

The Anti-Dumping Duties Rules, 2001

NOTIFICATION

S.R.O. 203(I)/2001.- In exercise of the powers conferred by section 67 of the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000), the Federal Government is pleased to make the following rules, namely:-

1. Short title and commencement. – (1) These rules may be called the Anti-Dumping Duties Rules, 2001;
- (2) They shall come into force at once.
2. Definitions. – (1) In these rules, unless there is anything repugnant in the subject or context;
 - (a) "Application" means an application made under section 20 of the Ordinance;
 - (b) "Ordinance" means the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000); and
 - (c) "Schedule" means the schedule to these rules.(2). All words and expressions used in these rules but not defined herein, shall have the meaning assigned to them in the Ordinance.
3. Disclosure in application. – An application shall, in addition to the information specified in section 20 of the Ordinance, contain such information as is reasonably available to an applicant on the following, namely:-
 - (a) name, address, telephone number, facsimile number and electronic mail address of the applicant;
 - (b) the identity of domestic industry by or on behalf of which the application is being made, including the names, addresses and telephone numbers, facsimile numbers and electronic mail addresses of all other known producers or, association of producers which is a trade organisation as defined in the Trade Organisations Ordinance, 1961 (XLV of 1961), and has been granted or deemed to have been granted a licence thereunder, in domestic industry;
 - (c) information relating to the degree of domestic industry support for the application, including -
 - (i) the total volume and value of domestic production of a domestic like product; and
 - (ii) the volume and value of a domestic like product produced by the applicant and by each domestic producer identified;
 - (d) a complete description of the allegedly dumped product, including the technical characteristics and uses of such product and its current customs tariff classification number as specified in the First Schedule to the Customs Act, 1969 (IV of 1969);
 - (e) the country in which the allegedly dumped product is manufactured or produced and, if it is imported from a country other than the country of manufacture or production, the intermediate country from which the product is imported;
 - (f) the name and address of each person the applicant believes sells the allegedly dumped product and the proportion of total exports to Pakistan that person accounted for during the most recent twelve-month period;
 - (g) information on prices at which the product in question is sold when destined

for consumption in domestic market of the country of export or origin or, where appropriate, information on the prices at which the product is sold from the country of export or origin to a third country or on the constructed value of the allegedly dumped product, and information on export prices or, where appropriate, on the prices at which the allegedly dumped product is first resold to an independent buyer in Pakistan, and on any adjustments as provided for in section 11 of the Ordinance; and

(h) information on an evolution of volume of the allegedly dumped imports, the effect of such imports on prices of a domestic like product in domestic market and the consequent impact of the imports on domestic industry as demonstrated by relevant factors and indices having a bearing on the state of domestic industry, including those listed in sections 15, 16, 17, and 18 of the Ordinance, and information on the existence of a causal link within the meaning of section 19 of the Ordinance.

4. Commission to avoid publicising application. – The Commission shall not, unless a decision has been made to initiate an investigation, publicise an application.

5. Initiation of investigation. – The Commission shall normally decide whether or not to initiate an investigation within a period of forty-five days of the date of receipt of an application compliant with the requirements of section 20 of the Ordinance:

Provided that when such application involves complex issues, or if the Commission has sought additional information from the applicant, the time period may, if the Commission so deems fit, be extended to sixty days.

6. Disclosure in notice of initiation of an investigation. – The notice of initiation of

investigation referred to in section 27 of the Ordinance shall contain adequate information on the following , namely:

(a) the name of the country or countries of export, and if different, the country or countries of origin of an investigated product;

(b) a complete description of an investigated product, including the technical characteristics and uses of such product and its current tariff classification number as contained in the First Schedule to the Customs Act, 1969 (IV of 1969);

(c) a description of the alleged dumping to be investigated, including the basis for such allegations;

(d) a summary of the factors on which the allegations of injury are based;

(e) the address where information and comments may be submitted and the time period allowed to interested parties for making their views known;

(f) the date of initiation of an investigation; and

(g) the proposed schedule for an investigation.

7. Public file to be maintained for interested party and access thereto. – (1) The Commission shall establish and maintain a public file relating to each investigation or review pursuant to the Ordinance and subject to the requirement to protect confidential information under section 31 of the Ordinance, the Commission shall place in such file-

(a) all public notices relating to an investigation or review;

(b) all materials, including questionnaires, responses to questionnaires, and written communications submitted to the Commission;

(c) all other information developed or obtained by the Commission; and

(d) any other documents the Commission deems appropriate for disclosure to an

interested party.

(2) The public file to be maintained under sub-rule (1) shall be available to any interested party for review and copying at the offices of the Commission, during such time as the Commission may notify, throughout the course of an investigation or review and any appeal under section 64 of the Ordinance.

8. Acquisition of information. – The Commission shall solicit, gather, obtain, accept and reject information for the purposes of an investigation under section 35 of the Ordinance in accordance with the following, namely:-

(a) upon initiation of an investigation, the Commission shall send questionnaires to any person they believe may have information relevant to an investigation, including known domestic producers, importers, exporters and foreign producers and, such questionnaires may require such information, as the Commission deems necessary;

(b) the Commission shall give exporters and foreign producers receiving a questionnaire at least thirty days for reply and the time limit shall be counted from the date of receipt of the questionnaire which, for this purpose shall be deemed to have been received one week from the date on which it was sent to the respondent or transmitted to the appropriate diplomatic or official representative of an exporting country; provided that the Commission shall give due consideration to any request for an extension of such thirty day period, and shall grant an extension whenever practicable, upon good cause shown, taking into account the time limits for an investigation;

(c) The Commission may disregard any reply to a questionnaire, which is not submitted within the time provided and in the form requested;

(d) the Commission may, during the course of an investigation, request further information from interested parties, in the form of supplementary questionnaires, or written requests for clarification or additional information and such requests shall state the date by which reply is due and sufficient time shall be granted by the Commission in order to allow meaningful replies;

(e) any interested party may, on its own initiative, submit to the Commission, in writing, any information it considers relevant to an investigation and the Commission shall consider such information unless such consideration would be unduly burdensome to the Commission or disrupt the timely progress of an investigation:

Provided that any voluntary submission of factual information relevant to the determination of dumping or injury shall be submitted to the Commission in writing prior to the date of preliminary determination; and

(f) the Commission shall allow industrial users of an investigated product in Pakistan, and representative consumer organisations in cases where an investigated product is commonly sold at the retail level in Pakistan, to provide information concerning matters relevant to an investigation regarding dumping and injury and such information shall be provided to the Commission in writing.

9. Preliminary written arguments. – Not later than fifteen days before the scheduled date of preliminary determination, interested parties may submit written arguments to the Commission concerning any matter relevant to an investigation.

10. Disclosure in notice of preliminary determination. – The notice of preliminary determination referred to in sub-section (2) of section 37 of the Ordinance notice shall also contain the following information; namely:

(a) the names of the known exporters and producers of an investigated product;

- (b) description of an investigated product which is sufficient for customs purposes, including the current customs tariff classification number as contained in the First Schedule to the Customs Act, 1969 (IV of 1969);
- (c) the amount of dumping margin, if any, found to exist and the basis for such determination including a description of the methodology used in determining normal value, export price, and any adjustments made in comparing the two;
- (d) if the method of comparison as provided for in sub-section (2) of section 12 of the Ordinance was used, the explanation required under clause (b) of subsection (2) of section 12 of the Ordinance;
- (e) if the Commission declined to determine an individual dumping margin on the basis of voluntary responses as provided for in sub-section (4) of section 14 of the Ordinance, the basis for that decision;
- (f) the factors that have led to the determination of injury including information on factors other than dumped imports that have been taken into account; and
- (g) the amount of any provisional measures to be applied and the reasons why such provisional measures are necessary to prevent injury caused during an investigation.

11. Disclosure after preliminary determination. – The Commission shall, on request made within fifteen days of publication of the notice of preliminary determination pursuant to sub-section (2) of section 37 of the Ordinance, hold separate disclosure meetings with exporters or producers requesting such a meeting, to explain the dumping calculation methodology preliminarily applied for that exporter or producer. The Commission shall provide an opportunity to the exporters or producers or their legal representatives to examine and receive copies of the dumping calculations done by the Commission for their exports to Pakistan.

12. Verification of information. – (1) Save as provided for in section 32 of the Ordinance, the Commission shall, during the course of an investigation, satisfy itself as to the accuracy of information supplied by interested parties upon which its findings are based.

(2) In order to verify information provided or to obtain further details, the Commission

6
may carry out investigations in other countries as may be required; provided that it shall obtain the agreement of the firms concerned and that they notify the representatives of the government of the country in question unless the latter objects to an investigation.

(3) The procedures set out in the First Schedule shall apply to any verification carried out in the territory of other countries. The Commission shall prepare a report on any verification conducted pursuant to this such rule and such report shall be available to the company to which it pertains in full, and a non-confidential version shall be placed in the public file kept under rule 7. The Commission shall endeavour to complete any such verification prior to the date of any hearing in an investigation.

13. Written arguments. – (1) In an investigation in which no hearing is requested, any interested party may submit written arguments to the Commission concerning any matter it considers relevant to an investigation not later than forty-five days before the date proposed for final determination.

(2) In an investigation in which a hearing is held, not later than ten days before the specified date of a hearing, any interested party may submit written arguments to the Commission concerning any matter it considers relevant to an investigation. Following such

a hearing, interested parties who participated in the hearing may, within ten days, submit further written arguments to the Commission in response to arguments and information presented at the hearing.

14. Procedure for a hearing. – (1) The Commission shall, upon request by an interested party made not later than thirty days after publication of a notice of preliminary determination, hold a hearing at which all interested parties may present information and arguments:

Provided that such a hearing shall be held not later than sixty days prior to the date proposed for final determination.

(2) There shall be no obligation on any interested party to attend a hearing, and failure to do so shall not be prejudicial to that interested party's case.

(3) A hearings shall to the maximum extent possible, be organised by the Commission so as to take into account the convenience of the interested parties.

(4) Interested parties intending to appear at a hearing shall notify the Commission of the names of representatives and witnesses who shall appear at a hearing at least seven days before the date of the hearing.

(5) A hearing shall be organised in such manner so as to ensure that all parties participating have an adequate opportunity to present their views.

(6) The Secretary to the Commission shall maintain a record of the hearing, which subject to the requirement to protect confidential information under section 31 of the

Ordinance be promptly placed in the public file to be maintained under rule 7.

(7) Interested parties shall also have the right, on justification, to present other information orally to the Commission during meetings with officials of the Commission: Provided that such information shall be only taken into consideration by the Commission if such information is confirmed in writing to the Commission and made available to other interested parties. Such information shall be deemed to have been made available to third parties upon it being placed by the Commission in the public file to be maintained under rule 7.

(8) After a hearing has been held and the Commission has completed verification of information collected in the course of an investigation and, in any event, at least thirty days before the proposed date for final determination, the Commission shall inform all interested parties, in writing, subject to the requirement to protect confidential information under section 31 of the Ordinance, of the essential facts under consideration which shall form the basis a decision whether to apply definitive measures under the Ordinance:

Provided that such information shall not indicate whether a final determination is affirmative or negative.

(9) Interested parties may submit comments, if any, on the information disclosed to them by the Commission pursuant to sub-rule (8), in writing, not later than fifteen days of such disclosure by the Commission.

15. Disclosure in the notice of final determination. – The notice of final determination provided for in sub-section (3) of section 39 of the Ordinance shall, in addition to the information required under the Ordinance, contain the following information, namely:-

(a) the names of the known exporters and producers of an investigated product;

(b) description of an investigated product which is sufficient for customs purposes, including the current tariff classification number as contained in the

First Schedule to the Customs Act, 1969 (IV of 1969);

(c) if a dumping margin has been calculated, a description of the methodology used in determining normal value, export price, and any adjustments made in comparing the two;

(d) if the method of comparison provided for in sub-section (2) of section 12 of the Ordinance was used, the explanation required under clause (h) of subsection (2) of section 12 of the Ordinance;

(e) if the Commission declined to determine an individual dumping margin on

the basis of voluntary responses, as provided for in sub-section (4) of section 14 of the Ordinance, the basis for that decision;

(f) the factors that have led to the determination of injury within the meaning of the Ordinance including information on factors other than dumped imports that have been taken into account;

(g) any other reasons leading to final determination; and

(h) the reasons for the acceptance or rejection of relevant arguments or claims made by exporters and importers.

16. Disclosure after final determination. – After final determination has been issued, the Commission shall, on request made within fifteen days of the publication of the notice of final determination, hold separate disclosure meetings with exporters or producers requesting such a meeting, to explain the dumping calculation methodology finally applied for that exporter or producer. The Commission shall provide an opportunity to the exporters or producers or their legal representatives to examine and receive copies of the dumping calculations done by the Commission for their exports to Pakistan.

17. Disclosure in application for refund of anti-dumping duties collected. – (1) An application under sub-section (2) of section 52 of the Ordinance for refund of anti-dumping duties collected shall contain the following information, namely:-

(a) the amount of refund of anti-dumping duties claimed for the period;

(b) all customs documentation relating to calculation and payment of such amount; and

(c) sufficient information to enable the Commission to calculate normal value and export price for the period for which the refund is requested.

(2) Where an importer is not associated with a producer or an exporter and such information is not immediately available, or where the producer or the exporter is unwilling to release it to an importer, the application under sub-section (2) of section 52 of the Ordinance shall contain a statement from the producer or exporter that the dumping margin has been reduced or eliminated and that the relevant supporting evidence shall be directly provided to the Commission:

Provided that where such evidence is not forthcoming in a complete form from the exporter or producer within a reasonable period of time, as determined by the Commission, the application shall be rejected by the Commission.

18. Disclosure in notice of acceptance of price undertaking. – The notice of acceptance by the Commission of a price undertaking referred to in sub-section (6) of section 47 of the Ordinance shall also contain the following information, namely:-

(a) the names of the suppliers of an investigated product or where this is impractical the supplying countries involved;

(b) description of an investigated product which is sufficient for customs purposes, including the current customs tariff classification number as

contained in the First Schedule to the Customs Act, 1969 (IV of 1969);
(c) the amount of dumping margin found to exist and the basis for such determination including a description of the methodology used in determining normal value, export price, and any adjustments made in comparing the two;
(d) the factors that have led to the determination of injury including, information on factors other than dumped imports that have been taken into account; and
(e) the main reasons leading to the acceptance by the Commission of price undertaking.

19. Official file to be maintained by the Commission. – (1) The Commission shall establish and maintain an official file relating to each investigation or review pursuant to the Ordinance and shall place in such file-

(a) all materials, papers and documents, confidential or otherwise, including questionnaires, responses to questionnaires, and written communications submitted to or by the Commission in connection with any investigation or review;

(b) all documents relating to or setting out any calculations made by the Commission in connection with any investigation or review.

(c) all internal correspondence or memoranda of the Commission relating to or in connection with any investigation or review that are relevant to the calculation of dumping margin or determination of injury including, any correspondence with or between any other Ministry, Division, department, agency or instrumentality of the Federal Government or any Provisional Government;

(d) any other information developed, obtained or relied on by the Commission in connection with any investigation or review; and

(e) any other document or information that the Commission deems appropriate for placing in the official file.

(2). The official file to be maintained under sub-rule (1) shall only be for the internal use of the Commission and for the Appellate Tribunal in connection with a appeal under

section 64 of the Ordinance.

20. Fee payable under the Ordinance. – The fee payable to the Commission at the time of submission of an application shall be in the amount set out in the Second Schedule.

THE FIRST SCHEDULE

[See rule 12(3)]

PROCEDURES FOR ON-THE-SPOT INVESTIGATIONS

1. Upon initiation of an investigation, the government of the exporting country and the firms known to be concerned should be informed of the intention to carry out on-the-spot investigations by the Commission.

2. If in exceptional circumstances it is intended to include non-governmental experts in the investigating team, the firms and the authorities of the exporting country should be so informed. Such non-governmental experts should be subject to effective sanctions for breach of confidentiality requirements under the Ordinance.

3. The Commission shall normally obtain explicit agreement of the firms concerned in the exporting country before a visit is finally scheduled.

4. As soon as the agreement of the firms concerned has been obtained, the Commission shall notify the concerned authorities of the exporting country of the

names and addresses of the firms to be visited and the dates agreed.

5. Sufficient advance notice should be given by the Commission to the firms in question before a visit is made.

6. Visits to explain the questionnaire should only be made at the request of an exporting firm. Such a visit may only be made if: (HH) the Commission notifies the concerned representatives of the exporting country; and (HH) the latter does not object to the visit.

7. As the main purpose of a on-the-spot investigation is to verify information provided or to obtain further details, it should be carried out after the response to a questionnaire has been received unless the firm agrees to the contrary and the government of the exporting country is informed by the Commission of an anticipated visit and does not object to it. The Commission shall normally advise the firms concerned of the general nature of the information to be verified and of any further information which needs to be provided; that such requirement shall not preclude the Commission from requesting further details on-the-spot to be provided in the light of information obtained.

8. Enquiries or questions put by the authorities or firms of the exporting country and essential to a successful on-the-spot investigation shall, whenever possible, be answered by the Commission before a visit is made.

THE SECOND SCHEDULE

[See rule 20]

TABLE OF FEES TO BE PAID TO THE COMMISSION

1. For an application under section 20 of the Ordinance. 75,000

13

NOTIFICATION

S.R.O. (I)/2001.-In exercise of the powers conferred by section 34 of the Countervailing Duties Ordinance, 2001(1 of 2000), the Federal Government is pleased to make the following rules, namely:-

1. Short title and commencement. – (1) These rules may be called the Countervailing Duties Rules, 2001;

(2) They shall come into force at once.

2. Definitions. – (1) In these rules, unless there is anything repugnant in the subject or context;

(f) "Application" means an application made under section 11 of the Ordinance;

(g) "Ordinance" means the Countervailing Duties Ordinance, 2001 (1 of 2001).

(h) "Schedule" means the schedule to these rules.

(2). All words and expressions used in these rules but not defined herein, shall have the meaning assigned to them in the Ordinance.

3. Fee payable under the Ordinance. – The fee payable to the Commission at the time of submission of the application under section 11 of the Ordinance shall be in the amount set out in the schedule to these rules.

14

THE FIRST SCHEDULE

[See rule 3]

TABLE OF FEES TO BE PAID TO THE COMMISSION

1. For an application under section 20 of the Ordinance. 75,000

National Tariff Commission

Islamabad March 26, 2001

Subject: Draft Countervailing Duties Rules 2001

In continuation of this Commission's letter dated 2nd January 2001 on the above subject.

The Countervailing Duties Ordinance contains all the requisite provision for carrying out countervailing investigation, and for imposition of provisional as well as final countervailing duties.

Rules are required only under section 11 of the ordinance prescribing fee payable to the commission along with an application, thus the enclosed rules contain only one provision specify payment of fee. These rules may be approved and notified.

Imran Zia

Director (Anti Dumping)

Mr. Gulrez Yazdani

Joint Secretary (WTO)

Ministry of Commerce,

Islamabad.