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Anti-dumping Duty of Rs. 200 per Piece on Pen Drives Recommended

- Impost to Spawn Rs. 1100 Cr Grey Market
- China, Taiwan Allege "Sentencing without Hearing and Trial" in Violation of WTO Rules

The long drawn 18 month investigation on the import of USB flash drive (pen drive in trade parlance) came to an end on 19 December with the DGAD slapping an anti-dumping duty on all imports at $3.12 per piece (China), $3.06 per piece (Taiwan). The final notification to implement the findings is to be issued by the Department of Revenue within 30 days so one can expect the levy of the duty by 19 January 2015 in a normal course. The Department of Commerce skipped the normal stage of preliminary findings followed by final findings after field visit to verify the data. In this case, initiation went straight to final findings stage.

The Department of Electronics or Department of Revenue can ask for reconsideration by the designated authority in the Commerce Ministry on grounds of national interest or lack of due process. It may be recalled that the anti-dumping duty on solar panels was halted by the Department of Revenue on grounds of consumer interest and strategy national interest of promoting Indo-US interests even though the designated authority had recommended a duty of 11-81 cents per watt.

The calculation shows that a 4 GB pen drive for Rs. 300 will be up by Rs. 200 after suffering anti-dumping duty of Rs. 187 and VAT of Rs. 9.35 at five percent. A 4GB Moser Baer pen drive is available at Rs. 270 in Nehru Place market. The current annual market size is estimated at 400mn pieces which is Rs. 1200 crores. Imports constitute for 93 percent of this market. Thus we can expect about Rs. 1100 crores will go underground since the smuggling margin is Rs. 200 per piece. (It may be recalled that the imposition of 12 percent CVD on pen drive three years back boosted the grey market). Finally, the artificial technicality which resulted in the high 12% CVD was corrected to restore normally.

Highlights

- Indian prices and costs were used to artificially construct the reference domestic price (normal value) to determine the dumping margin consisting of the difference between the export price and the constructed domestic price. This is contrary rules.
- The contentions of the 28 exporters in defence were rejected on grounds like origin in other countries such as Ireland, Japan, Singapore etc. Only pure China and Taiwan origin companies were considered but these too were thrown out on technicalities like non supply of complete information.
- The Global Supply Chain of Ireland-Japan-China-Singapore based operations of sourcing, assembly, testing, packaging, marketing and R&D was not considered. The authority was looking for a single China or Taiwan based entity which is not possible in a Globalised World.
- Import of all models from 4 GB to 128 GB were averaged to arrive at a high landed price. This was used to compare with the domestic price and arrive at a "non injurious price" and "70%-80% undercutting. There was no model to model comparison which is unfair to the exporters and the consumer.

USB flash drives are typically small, lightweight, hot-swappable and rewritable. They are hot-swappable in the sense that they may be plugged or removed without shutting down or causing significant interruption to the system is ideal for data swapping and for storage on account of high capacity going up to 128 GB. A 3 GB file can be transferred to a UFD in 20 seconds. Thus all cameras, laptops, tablets and mobile users love pen drives. Besides data, they store movies, music in a reliable, easy to use and affordable manner. The 4 GB and 8 GB versions are popular in the price range of Rs. 270 to 330. The subject goods are classified under Customs Classification Code 85235100.

NAND flash is similar to other secondary data storage devices, such as hard disks and optical media, and is thus very suitable for use in mass-storage devices, such as memory cards.

- M/s Storage Media Products Manufacturers & Marketers Welfare Association filed an application on behalf of the domestic producers represented by M/s Moser Baer India Limited for anti-dumping duty on USB flash drives.
- Majors totalling to 28 in China and Taiwan were identified, the prominent ones being SanDisk and Sony, ADATA, Samsung and Kingston. Major distributors like Ingram and Redington filed questionnaires along with Indian companies like HCL as many as 24 importers by the duty.
- The period of investigation (POI) for the purpose of present investigation is 1st January 2012 to 31st December 2012 (12 months). The injury investigation period, however, covered

Indian Basket Crude Falls 10% to $43.48

Rupee Rises 1.02%

Crude Oil (Indian Basket) from 7 to 13 Jan 2015

	7 Jan*	8 Jan*	9 Jan*	12 Jan*	13 Jan*
($/bbl)	46.97	47.95	47.36	45.86	43.48
(Rs/bbl)	2980.25	3019.41	2955.26	2850.66	2700.11
(Rs/$)	63.45	62.97	62.40	62.16	62.10

**(Previous Trading Day Price)*
Source: Ministry of Petroleum & Natural Gas

the periods 2009-10, 2010-11, 2011-12 and the POI.

- SanDisk Dual Drive and the SanDisk Connect Wireless Flash Drive, which are not manufactured by the domestic industry. The same hold good for version 3.0 UFDs which are 10 times faster than the version 2.0 made by Moser Baer. A full length movie can be transferred on version 3.0 in 50 seconds! Moser Baer makes pen drives upto 32 GB but the imported pen drives going up to 128 GB/256 GB covered in the impost.
- New Technology Chip on board (COB) (a type of flash drive in which both the controller and the flash memory are built together) were first included in import data by Moser Baer. Later on, these were excluded as the domestic producer himself was importer. It is claimed that COB is an unfinished flash drive with little value addition.
- If COB is considered as a part of the PUC, Moser Baer should not be considered to be a part of the domestic industry on account of it admittedly importing COB. Moser Baer says that they have imported the components for manufacturing of COB flash drives. Therefore, the imports of components by Moser Baer do not affect the standing of the company as domestic industry under the Rules.
- Costs and prices of the product under consideration vary significantly with changes in storage capacity and therefore they cannot be considered as alike, the Authority noted that the cost and price difference between capacity to capacity USBs is reasonable. Considering the functional substitutability, keeping aside some capacity USBs out of the purview of anti-dumping measures would encourage the exporters to dump the same and replace the domestic industry's products in the market.
- A consumer requiring a UFD of 128 GB for large data storage will not opt for UFDs of storage capacity 32 GB. But the Authority says that nothing prevents the consumer to store the required data in more than one UFD.
- Moser Baer India Limited is the sole producer of the product under consideration in India. There is no other company in India known to be producer of the subject goods in India. Moser Baer does not import the subject goods. It is not related to any of the exporters or importers of the dumped goods. Therefore, Moser Baer India Limited constituted domestic industry for the purpose of the present investigation. Om Nano Tech" and "Amkette" are not undertaking complete production process of the subject goods and, therefore, cannot be treated as domestic producers.
- Imports of raw materials, parts, components, inputs, consumables or capital goods NAND Flash is main component which is imported. The value is mainly assembly, testing and packaging (ATP) which is low in India and does not need protection. Moser Baer is earning good profits and return on investment. In spite of import competition, it has 7% of market share and a significant player in the export market.
- Production of product under consideration involves a large number of activities. Some of the essential activities are listed below.

a) Conceptualizing the product and a model
b) Designing the product
c) Designing the PCB
d) Undertaking full production activities using PCB. The activities involved in this are
e) Software development
f) Testing technology and facilities
g) Research and development incidental to producing the product. Petitioner has carried out all the above activities in COB substrate based flash drive produced and sold by them.

- Moser Baer should disclose the legal proceedings going on against the Company. Nevertheless, vide order dated 14.10.2014, Hon'ble Delhi High Court has already disposed of the winding up petition.

Yen is the New Safe Have, Rises to 117 per Dollar, Aussia Falls 0.9% to 81 cents

The yen rose 0.7 percent to 117.11 per dollar in Tokyo from 13 Jan. It strengthened for a fifth day against the euro, climbing 0.6 percent to 138.04 yen. The euro was little changed at $1.1789 after it touched $1.1753 yesterday, the least since December 2005.

The Aussie dropped 0.9 percent to 80.88 U.S. cents after copper fell below $5,400 a metric tonne in London, the lowest level since July 2009.

The yen is the best performer in the past month against nine developed-nations. It has risen 5.7 percent amid increased demand for haven assets amid a plunge in oil and declines in global stock markets. The euro has fallen 2.2 percent in the period, while the dollar gained 4 percent.

The Japanese stocks fell following declines in oil and copper to the lowest levels since 2009.

If stocks continue to slump on the idea that low oil prices will become a risk to the U.S. or the global economy, dollar-yen will continue to fall.

Copper Crashes 19.3% Over Dec Average

- Crude Fall Triggers Commodity Collapse
- Bears Lead Attack on Metal Prices

Copper tumbled the most in almost six years to below $5,400 a metric tonne as speculation that demand will not copy with a supply glut. A sell-off in industrial metals has begun. The World Bank Dec 2014 average for copper was $6446 per tonne.

Copper for delivery in three months on the London Metal Exchange dropped as much as $506.75 a metric tonne to $5,353.25, the lowest intraday price since July 2009. The metal was trading 6.3 percent lower at $5,492.75 a tonne.

Copper slumped as much as 8.7 percent in London and fell to the daily trading limit in Shanghai. Demand for the metal in China, the world's biggest user, is forecast to slow this year while supply rises globally. All other metals on the LME declined on 14 January, with nickel dropping to the weakest since February 2014.

Commodities have collapsed to the lowest level in more than 12 years, led by a rout in energy prices, after a decade-long bull market led companies to boost production and a stronger dollar diminished their allure to investors. Oil's 60 percent decline since last year's peak is reducing energy costs for mining companies to unleash bearish trend. Copper is the worst performing non-energy raw material since August 2002.

Copper is falling faster than most other commodities because "it's the one that is played by the macro investors and by people who are looking at the broader picture rather than commodity fundamentals."

The slump in commodities prices is lowering expectations for inflation around the world, raising the prospect of falling consumer prices and tempering speculation that central banks will start raising interest rates.

Rising Inventories

Copper's slide also dragged down shares of metal producers while boosting manufacturers and utilities. Jiangxi Copper Co. (358), China's largest producer, dropped 4.4 percent in Hong Kong while BHP Billiton Ltd., the world's biggest miner, slid to an almost six-year low in Sydney. Electricity generator Huadian Power International Corp. (1071) surged 7.4 percent in Hong Kong.

Inventories of the metal monitored by major exchanges in London, New York and Shanghai have climbed 4.5 percent since the start of the year and are up 29 percent since June, when they dropped to the lowest in more than five years.

Refined production will exceed demand this year by 221,000 tons, widening from 59,000 tons in 2014, Gayle Berry, an analyst at Jefferies Bache Ltd., said in a Jan. 7 report. About 1.6 million tons of new mine supply of the metal may come online in 2015, Bloomberg Intelligence said last month.

Cheaper Energy

London-traded Brent crude slid to the weakest since March 2009 yesterday and extended losses to $46.08 a barrel on the ICE Futures Europe exchange on 14 January. The decline will help cut costs to produce and transport metals, according to Natixis SA. Energy makes up about 25 percent of copper mining costs, CRU estimates.

Investors last week doubled bets on more losses in copper, already the worst-performing industrial metal in the past year after plunging 24 percent. Investors increased the net-short position in copper to 10,881 Comex contracts in the week ended Jan. 6, compared with 4,455 a week earlier, according to Commodity Futures Trading Commission data.

WEEKLY INDEX OF CHANGES

Board Allows Packing List in Export/Import Invoice as Measure of "Simplification"

Subject: Merging of Commercial invoice and packing list.

01-CBEC 12.01.2015 (DoR) Simplification of Customs procedures for enhanced ease of doing business and trade facilitation is the top priority of the Government. One of the identified areas for such simplification is reduction in the number of mandatory documents required by Customs for import and export of goods.

2. As per the extant Customs procedures for both import and export, an importer / exporter is required to submit a commercial invoice and packing list along with the Customs declaration form viz. Bill of Entry/Shipping Bill. Both commercial invoice and packing list are critical for Customs purposes as the former evidences the value of the import/ export goods while the latter facilitates examination of goods for ascertaining correctness of duty and quantity. However, there are many identical data fields in a commercial invoice and packing list. Therefore, an exercise was undertaken to explore the feasibility whether these documents can be merged into one document, which would have the advantage of reducing the total number of documents to be submitted to Customs with resultant benefit to trade. In this regard, it is seen that the following data fields / information are invariably contained in a packing list (other than the common data fields / details of commercial invoice):

Description of Goods;
Marks and Numbers;
Quantity;
Gross Weight;
Net Weight;
Number of Packages;
Types of Packages (such as pallet, box, crates, drums etc.).

3. The Board has decided that as a measure of simplification, in case an importer/exporter submits a **commercial invoice cum packing list** that contain above mentioned data fields / information in addition to the details in a commercial invoice, a separate packing list should not be insisted upon by Customs. However, the option should be given to the importer/exporter to do so. In other words, for Customs purposes a c**ommercial invoice cum packing list** (with details of marks and numbers as mentioned in para 2 above) would suffice but if importer/exporter desires to give a separate packing list for some reason, the same would also be accepted, as at present.

4. Board desires that all Chief Commissioner of Customs should ensure that above guidelines are complied with scrupulously by the field formations. Wide publicity may also be given to trade and industry stakeholders to sensitize them about the guidelines. Chief Commissioners of Customs should also monitor compliance thereof at their level.

5. Difficulty, faced, if any may be brought to the notice of the Board.

F. No. 450/25/2013-Cus IV (Pt.)

Srinagar (Tripura) LCS in Indo-BDesh Border Haat Notified for Zero Duty Local Produce Import

Ntfn 02 06.01.2015 (DoR) In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue, No. 60/2011-Customs, dated the 14th July, 2011, published vide number G.S.R. 536(E), dated the 14th July, 2011, namely:-

In the said notification, for condition (i), the following shall be substituted, namely: -

"(i) the importer produces evidence to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, that such goods have, in fact, been locally produced in Bangladesh and are imported into India through the land route from Balat, Kalaichar or Srinagar (Tripura) land customs station for sale in Balat, Kalaichar or Srinagar (Tripura) border haats, as the case may be;".

2. This notification shall come into force with effect from the 13th day of January, 2015.

F. No. 354/64/2010-TRU]

Anti-dumping Duty on SDH Transmission Equipments from China and Israel Extended upto 7 Dec 2015 for Review Action

Ntfn 01-ADD 05.01.2015 (DoR) Whereas, the designated authority *vide* notification No. 15/20/2014-DGAD, dated the 6th December, 2014, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 6th December, 2014, has initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on all kinds of Synchronous Digital Hierarchy Transmission Equipment (hereinafter referred to as the subject goods), falling under sub-heading 8517 62 or 8517 70 of the First Schedule to the Customs Tariff Act, originating in or exported from China PR and Israel, imposed *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 125/2010- Customs, dated the 16th December, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.981(E), dated the 16th December, 2010, and has requested for extension of anti-dumping duty for a further period of one year, in terms of sub-section (5) of section 9A of the Customs Tariff Act, pending the completion of the review.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 125/2010-Customs, dated the 16th December, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.981(E), dated the 16th December, 2010, namely: -

In the said notification, after the paragraph 2 and before the Explanation, the following paragraph shall be inserted, namely:-

"3. Notwithstanding anything contained in paragraph 2, this notification shall remain in force upto and inclusive of the 7th day of December, 2015.".

[F.No. 354/204/2009-TRU (Pt-I)]

Zero Customs Duty on Bunker Fuels for use in Indian Flag Vessels for Carrying Cargo Allowed without Time Limit

Ntfn 03 07.01.2015 (DoR) In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/2012-Customs, dated the 17th March,2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i),*vide* number G.S.R.185 (E), dated the 17th March,2012, namely:-

In the said notification, after the Table, in the proviso, clause (bd) and the entries relating thereto, shall be omitted.

[F. No. 354/126/2014-TRU]

Zero Excise Duty on Bunker Fuels for use in Indian Flag Vessels for Carrying Cargo Allowed without Time Limit

02-CE 07.01.2015 (DoR) In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/2012-Central Excise, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 163(E), dated the 17th March, 2012, namely: -

In the said notification, in the opening paragraph, the third proviso shall be omitted.

[F. No. 354/126/2014-TRU]

Anti-dumping Duty on Melamine from China Extended for One More Year for Review

Ntfn 02-ADD 07.01.2015 (DoR) Whereas, the designated authority *vide* notification No.15 17/2014-DGAD, dated the 9th December, 2014, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 9th December, 2014, has initiated review, in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on "Melamine", falling under Chapter 29 of the First Schedule to the Customs Tariff Act, originating in, or exported from, People's Republic of China, imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue),No. 10/2010-Customs, dated the 19th February, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 91 (E), dated the 19th February, 2010 and has requested for extension of anti-dumping duty for a further period of one year, in terms of sub-section (5) of section 9A of the Customs Tariff Act.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 10/2010-Customs, dated the 19th February, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 91 (E), dated 19th February, 2010, namely: -

In the said notification, after paragraph 2 and before the Explanation, the following paragraph shall be inserted, namely: -

"3. Notwithstanding anything contained in paragraph 2, this notification shall remain in force up to and inclusive of the 18thday of February, 2016, unless revoked earlier.".

[F.No.354/28/2004-TRU (Pt.-I)]

Duty Free Natural Rubber in AA must be Exported within Six Months of Import

Sub: Amendment in Appendix – 30 A relating to Export Obligation Period under Advance Authorization/DFIA Schemes.

81-PN(RE) 09.01.2015 (DGFT) In exercise of powers conferred under Para 2.4 of the Foreign Trade Policy, 2009-14, the Director General of Foreign Trade hereby makes the following amendments in the Appendix 30A of the Handbook of Procedures (Vol.1), 2009-14:-

2. Following Entry is added in the table of Appendix 30A related to "Export Obligation Period for specified inputs" with immediate effect:-

SNo.	Import Item(s)	Export Obligation Period from the date of clearance of each import consignment by Customs authority
7)	Natural Rubber	6 months

3. Effect of this Public Notice

Export obligation period has been reduced to six months from the date of clearance of each consignment by customs authority, wherever Natural Rubber is allowed as an input under Advance Authorisation / DFIA Schemes.

SEZ Allowed Dual Use of Duty Paid Non Processing Area for Housing (25%) and Commercial (10%) Area

Lease Sale Permitted

[MoC&I Gazette Notification G.S.R. 5(E) dated 2nd January 2015]

In exercise of the powers conferred by Section 55 of the Special Economic Zones Act, 2005 (28 of 2005), the Central Government hereby makes the following rules further to amend the Special Economic Zones Rules, 2006, namely:-

1. (1) These rules may be called the Special Economic-Zones (Amendment) Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Special Economic Zones Rules, 2006 (hereinafter referred to·as the principal rules), in rule 11, in sub-rule (10), the second proviso shall be omitted.

3. In the principal rules, after rule 11, the following rule shall be inserted, namely:-

"11A. Bifurcation of non-processing area: The non-processing area can be bifurcated into two parts, namely:-

(1) Where the social or commercial infrastructure and other facilities are permitted to be used by both the Special Economic. Zone and Domestic Tariff Area entities: No exemptions, concessions or drawback shall be admissible for creation of such infrastructure. The Customs duty, Central Excise duty, Service Tax, and such other Central levies and tax benefits already availed for creation of such infrastructure shall be refunded by the Developer in full, without interest. However, in cases of short payment of the amount refundable to the Government on account of dual use permission, interest will have to be paid at the rate of fifteen per cent per annum from the day the said amount becomes payable to the date of actual payment. Utilisation of SEZ land shall be subject to following conditions:

(a) the land is to be put to only such use which is as per the regulations of the concerned State Government or local bodies;

(b) if any exemption or refund has been taken from State or local taxes like stamp duty, change of land uses, etc., the same shall be refunded back to State Government or local authorities and a certificate to this effect shall be produced from the concerned authorities;

(c) No Objection Certificate (NOC) from the concerned State Government shall be produced before the consideration of the request by Board of Approval (BoA). State Government may issue No Objection Certificate (NOC) taking into consideration (a) and (b) above.

(2) Where the social or commercial infrastructure and other facilities are permitted to be used only by Special Economic Zone entities: This portion shall be bonded and physically segregated from the Domestic Tariff Area, non-processing area, specified at (1) above and the processing area of the Special Economic Zone. The infrastructure, as may be approved by the Board, for this part of non-processing area shall be eligible for exemptions, concessions and drawback.

(3) The Department of Commerce has provided the following norms with respect to areas to be earmarked for residential, commercial and other social facilities:-

(a) The Developer or Co-developer shall submit an application in the format as specified by the Central Government to the Development Commissioner indicating therein the portion of the non-processing area where social or commercial infrastructure and other facilities are proposed to be used by both Special Economic Zone and Domestic Tariff Area entities and the said application shall be accompanied with a copy of the Infrastructure Plan and No Objection Certificate from the concerned State Government and supporting documents.

(b) The Development Commissioner shall forward the said application to the Board of Approval (BoA) for approval.

(c) The area restrictions for duty paid dual use non processing area in the Special Economic Zones:-

(i) Housing - not more than twenty five per cent of non-processing area;

(ii) Commercial- not more than ten per cent of non-processing area;

(iii) Open area and circulation area-not less than forty five per cent of non-processing area;

(iv) Social and institutional infrastructure including schools, colleges, sociocultural centres, training institutes, banks, post office, etc., in the remaining area.

(d) Floor Area Ratio or Floor Space Index shall conform to the norms of the concerned local authorities.

(e) No sale shall be permitted of such duty paid dual use infrastructure in the non-processing area and only lease hold rights can devolve upon the users or transferees of the said dual use duty paid infrastructure in Non Processing Area of Special Economic Zones; and

(f) Any other conditions as may be specified by the Department of Commerce or Board of Approval".

[F. No. C.1/2/2014-SEZ]

MAA (Methyl Acetoacetate) under Anti Dumping Lens on Complaint of Single Producer

Artificial Construction of Normal Value for both China and US Adopted

Subject: Initiation of anti-dumping investigation in respect of imports of Methyl Acetoacetate originating in or exported from United States of America (USA), and China PR

[No.14/7/2014-DGAD dated 07 January 2015]

The petition has been filed by M/s Laxmi Organic Industries Ltd. The petitioner has claimed that they have neither imported the subject goods from the subject countries nor are they related to any exporter or importer of the product in the subject countries; that they are the only producer of the subject goods in India and there is no other producer of the product under consideration in India. As per the evidence available on record, the Authority notes that the production of the petitioner accounts for the total domestic production of the like article. The Authority, therefore, determines that M/s Laxmi Organic Industries Ltd. (hereinafter referred to as the domestic industry or the petitioner) constitutes the domestic industry within the meaning of Rule 2 (b) and the petition satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

The product under consideration in the present petition is Methyl Acetoacetate. Methyl Acetoacetate (also known as MAA/MAAE/AAME) in the present petition is a Diketene based Ester or aceto-acetate. Esters react with acids to liberate heat along with alcohols and acids. Strong oxidizing acids may cause a vigorous reaction that is sufficiently exothermic to ignite the reaction products. Heat is also generated by the interaction of esters with caustic solutions. Flammable hydrogen is generated by mixing esters with alkali metals and hydrides.

Methyl Acetoacetate finds uses in Pharmaceutical Industry, Agrochemical Industry, Polymer Industry, as a reactant in other industries. MAA is also used as a flavouring agent and in colourants.

Methyl Acetoacetate is classified in Chapter 29 of the Customs Tariff Act under the subheading 29183040, as 'Methyl Acetoacetate". The product under consideration has dedicated customs classification under the Customs Tariff Act. On analyzing the import data, it has been observed that the subject goods are being imported under various other classifications as well. Therefore, the customs classification is indicative only and is in no way binding on the scope of the proposed investigation.

The petitioner has claimed that China PR should be treated as a non-market economy and the normal value should be determined in accordance with para 7 of Annexure-I to the Rules.

The normal values have been constructed for the subject countries by adopting the rates of major raw materials prevailing in the domestic industry. For USA, utility prices prevailing in USA have been adopted. For China, utility prices of the domestic industry have been adopted. Other costs of the domestic industry have been considered for working out the constructed normal values.

The petitioner has furnished prima facie evidence regarding the injury having taken place as a result of the alleged dumping in the form of increased volume of dumped imports, price undercutting, price suppression and decline in profitability, return on capital employed etc. There is sufficient prima facie evidence of the injury being suffered by the petitioner caused by the dumped imports from the subject countries to justify initiation of an anti dumping investigation.

Mandatory Pre-deposit of Duty or Penalty for Filing Appeal before CESTAT

CBEC Issues Uniform Data Format for e-Register

Sub: Mandatory pre-deposit of duty or penalty for filing appeal.

993-CBEC
05.01.2015
(DoR)

Attention is invited to Circular No 984/08/2014-CX dated 16th September, 2014 on the captioned subject. While para 6 of this Circular laid down the procedure and manner of refund, para 7.2 clearly directed that the Commissionerates should maintain a database of the record of deposits made so as to facilitate seamless verification of the deposits at the time of processing the refund claims made in case of favourable order from the Appellate Authority.

2. In order to maintain uniformity in the database being maintained, the following columns are suggested to be maintained in a separate register (e-register preferably) in the Review Cell of each Commissionerate. The following columns need to be filled in on receipt of each appeal memo as directed in Para 6.2 of the Circular mentioned above. The data should be maintained separately in respect of appeals before CESTAT and Commissioner (Appeals)-

(i) Sl. No.

(ii) Name of the Appellant/ Party

(iii) Details of duty paying document viz Challan etc

(iv) Amount of pre-deposit paid

(v) Order No and date of the order of Commissioner(A)/Tribunal

3. Rule 17 of the CESTAT (procedure) Rules, 1982 stipulates that a copy of the appeal memo is to be sent to the Departmental Representative as well as to the Executive Commissionerate. This is required to be done by the Tribunal registry where the appeal memo is received. It has been brought to the notice of the Board that appeals filed before the Tribunal on or after 6th August are not being sent to the Commissionerate. Therefore, it is emphasized that Rule 17 ibid has to be followed and the Tribunal Registry must send a copy of the appeal memo to the Commissionerate immediately after receipt. Similarly, a copy of the appeal memorandum filed before the Commissioner (Appeal) must be sent to the Commissionerate concerned by the office of the Commissioner (Appeals). This would help in processing the refund claims quickly.

4. Para 1.2 of the Circular ibid stated that amended provisions would apply to appeals filed after 6th of August, 2014. An Act of Parliament comes in to effect on the date it received the assent of the President of India. Hence, the amended provisions regarding filing of appeal along with stipulated percentage of pre-deposit shall apply to all appeals filed on or after 6th August, 2014. Para 1.2 of the earlier Circular stands suitably modified.

5. Several representations have been received by the Board stating that some Commissioners (Appeals) have been insisting on pre-deposit in cases of demand of erroneous drawback granted. It has been represented that drawback is not a duty and hence the amended provisions would not apply to such cases.

6. The issue has been examined. Drawback, like rebate in Central Excise, is refund of duty suffered on the export goods. Section 129E stipulates that appellant filing appeal before the Commissioner (Appeals) shall pay 7.5% of the duty demanded where duty and penalty are in dispute. Accordingly, it is clarified that mandatory pre-deposit would be payable in cases of demand of drawback as the new section 129E would apply to such cases.

7. The ambit of the Section 129E of the Customs Act, 1962 in the legislation does not extend to appeals under section 129DD before Joint Secretary (Revision Application). Therefore, while mandatory pre-deposit would be required to be paid in cases of drawback, rebate and baggage at the first stage appeal before Commissioner(Appeals), no pre-deposit would be payable in such cases while filing appeal before the JS(RA).

F. No. 390/Budget/1/2012-JC

Duty Cuts of 0.28 to 8.89 in Indo-Singapore FTA

Ntfn 01
05.01.2015
(DoR)

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 10/2008-Customs, dated the 15th January, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 33(E), dated the 15th January, 2008, namely:-

In the said notification, for the Table, the following Table shall be substituted, namely:-

[Table is available at our website www.worldtradescanner.com]

World Bank Pink Sheet – January 2015

Crude Crashes, NG, Metals, and Edible Oils Fall
Precious Metals, Urea Gain

Up ↑

Coal South Africa; Cocoa; Copra; Coconut oil and Groundnut oil; Fishmeal

Barley; Sorghum; Wheat; Oranges

Cotton; DAP and Urea; Nickel

Gold, Silver and Platinum

Down ↓

Crude; Natural gas; Coffee and Tea

Groundnuts; Palm oil and Palmkernel oil

Soybean meal, Soybeans and Soybean oil

Rice; Banana, EU; Meat beef and Sheep meat;

Sugar; Logs; Plywood and Sawnwood

Rubber; TSP

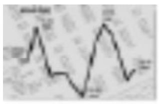
Aluminium, Copper, Iron Ore, Lead, Tin and Zinc

Steady ↔

Coal; Maize; Rice, Thai 5%; Bananas, US;

Chicken Meat; Shrimp; Woodpulp

Rock phosphate and Potassium chloride



	Monthly averages				Quarterly averages					Annual averages		
	2014				2013	2014				2012	2013	2014
	Oct	Nov	Dec		Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Dec	Jan-Dec	Jan-Dec
Energy												
Coal, Australia $/mt	63.7	62.6	62.2	↔	82.0	77.1	72.7	67.9	62.8	96.4	84.6	70.1
Coal, Colombia $/mt	63.8	63.5	63.8	↔	71.1	68.4	64.8	66.8	63.7	84.0	71.9	65.9
Coal, South Africa $/mt	65.7	65.7	66.1	↑	83.0	78.4	75.0	70.2	65.8	92.9	80.2	72.3
Crude oil, average $/bbl	86.1	77.0	60.7	↓	104.5	103.7	106.3	100.4	74.6	105.0	104.1	96.2
Crude oil, Brent $/bbl	87.3	78.4	62.3	↓	109.4	107.9	109.8	102.1	76.0	112.0	108.9	98.9
Crude oil, Dubai $/bbl	86.6	76.7	60.5	↓	106.7	104.4	106.1	101.5	74.6	108.9	105.4	96.7
Crude oil, WTI $/bbl	84.4	75.8	59.3	↓	97.4	98.7	103.1	97.5	73.2	94.2	97.9	93.1
Natural gas, Index 2010=100	103.0	101.8	97.7	↓	111.9	127.8	115.5	102.0	100.8	99.2	112.1	111.5
Natural gas, Europe $/mmbtu	9.8	8.9	9.8	↑	11.4	11.3	10.2	9.2	9.5	11.5	11.8	10.1
Natural gas, US $/mmbtu	3.8	4.1	3.4	↓	3.9	5.2	4.6	3.9	3.8	2.8	3.7	4.4
Natural gas, LNG Japan $/mmbtu	15.9	14.3	13.7	↓	15.7	16.7	16.4	15.4	14.6	16.6	16.0	15.8
Beverages												
Cocoa $/kg	3.10	2.91	2.95	↑	2.77	2.95	3.08	3.23	2.99	2.39	2.44	3.06
Coffee, arabica $/kg	4.97	4.62	4.34	↓	2.77	3.82	4.67	4.56	4.64	4.11	3.08	4.42
Coffee, robusta $/kg	2.31	2.27	2.20	↓	1.85	2.12	2.26	2.22	2.26	2.27	2.08	2.22
Tea, average $/kg	2.65	2.65	2.62	↓	2.82	2.65	2.80	2.80	2.64	2.90	2.86	2.72
Tea, Colombo auctions $/kg	3.42	3.33	3.37	↑	3.77	3.72	3.60	3.45	3.38	3.06	3.45	3.54
Tea, Kolkata auctions $/kg	2.61	2.71	2.62	↓	2.56	1.94	2.81	2.93	2.65	2.75	2.73	2.58
Tea, Mombasa auctions $/kg	1.91	1.90	1.88	↓	2.14	2.29	1.98	2.01	1.90	2.88	2.40	2.05
Oils and Meals												
Coconut oil $/mt	1,144	1,194	1,215	↑	1,175	1,343	1,387	1,204	1,184	1,111	941	1,280
Copra $/mt	769	795	812	↑	791	896	923	805	792	741	627	854
Fishmeal $/mt	1,689	1,836	1,890	↑	1,600	1,583	1,693	1,767	1,805	1,558	1,747	1,712
Groundnuts $/mt	1,338	1,370	1,367	↓	1,370	1,329	1,224	1,276	1,358	2,175	1,378	1,297
Groundnut oil $/mt	1,365	1,368	1,370	↑	1,537	1,311	1,228	1,345	1,368	2,436	1,773	1,313
Palm oil $/mt	722	731	685	↓	897	911	887	772	713	999	857	821
Palmkernel oil $/mt	935	971	960	↓	1,057	1,278	1,262	988	955	1,110	897	1,121
Soybean meal $/mt	459	486	466	↓	570	582	566	493	470	524	545	528
Soybean oil $/mt	835	830	816	↓	991	977	967	865	827	1,226	1,057	909
Soybeans $/mt	424	449	444	↓	555	552	518	457	439	591	538	492
Grains												
Barley $/mt	124.6	158.4	175.4	↑	150.7	129.5	137.9	130.1	152.8	240.3	202.2	137.6
Maize $/mt	163.1	178.7	178.7	↔	199.4	209.9	214.0	174.1	173.5	298.4	259.4	192.9

	Monthly averages				Quarterly averages					Annual averages		
	2014				2013	2014				2012	2013	2014
	Oct	Nov	Dec		Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct-Dec	Jan-Dec	Jan-Dec	Jan-Dec
Rice, Thailand 5% $/mt	428.0	418.0	418.0	↔	442.7	443.7	393.3	433.0	421.3	563.0	505.9	422.8
Rice, Thailand 25% $/mt	409.0	400.0	398.0	↓	408.9	375.0	351.3	400.0	402.3	543.8	473.0	382.2
Rice, Thailand A1 $/mt	437.6	423.8	421.2	↓	411.8	426.7	397.8	448.6	427.5	525.1	474.0	425.1
Rice, Vietnam 5% $/mt	437.0	422.0	382.4	↓	397.2	391.2	388.6	435.2	413.8	434.4	392.4	407.2
Sorghum $/mt	187.8	199.6	215.6	↑	202.1	224.2	219.4	184.3	201.0	271.9	243.3	207.2
Wheat, US HRW $/mt	245.4	258.7	269.6	↑	308.0	297.1	322.1	262.5	257.9	313.2	312.2	284.9
Wheat, US SRW $/mt	220.1	236.0	261.8	↑	276.4	264.0	263.7	213.8	239.3	295.4	276.7	245.2
Other Food												
Bananas, EU $/kg	1.01	1.00	0.95	↓	0.94	1.05	1.14	0.99	0.99	1.10	1.02	1.04
Bananas, US $/kg	0.90	0.90	0.91	↔	0.93	0.95	0.92	0.94	0.90	0.98	0.92	0.93
Meat, beef $/kg	5.90	5.77	5.37	↓	4.03	4.23	4.30	5.58	5.68	4.14	4.07	4.95
Meat, chicken $/kg	2.51	2.51	2.51	↔	2.31	2.31	2.40	2.49	2.51	2.08	2.29	2.43
Meat, sheep $/kg	6.19	6.07	5.89	↓	6.06	6.32	6.70	6.49	6.05	6.09	5.65	6.39
Oranges $/kg	0.73	0.72	0.77	↑	0.83	0.78	0.84	0.77	0.74	0.87	0.97	0.78
Shrimp, Mexico $/kg	16.04	16.09	16.09	↔	16.70	17.09	17.75	18.08	16.08	10.06	13.84	17.25
Sugar, EU domestic $/kg	0.41	0.41	0.40	↔	0.44	0.45	0.45	0.43	0.41	0.42	0.43	0.43
Sugar, US domestic $/kg	0.58	0.53	0.54	↔	0.46	0.47	0.55	0.56	0.55	0.64	0.45	0.53
Sugar, World $/kg	0.37	0.36	0.34	↓	0.39	0.37	0.40	0.38	0.35	0.47	0.39	0.37
Raw Materials												
Timber												
Logs, Cameroon $/cum	443.5	436.6	431.2	↓	476.5	479.6	480.0	464.0	437.1	451.4	463.5	465.2
Logs, Malaysia $/cum	275.6	256.1	249.4	↓	296.3	289.8	291.5	286.5	260.4	360.5	305.4	282.0
Plywood ¢/sheets	505.6	469.8	457.4	↓	543.6	531.5	534.7	525.5	477.6	610.3	560.2	517.3
Sawnwood, Cameroon $/cum	770.0	756.0	749.2	↓	776.0	792.9	806.5	800.0	758.4	759.3	749.2	789.5
Sawnwood, Malaysia $/cum	875.8	859.9	852.2	↓	882.7	901.9	917.3	910.0	862.6	876.3	852.8	897.9
Woodpulp $/mt	875.0	875.0	875.0	↔	858.7	870.2	887.5	875.0	875.0	762.8	823.1	876.9
Other Raw Materials												
Cotton, A Index $/kg	1.55	1.49	1.51	↑	1.92	2.07	2.04	1.70	1.52	1.97	1.99	1.83
Rubber, RSS3 $/kg	1.62	1.64	1.60	↓	2.53	2.25	2.12	1.84	1.62	3.38	2.79	1.96
Rubber, TSR20 $/kg	1.51	1.54	1.48	↓	2.31	1.98	1.73	1.63	1.51	3.16	2.52	1.71
Fertilizers												
DAP $/mt	466.5	452.8	459.6	↑	366.1	476.1	458.9	495.3	459.6	539.8	444.9	472.5
Phosphate rock $/mt	115.0	115.0	115.0	↔	110.0	104.4	109.8	111.7	115.0	185.9	148.1	110.2
Potassium chloride $/mt	290.7	305.5	305.6	↔	341.6	314.0	287.0	287.0	300.6	459.0	379.2	297.2
TSP $/mt	410.0	405.0	401.0	↓	301.3	365.9	369.2	413.0	405.3	462.0	382.1	388.3
Urea, E. Europe $/mt	321.1	311.3	312.4	↑	313.9	337.5	296.0	316.4	314.9	405.4	340.1	316.2
Metals and Minerals												
Aluminum $/mt	1,946	2,056	1,909	↓	1,767	1,709	1,800	1,990	1,970	2,023	1,847	1,867
Copper $/mt	6,737	6,713	6,446	↓	7,163	7,030	6,795	6,996	6,632	7,962	7,332	6,863
Iron ore $/dmt	81	74	68	↓	135	120	103	90	74	128	135	97
Lead $/mt	2,034	2,030	1,938	↓	2,114	2,101	2,097	2,182	2,001	2,065	2,140	2,095
Nickel $/mt	15,812	15,807	15,962	↑	13,909	14,661	18,468	18,584	15,860	17,548	15,032	16,893
Tin $/mt	19,830	20,033	19,830	↓	22,897	22,636	23,146	21,915	19,898	21,126	22,283	21,899
Zinc $/mt	2,277	2,253	2,176	↓	1,909	2,026	2,071	2,311	2,235	1,950	1,910	2,161
Precious Metals												
Gold $/toz	1,222	1,175	1,201	↑	1,271	1,293	1,289	1,281	1,199	1,670	1,411	1,266
Platinum $/toz	1,260	1,208	1,215	↑	1,396	1,427	1,446	1,433	1,228	1,551	1,487	1,384
Silver $/toz	17.2	16.0	16.3	↑	20.8	20.5	19.7	19.7	16.5	31.1	23.8	19.1

$ = US dollar; ¢ = US cent; bbl = barrel; cum = cubic meter; dmtu = Dry Metric Ton Unit; kg = kilogram; mmbtu = million British thermal units; mt = metric ton; toz = troy oz; n.a. = not available; n.q. = no quotation

DG Safeguard Drops Safeguard Duty on Polyol FSP in Final Finding

No Significant Injury to Manali Petrochem, Single Producer Noticed

[Ref: G S R D-22011/4/2014/ dated 13.01.2015]

Subject: Safeguard investigation concerning imports of Flexible Slabstock Polyol (FSP) –Final findings under Rule 11 of Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997

Conclusion of Investigation (*Excerpt from Final Order*)

"On examination of forgoing relevant factors I find that:

75. There has been a significant increase in imports in absolute terms as well as in relation to production in

relation to the base year.

76. The Market share of the DI has decreased from 34% in 2010-11 to 21 % in 2013-14. However, the total demand increased by 32% in the year 2013-14 in relation to 2010-11. The share of domestic industry is showing an increasing trend and the imports are also showing a decreasing trend in post POI.

77. The production and sales of DI have stabilized during 2012-13 and 2013-14 and are showing increasing trend in post POI period.

78. Increase in imports have resulted in decline in market share of the domestic industry but there is no evidence to suggest overall impairment of the domestic industry as the domestic industry is in overall profit during the period of investigation and loss, if any, is due to other factors. In fact for the year ending March 2014, the domestic industry has announced 10% dividend which also shows that overall position of the domestic industry is good. The imports are showing a decreasing trend post POI, the production and clearance are also showing similar trend and are showing increasing trend in post POI period. It appears that there is no serious injury caused by increased imports.

79. The DI has shown loss in respect of the PUC. However, it is seen that the domestic industry has not taken the cost of PUC on proportionate basis as per the cost audit report of polyols provided by the DI vide letter dated 26.9.2014. Had the cost charges for manufacture of PUC been taken on the proportionate basis in terms of cost audit report the domestic industry might have registered profit in the PUC also. The DI was requested to provide cost data of all the products manufactured by DI. However, the DI provided only the cost audit data of Polyols and not of individual products. Further, since the DI is in overall profits, they apparently seem to have capability to fight the challenge posed by cheaper imports of PUC.

80. The domestic industry is not able to demonstrate that increase in imports is due to existence of unforeseen circumstances.

81. Adjustment plan submitted by the domestic industry has no specified time frame. The Di has submitted a letter of intent to increase the production capacity. However, the letter of intent for expansion is in respect of the polyol plant and no reference to PUC has been made. DI has not produced a viable adjustment plan to become competitive to meet the challenge of imported PUC.

82. There is a huge demand supply gap in the domestic market. Inspite of the increased imports the DI has shown increase in profits in the POI. The increase in profits (annualized) in post POI period is almost double to the base year (2010-11). The share of the domestic industry is showing an increasing trend and the share of imports is showing a decreasing trend relative to the domestic demand.

83. Thus, the existence of alleged serious injury or threat of serious injury to domestic industry during the period of investigation does not stand vindicated and therefore, in my view, no protection as prayed for is warranted.

Recommendations:

84. In view of the discussions detailed above and the conclusions reached, safeguard duty on the imports of the "Flexible Slabstock Polyol of MW 3000 to 4000" is not recommended and the investigation in this case is terminated.

Customs Valuation Exchange Rates

2 January 2015		Imports	Exports
Schedule I [Rate of exchange of one unit of foreign currency equipment to Indian Rupees]			
1	Australian Dollar	52.30	51.00
2	Bahrain Dinar	172.65	163.20
3	Canadian Dollar	55.10	53.75
4	Danish Kroner	10.45	10.15
5	EURO	77.50	75.65
6	Hong Kong Dollar	8.25	8.10
7	Kuwaiti Dinar	222.45	210.00
8	New Zealand Dollar	50.05	48.65
9	Norwegian Kroner	8.60	8.35
10	Pound Sterling	99.65	97.45
11	Singapore Dollar	48.30	47.20
12	South African Rand	5.65	5.30
13	South Arabian Riyal	17.35	16.40
14	Swedish Kroner	8.20	8.00
15	Swiss Franc	64.40	62.90
16	UAE Dirham	17.70	16.75
17	U.S. Dollar	63.80	62.75
Schedule II [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees]			
1	Japanese Yen	53.50	52.25
2	Kenyan Shilling	72.05	67.80

(Source: Customs Notification 01(NT)/01.01.2015)

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