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No. 6/21/2018-DGTR
Government of India
Ministry of Commerce & Industry
Department Of Commerce
Directorate General of Trade Remedies
Jeevan Tara Building, 4th Floor, Parliament Street, New Delhi-110001

Date: 5th February, 2019

(Final Finding)
Termination Order

Case No. (CVD) 7/2018

Subject: Countervailing duty investigation concerning imports of Fluoroelastomers (FKM) from China PR.

F.No. 6/21/2018-DGTR: Whereas Gujarat Fluorochemicals Limited (hereinafter referred to as the applicant or petitioner) had filed an application before the Designated Authority (hereinafter referred to as the Authority), on behalf of the domestic industry, in accordance with the Customs Tariff Act 1975, as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the Rules), alleging subsidization of certain Fluoroelastomers (FKM) (hereinafter referred to as the subject goods), from People's Republic of China (hereinafter referred to as the subject country) and requested for initiation of an anti-subsidy investigation for levy of countervailing duties on the imports of the subject goods, originating in the subject country.

2. In terms of Article 13 of ASCM, pre-initiation consultations were held with the representatives of the Government of the People's Republic of China on 6th August, 2018 in New Delhi.
3. The Authority on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No.6/21/2018-DGTR dated 14.08.2018, published in the Gazette of India, Extraordinary, initiating the subject CVD investigation in accordance with the Rule 6 of the CVD Rules, to determine the existence, degree and effect of the alleged subsidization and to recommend the amount of Countervailing duty, which, if levied, would be adequate to remove the injury to the domestic industry.
4. The Authority considered January, 2017 – December, 2017 (12 months) as the Period of Investigation (POI). For the examination of trends, in the context of injury analysis, the periods covered included 2014-15, 2015-16, 2016-17 and the period of investigation.
5. The Authority post-initiation sent copies of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known

importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification as per Rule 7 of the CVD Rules. Necessary extensions to file such submissions wherever warranted was also granted by the Authority.

6. The Authority provided copies of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject country in India in accordance with Rule 7(3) of the Rules supra. A copy of the application was also provided to other interested parties, wherever requested. The embassy of the subject country in India were also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit.
7. The Authority sent questionnaires to enable known producers/exporters in subject country to provide requisite information in accordance with Rule 7(4) of the CVD Rules;
8. In response to the initiation notification and intimation, following exporters / producers from subject country have responded to the Authority by filing Exporter's Questionnaire Response.
 - a) M/s Inner Mongolia 3F Wanhao Fluorochemical Co., Ltd.
 - b) M/s Solvay Specialty polymers (Changshu) Co Ltd.
 - c) M/s Solvay (Shanghai) Co Ltd.
 - d) M/s Zhonghao Chenguang Research Institute of Chemical Industry Co., Ltd.
 - e) M/s Uni-Alliance Ltd.
 - f) M/s Daikin Fluorochemicals (China) Co., Ltd.
 - g) M/s Chenguang Fluoro and Silicone Elastomers Co., Ltd
9. Questionnaires were also sent to known importers / users of subject goods in India calling for necessary information. Following importers/users responded by filing Importer Questionnaire responses;
 - a) M/s Solvay Specialities India private Limited.
 - b) M/s Nishigandha Polymers Pvt. Ltd.
 - c) M/s Eastcorp International
 - d) M/s HI-Tech ARAI Private Limited had also responded by filing written submissions.
10. The initiation was also acknowledged including submissions of certain facts/views:
 - a) M/s Devashish Polymers
 - b) M/s Drager Safety India Pvt.
 - c) M/s Techno Polymer Industries
11. The Authority made available non-confidential version of the data/evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
12. The Authority fixed the date for Oral hearing on 08.02.2019.

13. However the Applicant has made request to terminate the present investigation vide its letters dated 22.01.2019 and 01.02.2019 citing following reasons inter alia ;

- The petition was filed as Chinese Producers were benefitted with significant Countervailing Subsidies. Since Final Finding dated 27.12.2018 for the same product in an AD investigation have been issued recommending duty for 18 months, the domestic industry has to start working on Sunset Review (SSR) Petition for the AD case.
- By the time the CVD investigation is completed the Domestic industry would be filing an application seeking extension of ADD through SSR. It is apprehended that the CVD duty may still be for shorter duration, if recommended. The petitioner is therefore not sure whether it would be appropriate to continue to request imposition of countervailing duties as at the same time they were preparing for SSR in AD case.
- The Ministry of Finance has issued the notification imposing ADD dated 28.01.2019 and that present ADD will cease on 27.07.2020. The petitioner has to file petition latest by Aug, 2019.
- The Applicant is withdrawing the present CVD petition requesting liberty to pursue the same in future in case the situation so demands.

14. The Authority notes that the Rule 16 (1) (a) of the CVD Rules read as under ;

*“16. Termination of investigation. – (1) The designated authority shall, by issue of a public notice, terminate an investigation immediately if –
(a) it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated;”*

The Authority notes that the aforesaid rule does not grant any discretion to the Authority in the matter of termination of investigation, once the domestic industry files a written request for termination of the investigation.

15. The Authority keeping in view the aforesaid and acknowledging the developments/ circumstances stated by the petitioner emerging on account of levy of Anti-dumping duty on same subject goods through Final Finding dated 27.12.2018 for a period of 18 months, hereby terminates the present investigation initiated on 14.08.2018 vide Notification No. 6/21/2018-DGTR.

(Sunil Kumar)
Additional Secretary & Designated Authority