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Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi - 110001

Dated: 24th December, 2020

INITIATION NOTIFICATION

(Case No. O.I. (CVD) 07/2020)

Subject: Initiation of Countervailing Duty/Anti-Subsidy investigation concerning imports of “Aluminum Primary Foundry Alloy Ingot” originating in or exported from Malaysia.

1. Vedanta Limited and Bharat Aluminium Company Limited (hereinafter also referred to as the “Applicants”) have jointly filed an application before the Designated Authority (hereinafter also referred to as the “Authority”), on behalf of domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and determination of injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the “Rules”) seeking initiation of anti-subsidy investigation of subsidized imports of “Aluminum Primary Foundry Alloy Ingot” (hereinafter also referred to as “subject goods” or “product under consideration” or “PUC”), originating in or exported from Malaysia (hereinafter also referred to as the “subject country”).
2. The applicants have alleged that subsidized imports from the subject country are causing material injury to the Domestic Industry to and have requested for imposition of Countervailing duty on imports of subsidized subject goods, originating in or exported from the subject country.

A. Product under consideration

3. The product under consideration in the present investigation is “Aluminum Primary Foundry Alloy Ingot” also known as Primary alloy ingots, Primary Foundry alloy ingots, Aluminium Alloy Ingots etc. Aluminum Primary Foundry Alloy Ingot is produced by casting aluminium hot metal obtained from smelting alumina or re-melting primary aluminium ingot, along with required alloying elements. The molten aluminium is blended with the required alloying elements in holding furnaces. Individual alloying elements are added to the blend to achieve the desired alloy content. The resulting molten blend is then casted at the smelter's on-site casting house. Alloyed Aluminium ingot produced through post-consumption scrap is beyond the scope of the product under consideration. The product under consideration is

primarily used for automobile and steel applications.

4. The product under consideration is classified under Chapter 76 under customs subheading no 76012010 of the Customs Tariff Act, 1975. The Customs classification is only indicative and not binding on the scope of this investigation.

B. Like Article

5. The Applicant has claimed that there is no known difference between the subject goods exported from the subject countries and that produced by the domestic industry. Subject goods produced by the domestic industry and PUC imported from subject countries 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 use the two interchangeably. The Applicant has further claimed that 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 countries.

C. Domestic Industry

6. The Application has been jointly filed by Vedanta Limited and Bharat Aluminium Company Limited. The Applicants have neither imported the subject goods nor are related to any exporter or producer of subject goods in the subject country.
7. On the basis of information available on record, the Authority determines that the Applicant accounts for a major proportion in the Indian production and the application has been made by the domestic industry in terms of the provisions contained in Rule 2 (b) and Rule 6(3) of the Rules.

D. Basis of Alleged Subsidization

8. The Applicants have alleged that the producers/exporters of the subject goods in the subject country have benefitted from actionable subsidies provided at various levels by the Government of the subject country, including the provinces and districts in which producers/exporters are located, and other Public bodies. The applicants have relied upon relevant laws, rules, regulations, other notifications of the Government agencies and public bodies, and determination made by other investigating Authorities, as information available in the public domain and have concluded existence of significant countervailable subsidies. The following subsidies/programs have been alleged by the domestic industry:
 - i. Program No.1: The Market Development Grant
 - ii. Program No. 2: Business/ Industry Excellence Award
 - iii. Program No.3: Export Credit Refinancing
 - iv. Program No 4: Buyer Credit Guarantee
 - v. Program No.5: Pioneer Status

- vi. Program No.6: Investment Tax Policies
- vii. Program No.7: Reinvestment Allowance
- viii. Program No.8: Accelerated Capital Allowance
- ix. Program No. 9: Group Relief
- x. Program No.10: Tariff Related Incentives
- xi. Program No. 11: Allowance Industrial Building/ Industrial Building Allowance (IBA)
- xii. Program No.12: Allowance for plants and Machinery
- xiii. Program No.13: Double deduction for promotion of Exports
- xiv. Program No. 14: Incentives for manufacturing and manufacturing related services in East Coast Economic Corridor
- xv. Program No.15: Drawback on Import duty, Sales tax and Excise duty
- xvi. Program No.16: Exemption from Import Duty and Sales Tax for Outsourcing Manufacturing Activities
- xvii. Program No.17: Exemption from Import Duty and Sales Tax on Machinery and Equipment
- xviii. Program No. 18: Exemption from Import Duty on Raw Materials/ Components
- xix. Program No.19: Double Deduction for Promotion of Export Cargo
- xx. Program No.20: Allowance for Increased Export
- xxi. Program No.21: Tax Exemptions for Exporters in Free Trade Zones
- xxii. Program No.22: Less than Adequate Remuneration for Land & Electricity
- xxiii. Program No.23: Double Deduction for Promotion of Malaysian Brand
- xxiv. Program No.24: Incentives for Small and Medium Enterprise
- xxv. Program No.25: Research and Development Fund
- xxvi. Program No.25(a): Commercialization of Research and Development Fund (CRDF-1)
- xxvii. Program No.25(b): Commercialization of Research and Development Fund (CRDF-2)
- xxviii. Program No.25(c): Commercialization of Research and Development Fund (CRDF-3)
- xxix. Program No.26: Tax incentives for in-house R&D
- xxx. Program No.27: Double Deduction for R&D
- xxxi. Program No.28: Soft loans for Small and Medium Enterprise
- xxxii. Program No.29: Investment Tax Allowance

E. Consultation

9. A pre-initiation consultation as per the Article 13.1 of the WTO provisions was held with the Government of Malaysia through video conferencing on 29th Sept., 2020. In response to this consultation, Government of Malaysia denied existence of certain programs, non-availment of some by the programs and negligible subsidy in some schemes. However, the Government of Malaysia has not provided prima facie sufficient evidence denying existence of all the programs mentioned above. Therefore, existence of alleged programmes and quantification of countervailable subsidies are required to be investigated as per the relevant Rules.

F. Injury and Causal Link

10. Information furnished by the Applicants has been considered for assessment of injury to the domestic industry. The Applicants have furnished evidence regarding of injury having taken

place as a result of alleged subsidization, resulting in price undercutting, price suppressing and depressing effect on the domestic industry, even though the volume of imports has declined. The Applicants have claimed that domestic industry performance has been adversely impacted in respect of capacity utilization, inventories, profits, cash flow, and return on capital employed. The domestic industry is suffering financial losses and cash losses. There is sufficient prima facie evidence of the material injury being caused to the domestic industry by subsidised exports from the subject country to justify initiation of a countervailing duty investigation.

G. Initiation of Countervailing Duty Investigation

11. On the basis of the duly substantiated written application by domestic industry, and having satisfied itself, on the basis of the prima facie evidence, substantiating subsidisation of the subject goods originating in or exported from the subject country, injury to the domestic industry and causal link between such alleged subsidisation and injury, and in accordance with Section 9 of the Act read with Rule 6 of the Rules, the Authority hereby initiates an investigation to determine the existence, degree and effect of alleged subsidies in respect of the subject goods originating in or exported from the subject country and to recommend the amount of Countervailing duty, which if levied, would be adequate to remove the injury to the domestic industry.

H. Subject Country

12. The subject country for the present investigation is Malaysia.

I. Period of Investigation (POI)

13. The period of investigation (POI) in the present investigation is April 2019 to September 2020 (18 months). The injury period of investigation will, however, cover the periods 2016-17, 2017-18, 2018-19 and the POI.

J. Procedure

14. Principles as given in Rule 7 of the Rules shall be followed for the present investigation.

K. Submission of Information

15. In view of the special circumstances arising out of COVID-19 pandemic, all communication should be sent to the Designated Authority via email at the email addresses adg11-dgtr@gov.in and dd15-dgtr@gov.in.
16. The known producers/exporters in the subject country, Government of the subject country

through their Embassy in India, the importers and users in India known to be concerned with the subject goods and the domestic industry are being informed separately to enable them to file all the relevant information in the form and manner prescribed within the time-limit set out below.

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.
18. 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.

L. Time Limit

19. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adgl1-dgtr@gov.in and dd15-dgtr@gov.in within 30 days from the date of receipt of the notice as per Rule 7(4) of the Rules. 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.
20. 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 within the above time limit.

M. Submission of information on confidential basis

21. The parties making any submission (including Appendices/Annexures 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:
 - i. one set marked as Confidential (with title, number of pages, index, etc.), and
 - ii. the other set marked as Non-Confidential (with title, number of pages, index, etc.).
22. 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 four (4) sets of each.
23. 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. For information which are 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.

24. 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, the 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.
25. 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.
26. Any submission made without a meaningful non-confidential version thereof or without good cause statement on the confidentiality claim shall not be taken on record by the Authority.
27. 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.

N. Inspection of Public File

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

O. Non-cooperation

29. 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.



(B. B. Swain)

Special Secretary & Designated Authority