31st May, 2001.

Notification No. 28/2001-Customs (N.T.)

In exercise of the powers conferred by sub-section (6) 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 further to amend the Custom 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, 2001.

(ii) 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,-

(i) in paragraph 7, after the words "designated authority in a reasonable manner", the following shall be inserted, namely:-

"keeping in view the level of development of the country concerned and the product in question" ;

(ii) after paragraph 7, the following paragraph shall be inserted, namely:-

"8. The term "non market economy country" subject to the Note to this paragraph means every country listed in that note and includes any country which the designated authority determines and which does not operate 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. While making such determination, the designated authority shall consider as to whether,-

(i) 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;

(ii) 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;

(iii) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and

(iv) the exchange rate conversions are carried out at the market rate :

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Provided that in view of the changing economic conditions in Russia and in the Peoples" Republic of China, where it is shown on the basis of sufficient evidence in writing on the factors specified in this paragraph that market conditions prevail for one or more such firms are 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 this paragraph.

Note.- For the purposes of this paragraph, the list of non market economy countries is Albania, Armenia, Azerbaijan, Belarus, Peoples" Republic of China, Georgia, Kazakstan, North Korea, Kyrghyzstan, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan and Vietnam. Any country among them seeking to establish that it is a market economy country as per criteria enunciated in this paragraph, may provide all necessary information which shall be taken due account by the designated authority".

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 1.1.95 and was last amended vide G.S.R.521(E), dated 15.7.99.

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