

No. 14/29/2010-DGAD
Government of India
Ministry of Commerce & Industry Department of Commerce
Directorate General of Anti Dumping & Allied Duties
Udyog Bhawan, New Delhi-110107

Dated the 11th November 2011

INITIATION NOTIFICATION

Subject: Initiation of anti-dumping investigation concerning imports of ‘Resin or other organic substances bonded wood or ligneous fibre boards of thickness below 6mm, except insulation boards, laminated fibre boards and boards which are not bonded either by resin or other organic substances’ originating in or exported from China PR, Indonesia, Malaysia and Sri Lanka.

No. 14/29/2010-DGAD: Whereas M/s. Balaji Action Buildwell, (hereinafter referred to as the Applicant) has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975, as amended, (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended, (hereinafter referred to as the AD Rules), alleging dumping of ‘Resin or other organic substances bonded wood or ligneous fibre boards of thickness below 6mm, except insulation boards, laminated fibre boards and boards which are not bonded either by resin or other organic substances’ (hereinafter also referred to as the subject goods) originating in or exported from China PR, Indonesia, Malaysia and Sri Lanka (hereinafter also referred to as the subject countries) and has requested for initiation of anti-dumping investigation and levy of anti dumping measures.

Product under consideration

2. The product under consideration in the present investigation is ‘Resin or other organic substances bonded wood or ligneous fibre boards of thickness below 6mm, hereinafter, referred to as ‘fibre board’, except insulation boards, laminated fibre boards and boards which are not bonded either by resin or other organic substances’.
3. Fibre board is custom wood or craft wood composite engineered product, and is made of heat pressed resin bonded wood fibre. Fibre board can be further mechanically processed, such as laminated, surface coated, carved, moulded, etc. Scope of the product under consideration includes all products classifiable under customs heading 4411, except (a) fibre boards of thickness 6mm or above, (b) insulation boards, (c) laminated fibre boards and (d) boards which are not bonded either by resin or other organic substances.

4. Fibre boards are wood based boards, available in different sizes and thicknesses. However, unlike solid wood made of single piece, they are high-strength engineered product - made from wood or lignocellulosic material- refined into fibres, and then reconstituted with a resin binder at elevated temperatures, to form boards.
5. Fibre boards, being an engineered product, have certain advantages over solid wood (made out of single solid piece of wood). Fibre board has stronger tolerance to moisture changes, as compared to solid wood, because it is made of wood fibre arranged in overlapping pattern. It has better adaptability to environmental changes, and is very versatile. Fibre board has various applications, like in furniture, handicraft, consumer articles, etc.
6. The product under consideration is classified under Chapter 44 of the Customs Tariff Act. The product under consideration does not have a dedicated customs classification code. Customs classifications are indicative only and in no way binding on the scope of this investigation.

Domestic Like Article

7. The Applicant claims that there is no known difference in the product produced by the Applicant and that exported from the subject countries. Both the products have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification, etc. Comparison of essential product properties in respect of domestic product and imported product would show that the goods produced by the domestic industry are comparable to the imported goods in terms of essential product properties.
8. The technology and production process adopted by the domestic industry and by the producers from the subject countries are comparable to the best of the knowledge of the Applicant.
9. Thus, the subject goods produced by the Applicant are being treated as like article to the product under consideration imported from the subject countries within the meaning of the AD Rules for the purpose of this investigation.

Domestic industry & 'Standing'

10. As per the application, there are two producers of the product in India, namely M/s. Balaji Action Buildwell (the Applicant) and M/s Green Ply Industries Ltd. M/s Green Ply Industries Ltd. has supported the present application. Thus, the applicant along with the supporter account for 100% of the production of the subject goods in India.
11. It is noted that the Applicant Company has imported the subject goods of different thickness in small quantities for the comparison with the product produced in-house to the extent of *** cbm during 2010-11, which **accounts for approximately *****

% of the total imports. These imports were made in order to bench-mark the product being produced by the company by research and development and not for trading and that the volume of imports is miniscule in comparison with the production of the Applicant.

12. The Applicant has claimed that the company's thrust continues to be on own production rather than on imports and the Applicant should therefore be considered as eligible domestic industry within the meaning of the AD Rules.

13. Rule 2(b) of the AD Rules provides that domestic producers which are either related to the exporters or importers or which are themselves importers of the allegedly dumped articles may be excluded when determining the domestic industry in certain situations. The Authority notes that a domestic producer might import the product under consideration for one or more *bona-fide* reasons, including for testing, research & development, seed-marketing purposes (imports of the product to test the quality etc). It is also noted that the imports do not form the core activity of the company and it has not abdicated its role of a domestic producer.

14. In view of the above, it would be inappropriate to exclude such a domestic producer from being treated as domestic industry. The authority finds merit in the claim of the Applicant that it should not be excluded as a domestic producer of the subject goods in India and be considered as the domestic industry for the purposes of this application.

15. The Applicant accounts for more than 50% of the total Indian production (87% approx) and therefore is a major producer of the subject goods. Thus, the application has been made by or on behalf of the domestic industry and satisfies the requirements of 'Standing' under Rule 5 of the AD Rules. Further, the Applicant constitutes 'Domestic Industry' in terms of Rule 2(b) of the AD Rules.

Countries involved

16. The countries involved in the present investigation are China PR, Indonesia, Malaysia and Sri Lanka (hereinafter also referred to as the subject countries).

Normal value

Normal value in case of countries other than China PR

17. The Applicant has stated that they have made efforts to procure information/ evidence of the price of subject goods in the domestic market of subject countries, including procuring price list of quotations of producers of subject goods in subject countries; which included a review of known trade journals, web-site information of the foreign producers, customs data from exporting countries and communication to the Indian

Embassy in the exporting countries. However, they have not been able to get any information/evidence of price of the subject goods in the domestic market of the subject countries. It has been claimed that there is no public information available with regard to the prices at which the product under consideration was sold in the domestic markets of the subject countries. Further, they also could not procure evidence for third country prices as there is no dedicated code for the product under consideration. In view of the above, they have estimated the Normal values in the subject countries by considering the constructed normal value approach. For the purpose, the Applicant has estimated cost of production of the foreign producers by adopting such information as is reasonably and publically available.

18. Thus, the Authority has prima-facie considered the normal value of the subject goods in the subject countries on the basis of constructed values for the purpose of the initiation of this investigation.

Normal value in case of China PR

19. The Applicant has contended that China PR is a non-market economy and that it has been treated as non-market economy by European Union and United States in the past three years. In India, the Designated Authority has also treated China PR as a non-market economy. It has submitted that Market economy status cannot be granted unless the responding exporters from China PR satisfy the criteria as enshrined under the AD Rules.
20. The Applicant has contended that normal value for China PR could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not available to them. It has been further contended that such normal value must be “comparable price in the ordinary course of trade for the like article when meant for consumption in such market economy third country” and that in order to arrive at normal value on this basis, the Authority shall require complete & exhaustive verifiable information on all domestic sales made by a cooperating producer in such third country, along with its cost of production and all other associated information and evidences (including all information in the ordinary course of trade). Principles of fair comparison as laid down under Article 2.4 of the Agreement are also relevant in this respect. It has thus been stated that it has not been able to procure such information from a producer in market economy third country.
21. The Applicant has further claimed that India is an appropriate surrogate country for China PR and that not only the consideration of India as a surrogate country would result in access to accurate and adequate information; besides, there is no factual basis to consider that India would not be a proper surrogate country. India has been considered as an appropriate surrogate by other Investigating Authorities too. The normal value in China can thus be determined on the basis of (a) price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. The Applicant has thus estimated normal value on the basis of cost of production in India, duly adjusted, in view of the fact that the selling price is a loss making price.

22. It is noted that sufficient information and evidence is not available on record in respect of the price or constructed value of a market economy third country that has the comparable level of development *vis a vis* China PR, particularly considering the subject goods. Thus, in view of the above facts, for the purpose of initiation of this investigation, it is proposed to determine the Normal value in respect of exporters/producers from China PR on available reasonable basis, in terms of second proviso of para 7 of Annexure 1 to the AD Rules. Accordingly, the ex-works Normal Value of the product under consideration have been determined based on constructed costs of production, duly adjusted.

Export price

23. The Applicant has relied upon transaction-wise import data as procured by them from IBIS. Considering that the comparison of normal value and export price must be at the same level of trade, it is necessary to compare the two at the same level of trade. The export prices being assessable value while the normal values being at ex-factory level, the export prices have been adjusted for ocean freight, marine insurance, documentation charges, cleaning charges, and manifestation charges.

Dumping margin

24. There is sufficient evidence available on record that the normal values of the subject goods in the subject countries are significantly higher than the net export prices, prima-facie indicating that the subject goods originating in or exported from the subject countries are being dumped, to justify initiation of an anti-dumping investigation.

'Injury' and Causal link

25. On a prima facie basis, it is seen that the imports from the subject countries have substantially increased, which should have declined, given that the domestic industry has set up new production facilities and supporting company has also commenced the production of the product under consideration. The performance of the domestic industry has remained substantially below the expected level. Even when the domestic industry did not produce to the extent it could have, it has not been able to sell the product to the extent of production and inventories have piled up. The domestic industry has been forced to sell the product at significant financial losses, resulting in negative return on investments and cash flow. The level of price undercutting is very significant. It is seen that the domestic industry is suffering from significant price suppression, as it has not been able to even realise its costs of sales.

26. In view of the above, the domestic industry has apparently suffered material retardation of its establishment. Besides, the domestic industry has also apparently suffered material injury to the extent of its existence. The product under consideration is being exported from the subject countries below associated normal

value, resulting in dumping of the product. The domestic industry has suffered 'Injury', which has apparently been apparently caused by the dumped imports.

27. There is sufficient evidence of the 'injury' being suffered by the domestic industry caused by the dumped imports from the subject countries to justify initiation of an antidumping investigation in terms of the AD Rules.

Initiation of Anti Dumping Investigation

28. In view of the foregoing, the Authority finds that sufficient evidence of dumping of the subject goods from the subject countries, 'injury' to the domestic industry and causal link between the dumping and 'injury' exists to justify initiation of an anti-dumping investigation. Accordingly, the Authority hereby initiates an investigation into the alleged dumping, and consequent 'injury' to the domestic industry in terms of the Rules 5 of the AD Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping measure, which, if levied, would be adequate to remove the injury to the domestic industry.

Period of investigation

29. The period of investigation for the purpose of present investigation is **1st April 2010 to 30th June 2011**. The injury investigation period will, however, cover the periods April 2007-March 2008, April 2008-March 2009, April 2009-March 2010 and the Period of Investigation (POI) viz. 1st April 2010 to 30th June 2011.

Submission of information

30. The known exporters in the subject countries and their Governments through their Embassies/High Commissions in India, importers and users in India known to be concerned and the domestic industry are being informed separately to enable them to file all information relevant in the form and manner prescribed. Any other interested party may also make its submissions relevant to the investigation within the time-limit set out below and write to:

**The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Ministry of Commerce & Industry,
Department of Commerce
Room No.240, Udyog Bhawan,
New Delhi -110107**

31. 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.

Time limit

32. Any information relating to this investigation and any request for hearing should be sent in writing so as to reach the Authority at the above mentioned address, 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 AD Rules.

Submission of information on Confidential basis.

33. 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.
34. Information supplied without any mark 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.
35. 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.
36. 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 Designated Authority.
37. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Designated 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.
38. 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 Designated Authority. The Designated 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

39. In terms of rule 6(7) any interested party may inspect the public file containing non-confidential versions of the evidence submitted by other interested parties.

Use of ‘facts available’

40. 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

(Vijay Laxmi Joshi)
The Designated Authority