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Case No. (CVD) 05/2018
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 10th August, 2018

INITIATION NOTIFICATION

Subject: Initiation of Countervailing Duty/ Anti-subsidy investigation concerning imports of Saccharin originating in the People's Republic of China.

F. No. 6/18/2018- DGAD: Whereas, M/s Swati Petro Products Private 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 Saccharin (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 at various levels by 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, Regulations and other Notification of the relevant Government Agencies and Public Bodies in China 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 20th July, 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 granted by the Government of the People's Republic of China 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. Identified Programs in the Form of Grants in China

1. *Program No. 1: The State Key Technology Renovation Projects Fund*
2. *Program No. 2 : Famous Brands Program*
3. *Program No. 3: Grants for Antidumping Investigations*
4. *Program No. 5: Export Assistance Grant*
5. *Program No. 6: Grants for Listing Shares*
6. *Program No. 7: Funds for Outward Expansion of Industries in Guangdong Province*
7. *Program No. 8: Grants provided through the Provincial Fund for Fiscal and Technological Innovation*
8. *Program No. 9: Various grants provided to Fuyang City*
9. *Grant for Enterprises Paying Over RMB 10 Million in Taxes*
10. *Grants under the Export of Sub-Contract Services Program*
11. *Grants under Excellent New Products/Technology Award*
12. *Investment grants from Fuyang City Government for key industries*
13. *Grants for Enterprises Operating Technology and Research and Development Centers*
14. *Local and Provincial Government Reimbursement Grants on export Credit Insurance Fees*
15. *Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang (Zhejiang Province) & (Anhui Province)*
16. *Program No. 10: International Market Fund for Export Companies*
17. *Program No. 13: Small and Medium-sized Enterprise Support Funds*
18. *Program No. 14: Funds for supporting technological innovation for the technological small and medium-sized enterprises.*
19. *Program No. 15 : Subsidies Provided in Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area*
20. *Program No. 16: State Special Fund for Promoting Key Industries and Innovation Technologies*
21. *Program No. 17: Enterprise Development Funds*
22. *Program No. 18: Direct Government Grants given by Jiangsu Province*
23. *Program No. 19: Grants under the Science and technology Program of Jiangsu Province*
24. *Program No. 21: Environment Protection Award (Jiangsu)*

25. *Program No. 22: Changzhou Qishuyan District Environmental Protection Fund (Jiangsu)*
26. *Program No. 23: Changzhou Technology Plan (Jiangsu)*
27. *Program No. 24: Enterprise Innovation Award of Qishuyan District (Jiangsu)*
28. *Program No. 25: Support Funds for Construction of Project infrastructure*
29. *Program No. 26: Administration Commission of LETDZ (Jiangsu Province)*
30. *Program No. 27: Accelerated Depreciation on Fixed Assets in Binhai New Area of Tianjin*
31. *Program No. 28: Enterprise Technology Centers (e.g. Tianjin City and Jinnan District)*
32. *Program No. 29: Award for Maintaining the Growth by Beijing Governments*
33. *Program No. 30: Award by Beijing Technology Trading Encouraging Centre*

II. Identified in form of Tax and VAT incentives

34. *Program No. 33: Two Free/Three Half Program for Foreign Invested Enterprises*
35. *Program No. 34: Tax Reductions for Export-Oriented FIEs / Income tax benefit for FIEs based on geographical location*
36. *Program No. 35: Tax Offsets for Research and Development at FIEs*
37. *Program No. 36: Income Tax Refund for Re-investment of FIE Profits by Foreign Investor*
38. *Program No. 38: Preferential Income Tax Policy for Enterprises in the Northeast Region*
39. *Program No. 39: Preferential Tax exemptions for Central & Western Regions*
40. *Program No. 40: Tax Policies for the deduction of research and development (R&D) expenses*
41. *Program No. 42: VAT Refunds for FIEs Purchasing Domestically Produced Equipment*
42. *Program No. 43: VAT and Tariff Exemptions for Purchases of Fixed Assets*
43. *Program No. 44: VAT and Tariff Exemptions on Imported Equipment for Favored Industries*
44. *Program No. 45: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones (excluding Shanghai Pudong Area)*
45. *Program No. 46: Preferential Tax Policies for FIEs Established in the Coastal Economic Open Areas and in the Economic and Technological Development Zones*
46. *Program No. 47: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai*
47. *Program No. 48: Corporate Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas*
48. *Program No. 49: Local Income Tax Exemption and/or Reduction in SEZs and Other Designated Areas*
49. *Program No. 50: Tariff and Value-added Tax (VAT) Exemptions on Imported Materials and Equipment in SEZs and Other Designated Areas*

III. Identified in form of provision for Goods and Services

50. *Program No. 52: Raw material for less than adequate remuneration /inputs/services*

IV. Identified in form of loans

51. *Program No. 53: Policy Loans*

V. Identified in form of Export Credit financing

52. *Program No 55: Export Credit Subsidy Programs*
53. *Program No. 56: Export Seller's Credits from Export-Import Bank of China- Credit Borrowing*
54. *Program No 57: Export Buyer's Credit from Export-Import Bank of China*
55. *Program No.58: Export Credit Insurance from the China Export and Credit Insurance Corporation*
56. *Program No. 59: Preferential Export Financing from the Export-Import Bank of China.*
57. *Program No 60: Provision of Credit Lines*
58. *Program No. 61: Preferential loans provided by the Export-Import Bank "going out (global)" strategy for outbound investment*

VI. Identified in form of equity infusions

59. *Program No. 64: Debt for equity swaps*
60. *Program No. 65: Equity infusions*
61. *Program No. 66: Unpaid dividends*

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. ALLEGATION OF INJURY AND CAUSAL LINK

6. The applicant has furnished information on various parameters relating to 'injury' to the domestic industry as prescribed under Rules. The evidence provided by the applicant prima facie shows that the imports from subject country have increased, not only in absolute terms, but also in relation to production and consumption in India, and the import prices have significantly declined. Alleged subsidized imports appear to have caused price depression

leading to losses for the domestic industry. Performance of the domestic industry has deteriorated in terms of underutilization of capacities, profits, return on investments, cash flow and significant increase in inventory. The Authority notes that there is sufficient prima facie evidence that the ‘injury’ to the domestic industry has been caused by subsidized imports from People’s Republic of China.

E. INITIATION OF THE INVESTIGATION

7. And whereas, the Authority finds that there is sufficient prima facie evidence of existence of significant countervailable subsidies on production and export of the subject goods in People’s Republic of China and such subsidized imports are causing 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 to the domestic industry in terms of the 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.

F. DOMESTIC INDUSTRY

9. The application has been filed by M/s Swati Petro Products Private Limited. As per the evidence available on record, production of the applicant accounts for a major proportion of the total domestic production. Further the applicant has not imported nor is related to any importer or exporter of the subject goods. The application has been supported by M/s Shree Vardayini Chemical Industries Pvt. Ltd, M/s A.S. Chemopharma Pvt. Ltd and M/s Blue Circle Organics Pvt. Ltd. M/s Swati Petro Products Private Limited constitute the “domestic industry” within the meaning of Rule 2(b) of Rules and the application satisfies the requirements of Rule 2(b) and Rule 6(3) of the Rules.

G. PRODUCT UNDER CONSIDERATION

10. The product under consideration in the present investigation is “Saccharin”. Saccharin is a non-nutritive sweetener and considered to be low calorie substitute for cane sugar. Primarily there are two types of Saccharin i.e. soluble and insoluble. In market parlance soluble saccharin is called sodium saccharin whereas insoluble saccharin is called saccharin or saccharin acid. Apart from sodium saccharin, saccharin can have other variants such as calcium and zinc saccharin. Saccharin is produced in two physical forms, viz. granular and powder. Sodium saccharin in granular form is used in situations where saccharin will be dissolved, the powder form which has been grounded and spray dried is used in dry mixes and pharmaceuticals. It is slightly soluble in water. Insoluble form of saccharin is used in many pharmaceutical and medical applications. Saccharin is used in a variety of industry such as food and beverage, personal care products, table top sweeteners, electroplating brighteners, pharmaceuticals, etc. Saccharin is more than 500 times sweeter than sugar. All forms of Saccharin are within the scope of the present investigation.

11. The product under consideration is classified in Chapter 29 of the Customs Tariff Act, 1975 under customs subheading no. 29251100 of the Customs Tariff Act, 1975. However, Customs classifications are indicative only and in no way binding on the scope of this investigation.

H. LIKE ARTICLES

12. 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.

I. COUNTRY INVOLVED

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

J. PERIOD OF INVESTIGATION

14. The Period of Investigation (POI) in the present investigation is April 2017-March 2018 (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

15. The known exporters in the subject country, the Government of the subject country through its embassy in India, the importers and users in India known to be concerned with the product are being addressed 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**

16. 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.

L. TIME LIMIT

17. 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.

M. SUBMISSION OF INFORMATION ON NON-CONFIDENTIAL BASIS

18. 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.
19. 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.
20. 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.
21. 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.
22. 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.

23. 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.

N. NON COOPERATION

24. 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.

O. INSPECTION OF PUBLIC FILE

25. 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.

(Sunil Kumar)

Additional Secretary & Director General