as to whether :	
		(a)	the decisions of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
		(b)	the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
		(c)	such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
		(d)	the exchange rate conversions are carried out at the market rate:
			Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria

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			specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph".

Rajendra Singh
Under Secretary to the Government of India

F.No.525/2/94-CUS (TU) PT.

NOTE :- The principal rules were published in the Gazette of India Extraordinary vide G.S.R. 1(E), dated 1st January, 1995 and was last amended vide G.S.R. 405 (E), dated 31st May, 2001.

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