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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 – 110001

Dated 21st May, 2020

INITIATION NOTIFICATION

Case No. ADD-(OI)-13/2020

Sub: Initiation of anti-dumping investigation concerning imports of Phthalic Anhydride (PAN) originating in or exported from China PR, Indonesia, Korea RP and Thailand.

1. M/s IG Petrochemicals Limited, M/s Thirumalai Chemicals Ltd. and M/s SI Group India Pvt. Ltd., (hereinafter also referred to as “Applicants”) have filed an application before the Designated Authority (hereinafter referred to as the “Authority”) in accordance with Customs Tariff Act, 1975 as amended from time to time (herein referred to as the “Act”) and Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the “Rules”) for original Anti-dumping investigation on imports of “Phthalic Anhydride” also known as PAN (hereinafter referred to as “subject goods” or “product under consideration” or “PUC”) originating in or exported from China PR, Indonesia, Korea RP, Chinese Taipei and Thailand.
2. The Applicants have alleged dumping of the subject goods, originating in or exported from the said countries and consequent injury to the domestic industry, and have requested for imposition of the anti-dumping duties on the import of the subject goods originating in or exported from the said countries.

Subject Countries

3. The Applicants have claimed injury due to dumped imports from China PR, Indonesia, Korea RP, Chinese Taipei and Thailand. However, the Authority’s analysis does not indicate any injury to the domestic industry due to imports from Chinese Taipei. Accordingly, the subject countries for the present investigation shall be China PR, Indonesia, Korea RP and Thailand.

Product under consideration

4. The product under consideration in the present application is “Phthalic Anhydride” (PAN). Phthalic Anhydride (PAN) is an anhydride of Phthalic Acid and is commercially produced by catalytic oxidation of Ortho-xylene or Naphthalene. It is a colorless solid, variously referred as Phthalic Anhydride flakes, Phthalic Anhydride (98% min.), Phthalic Acid Anhydrous, Phthalic Anhydride (99.8% min), etc. Specifications of Phthalic Anhydride includes its physical appearance, color of solid flakes, color of molten product, solidification point, Phthalic Anhydride content by weight, other anhydrides & organic impurities' content by weight and acidity index.
5. The product under consideration is classified under chapter 29 of Customs Tariff Act, 1975 and subheading 29173500. The custom classification is indicative only and not binding on the scope of the 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 imports 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.

Domestic industry & Standing

7. The application has been filed by M/s IG Petrochemicals Limited, M/s Thirumalai Chemicals Ltd. and M/s SI Group India Pvt. Ltd. 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.

Basis for Alleged Dumping

i. Normal value for China PR

8. The Applicant has claimed that China PR should be treated as a non-market economy and the normal value should be determined in terms of paragraph-7 of Annexure I of the Rules.

The Applicant has cited and relied upon Article 15(a)(i) of China's Accession Protocol and stated that the Chinese producers should be directed to show that market economy conditions prevail in the industry producing the subject goods. The Applicant has claimed that Chinese domestic costs and prices cannot be accepted unless the Chinese exporters pass the tests of market economy. The Applicant has stated that for China, normal value should be determined in accordance with para-7 and 8 of Annexure I of the Rules. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters from China, normal value of the Subject Goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.

ii. Normal value for Indonesia and Thailand

9. For the purpose of determining the normal value for Indonesia and Thailand, the Applicants have claimed that they were unable to fetch information relating to the prices of the subject goods in the three countries. Therefore, the normal value has been estimated on the basis of cost of production in these countries considering estimates of raw material costs (using consumption factor and price of raw materials as per published reports), conversion cost and selling, general and administrative expenses, along with reasonable addition for profit.

iii. Normal value for Korea RP

10. The Applicants have stated that normal value of Korea RP could not be determined based on domestic selling price for want of public information. Therefore, the normal value has been constructed on the basis of estimates of cost of production in Korea RP, considering estimates of raw material costs (using consumption factor and price of raw materials at export prices from Korea RP as per its customs data), conversion costs and selling, general and administrative expenses, along with reasonable addition for profit.

Export Price

11. The Authority has computed the export price for the subject countries based on the Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Adjustments have been made on account of ocean freight, marine insurance, commission, bank charges and port expenses.

Dumping Margin

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

Injury and Causal Link

13. 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 flow, 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

14. On the basis of the duly substantiated written application by the Applicants, and having satisfied itself, on the basis of *prima facie* evidence submitted by the applicant, 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 the 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.

Period of Investigation (POI)

15. The Applicants have proposed the period of investigation from July, 2019 to December, 2019 (6 months).
16. 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.”

17. In view of the above provision in the Rules, the period of investigation (POI) adopted by the Authority for the present investigation is 01st April, 2019 to 31st March, 2020 (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

18. Principles as given in Rule 6 of the Rules will be followed for the present investigation.

Submissions of Information

19. 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 adv12-dgtr@gov.in
20. 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.
21. 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.
22. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to other interested parties.

Time Limit

23. 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 adv12-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.
24. 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

25. 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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.
31. 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.

32. 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

33. 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

34. 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.



(Bhupinder S. Bhalla)

Additional Secretary & Designated Authority