

F.No. 6/10/2020-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001

Dated 21st May, 2020

INITIATION NOTIFICATION

Case No. OI-09/2020

Subject: Initiation of Anti-dumping investigation concerning imports of “Polyester Yarn (Polyester Spun Yarn)” from China PR, Indonesia, Nepal and Vietnam.

1. An application was jointly filed by 8 Applicants (hereinafter referred to as the “Applicants”) before the Designated Authority (hereinafter also referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred as the “Rules”), for anti-dumping investigation concerning imports of “Polyester Yarn (Polyester Spun Yarn)” (hereinafter also referred to as “product under consideration” or “PUC” or “subject goods”) from China PR, Indonesia, Nepal and Vietnam (hereinafter also referred to as the “subject countries”). The following are the 8 Applicants:
 - i. M/s. Aabhas Spinners Private Limited;
 - ii. M/s. Arisudana Industries Limited;
 - iii. M/s. Jaanvi Spinners Private Limited;
 - iv. M/s. Krishna Ganga Spinning Mills Private Limited;
 - v. M/s Shree Nagani Silk Mills Private Limited;
 - vi. M/s. Suryalakshmi Cottom Mills Limited;
 - vii. M/s. Suryalata Spinning Mills Limited; and
 - viii. M/s. Suryauday Spinning Mills Private Limited.
2. The Applicants have alleged dumping of subject goods, originating in or exported from the subject countries and consequent injury to the domestic industry, and have requested for imposition of anti-dumping duties on the imports of subject goods, originating in or exported from the subject countries.

Product under Consideration

3. The product under consideration (PUC) is single yarn of polyester containing 97% or more by weight of polyester staple fibres, commonly referred to as 'Polyester Spun Yarn'. In market parlance, the product is also known as Spun Yarn, Spun Poly. The Applicants have requested for exclusion of the following from the scope of the PUC:
 - i. Dyed polyester yarn, melange polyester yarn or coloured polyester yarn; and
 - ii. Yarns coarser than 8s counts or finer than 45s counts.
4. The subject goods are used for knitting and weaving to make fabrics for garments and home furnishing.
5. The subject goods are classified under the tariff custom classification 55092100. The customs classifications is indicative only and is not binding on the scope of the present investigation.

Like Article

6. The Applicants have claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped PUC and the domestically produced subject goods. 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 Applicants in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

Product Control Number (PCN)

7. Since the cost and prices of the PUC may vary on account of differences in count, or based on whether the raw material used is recycled or virgin, the Applicants have proposed PCN methodology. Pending receipt of comments from the interested parties, the Authority has *prima facie* accepted the PCN methodology proposed as under by the Applicants:

| PCN Methodology | | |
|------------------------|---------------|---|
| Characteristics | Format | Explanation |
| Count | XX | Count of the product may range from 8 to 45 |
| Raw material used | X | The nature of raw materials used: R: recycled V: virgin |

8. The interested parties may make their submissions with regard to appropriateness or otherwise of the proposed PCN system as per the timeline mentioned in this notification. The final PCN methodology will be notified on receipt of comments from interested parties and examination of the same by the Authority.

Domestic Industry

9. The Application has been filed by 8 Applicants, as mentioned in Para 1 above. The Applicants have claimed that they have neither imported the subject goods from the subject countries nor are related to any exporter or producer of subject goods in the subject countries or any importer of the subject goods in India. The Applicants accounts for major proportion of domestic production in India. On the basis of the information on record, the Authority notes that the Applicants constitute eligible domestic industry in terms of Rule 2 (b) and the application fulfills the criteria of standing in terms of Rule 5(3) of the Rules.

Normal Value

Normal Value for China

10. For China PR, the Applicants have cited and relied upon Article 15(a) (i) of China's Accession Protocol. The Applicants have claimed that producers in China PR must be asked to demonstrate that market economy conditions prevail in their industry producing the like product with regard to the manufacture, production and sale of the PUC. It has been stated by the Applicants that in case the responding Chinese producers are not able to demonstrate that their costs and price information are market-driven, the normal value should be calculated in terms of provisions of Para 7 and 8 Annexure – I. The Applicants have claimed the normal value for China PR based on the exports from appropriate third country, Turkey. However, pending detailed examination of suitability of Turkey as the appropriate third country, the normal value for China has been constructed on the basis of cost of production in India, of the most efficient constituent of DI and its selling, general and administrative expenses.

Normal Value for Indonesia, Nepal and Vietnam

11. The Applicants have stated that normal value for Indonesia, Nepal and Vietnam could not be determined based on domestic selling price for want of public information. They have also not suggested any appropriate third country for determination of normal value. Accordingly, normal values for these countries have also been constructed on the basis of cost of production in India, based on the most efficient DI cost duly adjusted with selling, general and administrative expenses.

Export Price

12. The export price for subject goods for the subject countries has been computed based on the Directorate General of Commercial Intelligence and Statistics transaction-wise import data. Price adjustments have been made for ocean freight, marine insurance, commission, port expenses and inland freight expenses.

Dumping Margin

13. The normal value and the export price have been compared at ex-factory level, which prima facie shows dumping margin above the *de-minimis* in respect of the PUC from the subject countries. There is prima facie evidence that the PUC from subject countries is being dumped into the Indian market by the exporters from the subject countries.

Injury and Causal Link

14. Information furnished by the Applicants has been considered for assessment of injury to the domestic industry. The Applicants have furnished evidence regarding the injury having taken place as a result of the alleged dumping in the form of increased volume of dumped imports in absolute terms and in relation to production and consumption in India, and price suppression. The Applicants have claimed that their performance has been adversely impacted in respect of profits, return on capital employed, and cash profit, as a result of increase in imports of subject goods at a price below the selling price and non-injurious price of the domestic industry. There is sufficient prima facie evidence of injury being suffered by domestic industry caused by dumped imports from subject countries.

Initiation of Anti-dumping investigation

15. On the basis of the duly substantiated written application by or on behalf of the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, about dumping of the product under consideration originating in or exported from the subject countries, injury to the domestic industry and causal link between such alleged dumping and injury, and in accordance with Section 9A of the Act read with Rule 5 of the Rules, the Authority, hereby, initiates an investigation to determine the existence, degree and effect of any alleged dumping in respect of the product under consideration originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would remove the injury to the domestic industry.

Subject Countries

16. The subject countries for the present investigation are China PR, Indonesia, Nepal and Vietnam.

Period of investigation

17. The Applicants have proposed the period of investigation from 1st April, 2018 to 30th September, 2019 (18 months).
18. However, the explanation to amended Rule 22(3) with regard to the period of investigation states as under:

For the purposes of these rules, the period of investigation shall,- (i) not be more than six months old as on the date of initiation of investigation. (ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months.”

19. In view of the above provision in the Rules, the period of investigation (POI) adopted by the Authority for the present investigation is 1st January 2019 to 31st December 2019 (12 months) and the injury period will cover the periods April 2016- March 2017, April 2017- March 2018, April 2018- March 2019 and the POI.

Procedure

20. Principles as given in Rule of the Rules will be followed for the present investigation.

Submission of Information

21. 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 adg12-dgtr@gov.in and dir14-dgtr@gov.in.
22. The known producers/exporters in the subject countries, their Governments through their Embassies 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.
23. 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.
24. 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

Time Limit

25. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg12-dgtr@gov.in and dir14-dgtr@gov.in within thirty days from the date of receipt of the notice as per Rule 6(4) of the Anti-Dumping Rules. It may, however, be noted that in terms of explanation of the said Rule, the notice calling for information and other documents shall be deemed to have been received within one week from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country. 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.
26. 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.

Submission of information on confidential basis

27. Any party making any confidential submission or providing information on confidential basis before the Authority, is required to simultaneously submit a non-confidential version of the same in terms of Rule 7(2) of the Rules and the Trade Notices issued in this regard. Failure to adhere to the above may lead to rejection of the response / submissions.
28. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.
29. 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.
30. 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.
31. 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.

32. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied 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.
33. 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.
34. 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.

Inspection of Public File

35. In terms of Rule 6(7) of the Rules, any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties. The modality of maintaining public file in electronic mode is being worked out.

Non-cooperation

36. 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.



21/05/20

(Bhupinder S. Bhalla)
Additional Secretary & Designated Authority