

To be published in Part-I Section I of the Gazette of India Extraordinary

File No. 06/13/2019-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

Dated: 12th September, 2019

INITIATION NOTIFICATION

Subject: Initiation of Anti-Subsidy Investigation concerning imports of Textured Tempered Glass whether Coated or Uncoated from Malaysia

F. No. 06/13/2019-DGTR: M/s Gujarat Borosil Limited (hereinafter also referred to as the Petitioner or Applicant) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of injury) Rules as amended from time to time (hereinafter also referred to as the Rules) for imposition of Countervailing on imports of "Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated" (hereinafter also referred to as the subject goods or PUC) from Malaysia (hereinafter also referred to as the subject country).

Allegation of Subsidization

1. The petitioner has alleged that the producers/exporters of the subject goods in the subject country have benefitted from the actionable subsidies provided at various levels by the Government of the subject country, including the government of different provinces and Municipalities in which producers/exporters are located, and other Public bodies. The petitioner has relied upon the relevant Laws, Rules and Regulations and other Notifications of the relevant Government Agencies and Public Bodies as available in the public domain and in the determination of other investigating Authorities who had conducted comprehensive investigation of such schemes and concluded existence of countervailable subsidy programs.

Consultation

2. In terms of Article 13 of ASCM pre-initiation consultations were held with the representatives of the Government of Malaysia on 29th August 2019 in New Delhi. The comments of representatives of the Government of Malaysia have been taken on record.

Subsidy programs

3. The prima facie evidence provided by the applicant shows that the producers and exporters of the subject goods in Malaysia have benefited from a number of subsidies granted by the Government of Malaysia and/or other public bodies as listed below. The alleged subsidies consist of direct transfer of funds and potential direct transfer of funds or liabilities; Government revenue that is otherwise due is foregone or not collected; Provision of goods and services for less than adequate remuneration; etc.

I. Schemes Identified as Grants

1. Subsidies on Natural Gas
2. The Market Development grant

II. Schemes Identified as Tax Incentive

3. Pioneer Status
4. Investment Tax Allowance
5. Accelerated Capital Allowance
6. Double deduction for promotion of Malaysian brand
7. Draw back on Import duty, Sales tax and Excise duty
8. Sales Tax Exemption
9. Exemption from Import Duty and Sales Tax for Outsourcing Manufacturing Activities.
10. Exemption from Import Duty and Sales Tax on Spares and Consumables
11. Exemption from Import Duty and Sales Tax on Machinery and Equipment
12. Exemption from Import Duty on Raw Materials/Components
13. Double Deduction for Promotion of Exports
14. Double Deduction for Promotion of Export Cargo
15. Allowance for Increased Export
16. Tariff Related Incentive
17. Allowance for plants and Machinery

III. Schemes Identified as Export Credit and Export Financing

18. Export Credit Refinancing
19. Buyer Credit Guarantee

4. It has been alleged that the above schemes are subsidies since they involve a financial contribution from the Governments of the respective subject countries or other regional or local governments of such respective countries, including public bodies and confer benefit on the recipient (s). They are also alleged to be limited to certain enterprises or groups of enterprises and/or products and/or regions and therefore specific and countervailable. They are also in some cases alleged to be contingent upon the use of domestic over imported goods and/or contingent upon export performance.
5. The producers/exporters are advised to provide information with respect to any other subsidy scheme that may have been availed by them. The Designated Authority reserves the right to investigate other subsidies, which may be found to exist and availed by the producers and exporters of the subject goods, during the course of investigation.

Allegation of Injury and Casual Link

6. The petitioner has furnished information on various parameters relating to injury to the domestic industry as prescribed under the Rules. The evidence provided by the petitioner prima facie shows material injury to the domestic industry has been caused by the alleged subsidized imports from the subject country.

Initiation of the Investigation

7. The Authority finds that there is prima facie evidence of existence of countervailable subsidies on production and export of the subject goods in the subject countries and such subsidized imports causing material injury and further threat of material injury to the domestic industry through their volume and price effects.
8. In view of the above position, the Authority hereby initiates an investigation into the alleged subsidization and consequent material injury and threat of injury to the domestic industry in terms of Rule 6 of the Rules supra, to determine the existence, degree and effect of alleged subsidization and to recommend the amount of countervailing duty, which if levied, would be adequate to remove the injury to the domestic industry.

Domestic Industry

9. The Application has been filed by M/s Gujarat Borosil Limited., as domestic industry of the product under consideration. According to the Petitioner, they are the sole producers of the subject goods in India. The petitioner has certified that there are no imports of the product under consideration by the petitioner or any of its related party from the subject country. Since the petitioner account for entire (100%) production of the product under consideration in India, the petitioner satisfies the standing and constitutes Domestic Industry within the meaning of the Rules.

Product under consideration

10. The product under consideration in the present application is "Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated" (hereinafter referred to as the "subject goods" or the "Product under Consideration"). The minimum level of transmission required in the subject good can be achieved by keeping the iron content low, typically less than 200 ppm. The transmission level goes up by about 2%-3% when coated with an anti-reflective coating liquid. The glass whether coated or uncoated is tempered / toughened in a tempering furnace, as it is essential for solar applications. The product in the market parlance is also known by various names such as Solar Glass, Low Iron Solar Glass, High Transmission Photovoltaic Glass, Tempered Low Iron Patterned Solar Glass etc.
11. The subject good is used as a component in Solar Photovoltaic Panels and Solar Thermal applications. The glass of thickness 3.2 mm and 4 mm is generally used in Solar

Photovoltaic Panels and Solar Thermal applications as per the current trend. The subject goods are classified under chapter heading 70071900. However, it has been claimed by the petitioner that the subject goods are also being imported under various other tariff headings like 70031990, 70051010, 70051090, 70052190, 70052990, 70053090, 70071900 etc. It is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.

12. The Product under Consideration is defined as follows:

Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated.

Like Article

13. The petitioner has submitted that subject goods produced by the petitioner company and the subject goods imported from the subject country are like articles. There is no known difference between the subject goods exported from subject country and that produced by the petitioner. Textured Toughened (Tempered) Glass produced by the domestic industry and imported from subject country are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable, and hence, should be treated as like article under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicant in India are being treated as Like Article to the subject goods being imported from the subject country.

Country involved

14. The present investigation is in respect of alleged subsidization of the product under consideration in Malaysia.

Period of Investigation (POI)

15. The period of investigation for the purpose of present investigation is from April 2018 to March 2019 (12 months). However, the injury investigation period will cover the data of previous three years, i.e., April 2015 to March 2016, April 2016 to March-2017, April 2017 to March 2018 and POI.

Submission of Information

16. The exporters in the subject country, their government through their Embassy in India, the importers and users in India known to be concerned and the domestic industry are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

**The Director General
Directorate General of Trade Remedies
Department of Commerce, Jeevan
Tara Building, 4th Floor
5, Parliament Street
New Delhi -110001**

17. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

Time Limit

18. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 days) from the date of publication of this Notification. If no information is received within the prescribed time limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Rules.
19. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses and offer their comments to the domestic industry's application within forty days (40 days) from the date of publication of this Notification. The information must be submitted in hard copies as well as soft copies.

Submission of information on confidential basis

20. The parties making any submission (including Appendices/Annexure attached thereto), before the authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof.
21. The "confidential" or "non-confidential" submissions must be clearly marked as "confidential" or "non-confidential" at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority and the Authority shall be at liberty to allow the other interested parties to inspect such submissions. Soft copies of both the versions will also be required to be submitted, along with the hard copies, in two (2) sets of each.
22. The confidential version shall contain all information, which is by nature confidential and/or other information, which the supplier of such information claims, as confidential. The information which is claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed.
23. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not

feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

24. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.
25. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the Authority.
26. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorization of the party providing such information.

Inspection of Public File

27. In terms of Rule 7(7), any interested party may inspect the public file containing non-confidential version of the information or evidence submitted by other interested parties.

Non-cooperation

28. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

Sunil Kumar
Additional Secretary & Designated Authority