

Classification of Customs Duty - A Comparison

Duty	Protective Duty	Safeguard Duty (SGD) (any Country)	CVD on Subsidised Article	Anti Dumping Duty
Section	6	8B	9	9A
Authority to Levy	It is levied by C.G. on recommendation of tariff commission	It is levied by C.G.	It is levied by C.G.	It is levied by C.G.
Condition/ Purpose of Levy	Tariff Commission Recommendation to protect the interest of any industry established in India.	To avoid import of increased quantities and in conditions to cause or threatening to cause serious injury to domestic industry.	If a country grants subsidies on production or transport of goods imported into India, CG may impose CVD by notification.	Where an article exported from any country or territory, to India at less than its Normal Value.
Rate of Duty	<ul style="list-style-type: none"> ➤The duty cannot exceed the tariff commission's recommended amount. ➤CG can modify duty rates by notification and must get Parliament's approval. 	<ul style="list-style-type: none"> ➤Safeguard measures to curb increased imports- ➤Safeguard duty. ➤Apply Tariff rate quota. ➤Other Measures. ➤If applying a tariff rate quota, CG must set it at least equal to the average imports of the last three representative years unless a lower level is needed to prevent serious injury. 	CVD = subsidy on imported goods	Anti-dumping duty is Lower of Margin of dumping or Injury Margin *Margin of Dumping = Normal Value – Export Price . *Injury Margin = Fair Selling price due to Domestic Industry – Landed value of Imported goods.(refer note on sec 9A)
Maximum Duration of Levy	Not Relevant	4 years, extendable upto 10 years.	5 years, extendable another 5 years from date of such extension.	5 years, extendable another 5 years from date of such extension.
Provisional Levy	Not Relevant	Valid for ≤ 200 days from date of imposition.	Provisional levy is possible. Time limit not specified.	Provisional levy is possible. Time limit not specified.
Refund	-	If CG finds no serious injury from increased imports, the collected duty will be refunded	If provisional countervailing duty exceeds the final subsidy, CG will reduce the duty and refund the excess.	If provisional anti-dumping duty exceeds the final margin, CG will refund the excess duty.
Retrospective Levy	Not Possible	Not Possible	Upto 90 days before the date of notification.	Upto 90 days before the date of notification.
Rules	----	Customs Tariff (Identification and Assessment of SGD) Rules, 1997	Customs Tariff (Identification, Assessment and Collection of CVD on subsidized articles and for determination of injury) Rules, 1995.	
Normal Exemption	Not Possible	No SGD on imports from developing countries if: <ul style="list-style-type: none"> ➤Import of the article ≤ 3% of total imports into India. ➤If multiple developing countries (each <3%), their combined imports ≤ 9% of total imports. 	CVD shall not be levied unless it is determined that: <ul style="list-style-type: none"> *Relates to export performance. *Favors domestic over imported goods. *Its given to a limited group of manufacturers/exporters. 	Not Specified
Exemption to be EOU / SEZ	No specified	SGD,CVD & ADD don't apply to 100% EOU/SEZ imports unless: <ul style="list-style-type: none"> ➤ Specifically made applicable. ➤ The article is cleared into the DTA or used in goods cleared into the DTA—then safeguards apply to that portion. 		
Effect of Levy	Such duties shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.			
Customs Act	Customs Act, 1962 provisions, including duty rates, assessment, refunds, exemptions, interest, recovery, appeals, and penalties, apply to duties, taxes, or cess under this section as they do to duties under the Act			Substituted by F.A. 2024

Note on Anti Dumping Duty

Sec 9A: Anti-dumping duty:-

Anti-Dumping Duty=lower of (Margin of Dumping, Injury Margin),

⇒ **Margin of Dumping = Normal Value – Export Price &**

⇒ **Injury Margin= Fair Selling Price (Domestic Industry) – Landed Value of Imported Goods.**

- 1) **Normal Value:** The price of a **like article in the exporting country's** domestic market under normal trade conditions. If such sales **are not suitable for comparison**, it is determined by either a **comparable representative price or the cost of production**.
- 2) **Export Price:** The FOB price of an article exported from the exporting country.
- 3) **Fair Selling Price(FSP):** Indian market price(under normal conditions.
- 4) **Landed value:** A.V+BCD+SWS.

Sec 3(8A)/3(10A) : ACD on Warehouse Sale before clearance.

If warehoused goods are sold before clearance for H.C or export, the value of such goods u/s 3(7)/(9) shall be:-

- a) **If whole of the goods are sold:-** Value determined u/s 3(8)/(10) or T.V of such goods, **whichever is higher.**
- b) **If any part of goods is sold:-** Proportionate value of goods determined u/s 3(8)/(10) or T.V of such goods, **whichever is higher.**

Proviso 1 Sold more than once before clearance for H.C then T.V of last such transaction shall be T.V for clause (a) or (b)

Proviso 2 Unsold warehoused goods:- the value or proportionate value of such goods shall be determined u/s 3(8)/(10).

(11) The Duty/ Tax/ Cess chargeable under this section shall be in addition to any other Duty/ Tax/ Cess imposed under this Act.

(12) The provisions of the Customs Act, 1962 and all rules and regulations made there under, including but not limited to

Provisions related to the determination of duty rate, assessment, exemptions, refunds, interest, recovery, appeals, offences, and penalties shall apply to the duty, tax, or cess under this section, just as they apply to duties under the Customs Act and its rules or regulations.

ADDITIONAL CUSTOM DUTY (ACD):

Basis of Difference	3(1): ACD= Excise Duty	3(3): Duty to Countervail Effect of Excise Duty on Raw Material	3(5): Duty to Countervail Levy of Sales Tax/VAT	3(7) :Duty to Countervail Levy of GST
Purpose	To equalize excise duty on imported goods with similar domestically produced goods	To balance excise duty on raw materials, components, or ingredients used in manufacturing imported goods	To counter balance Sales Tax, VAT, or other local taxes on similar domestic goods.	To counterbalance IGST levied under Section 5 of IGST Act, 2017, on a like article in India.
Applicability	Applies only if the imported goods are manufactured abroad.	Applies to notified raw materials, components, or ingredients.	Imposed in the public interest on specific imported articles.	Applies to all imported goods subject to IGST
Levy Basis	Equal to excise duty levied on a like product in India.	Levied at a notified rate, even if ACD under Sec 3(1)	Levied to neutralize local sales tax, VAT, or similar levies.	Levied based on the value determined under Sec 3(8) or 3(8A).
Special Cases	Alcoholic liquor duty rate is notified by the C.G	Applies even if the product is subject to ACD under Sec 3(1).	Duty rate shall not exceed 4% of the value of the imported article	Duty rate shall not exceed 40% (normally equal to the IGST rate under GST law).
Relevance of Other Duties	Duty applies only if excise duty is applicable	Levied separately from ACD under Sec 3(1)	Imposed regardless of duties under Sec 3(1) or Sec 3(3)	Applied irrespective of other customs duties

Special Discussion on Anti-Dumping Duty(ADD)/Countervailing duty(CVD)

Sec 9(1A): Anti-circumvention measure in respect of CVD & ADD:-

As per opinion of C.G Circumvention of ADD/CVD has taken place by either of the following ways :

- (i) ·by altering the description/name/ composition of the article on which duty has been imposed.
- (ii) ·by import of such article in an unassembled or disassembled form.
- (iii) ·by changing the country of its origin or export or
- (iv) in any other manner,

Note: If the ADD/CVD so imposed rendered ineffective, it may extend ADD/CVD to such other article also.

Sec 9(1B): Absorption of CVD

If ADD / CVD absorption renders it ineffective, CG may modify the duty to counter it from the inquiry initiation date or later.

Sec 9B: No Levy under Section 9 (Countervailing duty) and 9A (Anti-dumping duty) in certain cases:-

- a) Subsidy and anti-dumping duties coexist.
- b) Imports from WTO member countries or countries with MFN agreement, unless they cause injury to Indian industry.
- c) Provisional duties not levied without preliminary findings of subsidy or dumping and injury to domestic industry.
- d) No duties if articles are exempt from or refunded taxes in the country of origin.

Sec 9C: Appeal

- 1) Appeals against subsidy, dumping, or serious injury determination go to CESTAT.
- 2) Appeal Fee=15,000
- 3) Stay, rectification, restoration, or other applications: ₹500 fee.
- 4) Appeal must be filed within 90 days, but can be entertained later for valid reasons.
- 5) CESTAT can confirm, modify, or annul the order after hearing.