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MINISTRY OF COMMERCE & INDUSTRY
(Department of Commerce)
Directorate General of Anti-Dumping & Allied Duties

INITIATION NOTIFICATION

New Delhi, the 6th August, 2001

Sub:- Initiation of Anti-dumping investigation concerning imports into India of Vitrified/Porcelain Tiles originating in or exported from China PR and UAE

No.37/1/2001-DGAD- M/s SPL Ceramics Ltd., Mundka, Bahadurgarh, Haryana, M/s H&R Johnson India Ltd, Maharashtra and M/s Murudewhwar Ceramics Ltd, Hubli have filed a petition in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 before the Designated Authority (hereinafter referred to as the Authority) alleging dumping of Vitrified/Porcelain tiles originating in or exported from Peoples' Republic of China and United Arab Emirates (hereinafter referred to as subject countries) and requested for initiation of Anti Dumping investigations and levy of anti dumping duties.

2. PRODUCT UNDER CONSIDERATION:

The product under consideration in the present petition is "Unglazed tiles in polished or unpolished finish and Glazed Porcelain/Ceramic tiles both with less than 3% water absorption (commonly known as Vitrified Tiles/Porcelain tiles" (hereinafter referred to as subject goods). Vitrified/Porcelain tiles is Glazed and unglazed tiles are used primarily for coverings for floors as well as on walls. These tiles are used in buildings, homes, restaurants, cinema halls, airports, swimming pools, railway stations etc.

Petitioners have claimed that all types of unglazed tiles are classified in chapter heading 69.07. However unglazed tiles are also being imported under Chapter heading 69.14, as other articles of procelain. In addition, glazed porcelain tiles are being imported under Chapter heading 69.14 with various descriptions like G.P. Tiles, Porcelain Tiles, Gres Porcelenato Tiles, Porcelain Vitrified Tiles, etc. It has further been stated that the Glazed Porcelain Tiles, being imported under Chapter heading 69.14 are substitutable with the unglazed tiles of Chapter Heading 69.07 in terms of properties, use, functions, distribution, channels etc. Petitioners have further submitted that Glazed Porcelain Tiles are erroneously being classified under Chapter Heading

69.14 by many importers. These products are rightly classifiable under Chapter Heading 69.08 as Glazed Tiles. Therefore petitioners have requested that the investigations be initiated against the product under consideration irrespective of the classification under which they are being imported. Customs classifications are indicative only and are in no way binding on the scope of the present investigation.

3. DOMESTIC INDUSTRY

The petition has been filed by M/s SPL Ltd., M/s H&R Johnson India Ltd and M/s Murudewhwar Ceramic Ltd. The petitioners have claimed that they account for almost 60% of the total Indian production in terms of sq. mtrs. of the subject goods. Prima facie the petitioners satisfy the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra.

4. COUNTRIES INVOLVED:

The countries involved in the present investigation are the China PR and UAE.

5. LIKE ARTICLE:

The petitioners have claimed that the goods produced by them are like articles to the goods originating in or exported from subject countries. Therefore, for the purpose of the present investigation, the goods produced by the petitioners are being treated as 'like articles' of the product imported from the subject countries within the meaning of the Rules supra.

6. NORMAL VALUE:

Annexure 1 of the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 had been amended vide Notification No. 44/99-CUS(NT), dated 15-7-99 and subsequently Notification No. 28/2001(N.T.) dated 31st May, 2001 whereby the following Principle 7 had been added:-

"In case of imports from non-market economy countries, Normal Value shall be determined on the basis of the price of constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the Designated Authority in a reasonable manner keeping in view the level

of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments."

Vide Custom Notification No.28/2001(NT) dated 31.5.2001, further Principle 8 as under has also been inserted and in the Note appended thereto Peoples' Republic of China has been included in the list of non-market economy countries:

"The term "non market economy country" subject to the Note to this paragraph means every country listed in the note and includes any country which the Designated Authority determines and which does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise. While making such determination, the Designated Authority shall consider as to whether,

- i. the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in respect to market signals reflecting supply and demand and without significant State interference in this regard, and whether cost of major inputs substantially reflect market values;
- ii. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write offs, barter trade and payment via compensation of debts;
- iii. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
- iv. the exchange rate conversions are carried out at the market rate;

Provided that in view of the changing economic conditions in Russia and in the Peoples' Republic of China, where it is shown on the basis of sufficient evidence in writing on the factors specified in this paragraph that market conditions prevail for one or more such firms are subject to anti-dumping investigations, the Designated Authority may apply the principles set out in paragraphs 1 to 6 (of Annexure 1 of Rules supra) instead of the principles set out in this paragraph.

Note: For the purpose of this paragraph, the list of non-market economy countries is Albania, Armenia, Azerbaijan, Belarus, Peoples' Republic of China, Georgia, Kazakstan, North Korea, Kyrgyzstan, Mongolia, Russia, Tajikstan, Turkmeistan,

Ukraine, Uzbekistan and Vietnam. Any country among them seeking to establish that it is a market economy country as per criteria enunciated in this paragraph, may provide all necessary information which shall be taken due account by the Designated Authority."

In accordance to the Rules as amended above, the petitioners have claimed Normal Value for China PR based on the basis of Constructed Normal Value of the subject goods in India.

In terms of the aforesaid Rules it will be incumbent upon the exporters from the China PR , in case they claim their exports to be from market economy country, to provide sufficient evidence to the Designated Authority in accordance with the aforesaid Rules.

Regarding Normal Value in respect of UAE the petitioners have provided price list of one of the major producers in UAE. The price list indicates the ex-factory prices to the distributors.

The Authority has considered the same as prima facie evidence for Normal Value.

7. EXPORT PRICE:

The petitioners have claimed the export price from the subject countries based on the secondary data sources, i.e. M/s International Business Information Service, Mumbai whose data is based on the Customs Daily List. From the data of secondary source, the petitioners have sorted the data on the basis of description and clubbed the transactions for the product under consideration. Adjustments have been claimed on account of ocean freight, marine insurance, inland transportation in the country of exports, port handling and port charges to arrive at the Export Price at ex-factory level

8. DUMPING MARGIN

There is prima facie evidence that Normal Value of the subject goods in the subject countries is significantly higher than the ex-factory export price indicating prima facie that the subject goods are being dumped by exporters from the subject countries.

9. INJURY AND CAUSAL LINK

Various parameters relating to injury such as the decline in the sales realisation, decline in profitability, suppression, lower utilisation of capacity, increase in market share of imports from subject countries and losses to the Domestic Industry due to

non-realisation fair and reasonable price from the sale of the subject goods, prima facie indicate collectively and cumulatively that the Domestic Industry has suffered material injury on account of dumping.

10. INITIATION OF ANTI DUMPING INVESTIGATIONS

The Designated Authority, in view of the foregoing paragraphs, initiates anti-dumping investigations into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject countries.

11. PERIOD OF INVESTIGATION

The Period of Investigation for the purpose of the present investigation is 1st April, 2000 to 31st March, 2001.

12. SUBMISSION OF INFORMATION

The exporters in the subject countries and the importers in India known to be concerned with this investigation are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Designated Authority, Directorate General of Anti Dumping & Allied Duties, Ministry of Commerce & Industry, Department of Commerce, Government of India, Udyog Bhavan, New Delhi – 11 00 11.

As per Rule 6(5) of Rule supra, the Designated Authority is also providing opportunity to the industrial users of the article under investigation, and to representative consumer organizations who can furnish information which is relevant to the investigation regarding dumping, injury and causality. Any other interested party may also make its submissions relevant to the investigation within the time limit set out below.

13. TIME LIMIT

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 forty days from the date of publication of this notification. The known exporters and importers, who are being addressed separately are however required to submit the information within forty days from the date of the letter addressed to them separately. It may be noted that no request whatsoever shall be entertained for extension in the prescribed time limit.

14. INSPECTION OF PUBLIC FILE

In terms of Rule 6(7), any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties. In case where an interest 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.

(L.V. SAPTHARISHI),
DESIGNATED AUTHORITY