

**To be published in Part-I Section I of the Gazette of India Extraordinary
No. 6/21/2018- DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi - 110011**

Dated 14th August, 2018

INITIATION NOTIFICATION

(Case No. (CVD)-07/2018)

Subject: Initiation of Countervailing Duty/ Anti-subsidy investigation concerning imports of Fluoroelastomers (FKM) originating in or exported from the People's Republic of China.

F.No. 6/21/2018-DGTR: Whereas Gujarat Fluorochemicals Limited (hereinafter referred to as the applicant or petitioner) 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 good), 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.

A. Allegation of subsidization

1. The applicant has alleged that the producers/exporters of the subject goods in People's Republic of China have benefited from the actionable subsidies provided by various levels in the Government of China, including the Governments of the different Provinces and Municipalities in which the producers/exporters are located, and other 'Public Bodies'. The applicant has relied upon the relevant Laws, Rules and Regulations and other Notification of the relevant Government Agencies and Public Bodies as available in the public domain and in the findings of other

investigating Authorities who have conducted comprehensive investigation of such schemes and concluded existence of countervailable subsidy programs.

B. Consultation

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. The comments of the Govt. of People's Republic of China have been taken on record.

C. Subsidy Programs

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

I. Identified Programs in the Form of Grants in China

Program No.1: The State Key Technology Renovation Projects Fund

Program No.2: Famous Brands Program/ Incentive fund for famous-brand products

Program No.3: Grants for Antidumping Investigations

Program No.4: Research & Development (R&D) Assistance Grant

Program No.5: Export Assistance Grant

Program No.6: Grants for Listing Shares

Program No.7: Grants provided through the Provincial Fund for Fiscal and Technological Innovation

Program No.8: International Market Fund for Export Companies

Program No.9: Project funds allowance

Program No.10: Special Fund for Energy Saving Technology Reform

Program No.11: Funds for supporting technological innovation for the technological small and medium-sized enterprises/ Small and Medium-sized Enterprise Support Funds

Program No.12: State Special Fund for Promoting Key Industries and Innovation Technologies

Program No.13: Enterprise Development Funds

Program No.14: The Clean Production Technology Fund

Program No.15: Grants for High and new technology industries

Program No.16: Special fund for the development of foreign trade and economic Cooperation

Program No.17: Clean Production Project Subsidy

Program No.18: Various grants provided to Jiangsu province

a. Jiangsu Province Finance Supporting Fund

b. Environment Protection Award (Jiangsu)

- c. Jiangsu City Industrial Economy Performance Award
- d. Changdoz Qishuyan District Environmental Protection Fund
- e. Changzhou Technology Plan
- f. Supportive Fund provided by the Government of Xuyi Country
- g. Enterprise Technology Centers/ Support Funds for Construction of Project infrastructure

Program No.19: Various grants provided to Guangdong province

- a. Special fund for developing trade through science and technology of Guangdong Province
- b. Guangdong - Hong Kong Technology Cooperation Funding Scheme
- c. Guangdong Supporting Fund
- d. Special Fund for Significant Science and Technology by Guangdong Governments
- e. Provincial Government of Guangdong Science and Technology Bureau Project Fund
- f. Provincial Loan Discount Special Fund for SMEs by Guangdong Governments
- g. Special Supporting Fund for Key Projects of “500 Strong Enterprises in Contemporary Industries” by Guangdong Governments
- h. Fund for Supporting Strategic Emerging Industries by Guangdong Governments
- i. Special Fund for Export Credit Insurance by Guangdong Governments
- j. Patent Award of Guangdong Province
- k. Supporting Fund for the Development from Guangzhou Local Governments

Various grants provided to Beijing Province

Program No.20(a): Award for Maintaining the Growth by Beijing Governments

Program No.20(b): Award by Beijing Technology Trading Encouraging Centre

II. Identified programs in form of Tax and VAT incentives

Program No.21: Export tax rebate/Tax Refund on Exports

Program No.22: Tax Policies for the deduction of research and development (R&D) expenses

Program No.23: Preferential Tax Policies for the Research and Development of FIEs

Program No.24: Tax Offsets for Research and Development by FIEs

Program No.25: Income tax credit for the purchase of domestically Produced & manufactured production equipment

Program No.26: Preferential tax policies/ Income Tax Reductions for companies that are recognized as high and new technology companies

Program No.27: Income tax concessions for the enterprises engaged in comprehensive resource utilization (special raw materials')

Program No.28: Tax credit concerning the purchase of special equipment

Program No.29: Income Tax credits for domestically owned Companies Purchasing Chinese made Equipment

Program No.30: Tariff and VAT exemptions for imported Technologies and equipment

Program No.31: VAT Refunds for domestic Firms on Purchases of Chinese made Equipment
Program No.32: VAT Exemptions and Deductions for Central Regions
Program No.33: Reduced Tax Rate for Productive FIEs Scheduled to operate for a Period not Less Than 10 Years
Program No.34: Preferential Tax Policies for Foreign Invested Export Enterprises
Program No.35: Preferential Tax Policies for FIEs which are Technology Intensive and Knowledge Intensive
Program No.36: Preferential Tax Policies for FIEs and Foreign Enterprises Which Have Establishments or Places in China and are engaged in Production or Business Operations Purchasing Domestically Produced Equipment's
Program No.37: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
Program No.38: Income Tax Reduction for Advanced Technology FIEs
Program No.39: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)
Program No.40: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones
Program No.41: Local Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas
Program No.42: Corporate Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas
Program No.43: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and Other Designated Areas
Program No.44: Preferential income tax policy for the enterprises in the Northeast region
Program No.45: Tax concessions for Central and Western Regions

III. Identified Programs in the Form of Preferential Loans & Lending

Program No.46: Government Policy Lending
Program No.47: Preferential Loans to SOE
Program No.48: Discounted Loans for Export-Oriented Enterprises and Export Loan Interest Subsidies

IV. Identified Programs in the Form of Export Financing and Export Credit

Program No.49: Export Seller's Credit
Program No.50: Export Buyer's Credit
Program No.51: Other Export Financing from State-Owned Banks
Program No.52: Export Credit Insurance Subsidies
Program No.53: Export Credit Guarantees

V. Identified Programs in the Form of Equity

Program No.54: Equity infusions

Program No.55: Unpaid dividends

Program No.56: Dividend exemption between qualified resident enterprises

VI. Identified Programs in the Form of Provision of Goods and Services

Program No.57: Provision of Electricity for Less Than Adequate Remuneration

Program No.58: Provision of Water for Less Than Adequate Remuneration

Program No.59: Land Use Rights in Industrial and Other Special Economic Zone

Program No.60: Land Use rights for SOEs

Program No.61: Land Use rights for FIEs

4. It has been alleged that the above schemes are subsidies since they involve a financial contribution from the Government of the People's Republic of China or other Regional or local governments, including public bodies and confer a benefit to the recipient. They are alleged to be contingent upon the use of domestic over imported goods and/or contingent upon export performance and/or limited to certain enterprises or groups of enterprises and/or products and/or regions, and therefore, specific and countervailable.
5. 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 the investigation.

D. Domestic Industry

6. The application has been filed by Gujarat Fluorochemicals Ltd. The petitioner is the sole producer of FKM in the Domestic market. As per the evidence available on record; production of the petitioner being 100% of Indian production; it constitutes total Indian production. The applicant satisfy the requirements of Rule 2(b) and Rule 6(3) of the Rules; and, accordingly, Gujarat Fluorochemicals Limited constitute the "domestic industry" within the meaning of Rule 2(b) of Rules supra.

E. Product under consideration

7. The product under consideration in the present investigation is "Fluoroelastomers (FKM)". Fluoroelastomers (FKM) is a class of synthetic rubber designed for very high temperature operation. With excellent over-all properties, Fluoroelastomers (FKM) is called as the "Rubber King". It contains not-fullyfluorinated molecular structure, and its main and side chains contain strong electronegativity of fluorine atoms. "Fluoroelastomers" are a family of fluoropolymer rubbers, not a single entity. It can be classified by their fluorine content, 66%, 68%, & 70%

respectively. FKMs are broadly categorized in two sets - Copolymer and Terpolymer.

8. There are various applications of Fluoroelastomers (FKM) such as industrial use in hydraulic O-ring seals, check valve balls, electrical connectors, automotive use in shaft seals, fuel injector O-rings, and aerospace use in O-ring seals in fuels, lubricants & hydraulic system, manifold gaskets and fuel tank bladders.
9. The product does not have dedicated classification. The product under consideration is classified under Chapter 39 under customs subheading no 3904, 390469 and 39046990 of the Customs Tariff Act, 1975. The customs classification is however indicative only and not binding on the scope of the product under consideration.

F. Like Articles

10. The applicant has claimed that the goods produced by the domestic industry are like articles to the subject good originating in or exported from People's Republic of China. It has been stated that there is no significant difference in the subject goods produced by the applicant and those exported from People's Republic of China. The applicant claims that the two are technically and commercially substitutable. For the purpose of present investigation, the subject good produced by the domestic industry are being treated as 'like articles' of the subject good imported from People's Republic of China.

G. Allegation of Injury and Causal Link

11. Information furnished by the applicant has been considered for assessment of injury to the domestic industry. The applicant has furnished evidence regarding the injury having taken place as a result of the alleged subsidies in the form of increased volume of imports in absolute terms and in relation to production and consumption, price suppression, price underselling, significant financial losses, negative ROCE, negative growth in various parameters etc. The applicant has also claimed that subsidized imports of the product under consideration are materially retarding the establishment of the domestic industry. The production, sales, capacity utilization and market share of the domestic industry is quite low considering the demand for the product in the Country and considering that the domestic industry commenced commercial production sometime back.
12. From the foregoing, the Authority prima facie finds sufficient evidence of subsidization of the subject goods originating in or exported from the subject country, injury to the domestic industry and causal link between the alleged

subsidization and injury exist to justify initiation of an anti-dumping investigation in terms the Rules, 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.

H. Initiation of the Investigation

13. From the foregoing, the Authority prima facie finds sufficient evidence of subsidization of the subject goods originating in or exported from the subject country, injury to the domestic industry and causal link between the alleged subsidization and injury exist to justify initiation of an anti-dumping investigation in terms the Rules, 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.

I. Country involved

14. The country involved in the present investigation is People's Republic of China (also referred to as Subject Country).

J. Period of investigation

15. The Period of Investigation (POI) in the present investigation is January, 2017-December, 2017 (12 months). The injury investigation period shall cover the periods 2014-15, 2015-16, 2016-17 and the period of investigation.

K. Procedure & Submission of information

16. The exporters in the People's Republic of China, Government of the People's Republic of China, importers and users in India known to be concerned with the product and the domestic industry are being informed separately to enable them to file all information relevant in the form and manner prescribed. Any other party interested to participate in the present investigation may also write to:

The Designated Authority
Directorate General of Trade Remedies
Department of Commerce
Ministry of Commerce & Industry
4th Floor, Jeevan Tara Building,
5 Parliament Street, New Delhi – 110011

17. As per Rule 7(5) of the Rules supra, the Designated Authority is also providing opportunity to the industrial users of the product under investigation, and to representative consumer organizations who can furnish information which is relevant to the investigation regarding subsidy, injury and causal link. Any other

interested party may also make its submissions relevant to the investigation within the time limit set out below.

i. 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 40 (forty) days from the date of publication of this notification. The Government of China, known exporters and importers, who are being addressed separately, are however required to submit the information within 40 (forty) days from the date of the letter addressed to them separately. If no information is received within the prescribed time limit or the submitted information is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Rules. It may be noted that no request, whatsoever, shall be entertained for extension in the prescribed time limit.

ii. Submission of Information on Non-Confidential basis

19. In terms of Rule 8 of the Rules, the interested parties are required to submit non-confidential version of any confidential information provided to the Authority. In case confidentiality is claimed on any part of the questionnaire's response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either "confidential" or "non-confidential" at the top of each page.

20. Information supplied without any mark as "Confidential" shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies each of the confidential version and the non-confidential version must be submitted.

21. For information claimed as confidential; 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 and/or why summarization of such information is not possible.

22. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked-out/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 of summary; a

statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

23. 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 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.
24. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on record by the Authority. 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 confidential information.

iii. Non cooperation

25. In terms of Rule 7(8), in case where an interested party refuses access to or 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.

iv. Inspection of Public File

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

v. Sampling

27. In view of the potentially large number of exporting producers in the People's Republic of China involved in this proceeding and in order to complete the investigation within the stipulated time limits, the Authority may limit the exporter(s)/ producer(s) to be investigated to a reasonable number by selecting a sample.

(Sunil Kumar)

Additional Secretary & Designated Authority