

F. No. 07/11/2023-DGTR
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: 19th September 2023

Initiation Notification
Case No. AD - SSR (05/2023)

Subject: Initiation of Sunset Review Investigation concerning imports of “Textured Tempered Coated and Uncoated Glass” originating in or exported from Malaysia.

F. No. 07/11/2023-DGTR-M/s Borosil Renewables Limited (hereinafter referred to as the ‘applicant’), has filed an application before the Designated Authority (hereinafter referred to as the ‘Authority’), on behalf of domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter 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 referred to as the ‘Rules’), seeking initiation of a sunset review investigation for continued imposition of anti-dumping duties levied on imports of “Textured Tempered Coated and Uncoated Glass” (hereinafter referred to as the ‘subject goods’), originating in or exported from Malaysia (hereinafter referred to as the “subject country”).

2. In terms of Section 9A (5) of the Act and Rule 23 (1B) of the AD Rules, the anti-dumping duties imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review the need for the continued imposition of the anti-dumping duties, and to assess whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the same, the Authority is required to review, on the basis of duly substantiated request made by or on behalf of the domestic industry as to whether there is a need for the continued imposition of the anti-dumping duty, and whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury.

A. Background

3. The original investigation concerning imports of the subject goods from Malaysia was initiated by the Authority vide Notification No.6/45/2017-DGAD dated 05.02.2018. The Final

Findings was issued by the Authority vide Notification No. 6/45/2017-DGAD dated 17.01.2019, recommending the imposition of definitive anti-dumping duties.

4. On the basis of the said recommendation, definitive anti-dumping duties were imposed by the Central Government vide Custom Notification No.12/2019-Customs (ADD) dated 26.02.2019 on the imports of the subject goods, originating in or exported from Malaysia. The current anti-dumping duties are in force up to 25.02.2024.

B. Product under Consideration

5. The product under consideration is the same as in the original investigation i.e., "Textured Tempered Coated and Uncoated Glass". The product defined under the original investigation was as follows-

"Textured Toughened (Tempered) Glass with a minimum of 90.5% transmission having thickness not exceeding 4.2 mm (including tolerance of 0.2 mm) and where at least one dimension exceeds 1500 mm, whether coated or uncoated".

6. The present investigation being a sunset review investigation, the scope of the product under consideration remains the same as defined in the original investigation.

7. The product under consideration is classified under Chapter 70 of the Customs Tariff Act, 1975 under subheading 70071900 of the Customs Tariff Classification. However, in the past, the PUC has also been imported under other sub-headings as well, such as 70031990, 70051010, 70051090, 70052190, 70052990, 70053090, 70071900, 70072190, 70072900, 70169000, 70200090 and 85414011. The customs classification is indicative only, and not binding on the scope of product under consideration since the proposed PUC may be imported under other HS Codes.

8. The parties to the present investigation may provide their comments on the PUC and propose PCNs, if any, within 15 days of circulation of the non-confidential version of the application filed before the Authority as indicated in paragraph 27 of this initiation notification.

C. Like Article

9. The applicant has submitted that there are no significant differences in the subject goods produced by the applicant and exported from the subject country and both are like articles. The product manufactured by the applicant and imported from the subject country are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & usage, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and have been using the two interchangeably. 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 applicant in India are being treated as 'like article' to the subject goods being imported from the subject country.

D. Domestic Industry & Standing

10. The application for the sunset review investigation has been filed by M/s Borosil Renewables Limited, which is the sole producer of the product under consideration in India. The Authority notes that the applicant holds 100% share of the total domestic production in India and has submitted that it has neither imported the subject goods from the subject country nor is it related to any importer of the subject goods in India or any exporter or producer of the subject goods in the subject country. In view of the above, the Authority notes that the applicant constitutes an eligible 'domestic industry' within the meaning of Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. Subject Country

11. The subject country in the present review investigation is Malaysia.

F. Period of Investigation

12. The period of investigation (POI) proposed for the present sunset review investigation is from April 2022 to March 2023 (12 months) and 2019-20, 2020-21 & 2021-22 i.e., the immediately preceding three years as the injury investigation period. It is noted that the period proposed is the most recent period of the applicant's performance. Accordingly, the injury period proposed to be examined is 1st April 2019 - 31st March 2020, 1st April 2020 - 31st March 2021, 1st April 2021 - 31st March 2022, and the POI.

G. Procedure

13. The sunset review investigation will cover all aspects of the final findings published vide Notification No. 6/45/2017-DGAD dated 17.01.2019, recommending the imposition of anti-dumping duty on the imports of subject goods originating in or exported from Malaysia.

14. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 of the Rules shall be *mutatis mutandis* applicable in this review.

H. Likelihood of Continuation or Recurrence of Dumping

Normal Value

15. The subject country i.e., Malaysia is a market economy, and hence the normal value of the subject goods will be based on the information provided by them.

16. However, for the purpose of initiation of the present review investigation, the normal value has been constructed based the cost of production of the said article along with reasonable addition

for administrative, selling and general costs, and for profits, as determined in accordance with the rules.

Export Price

17. The export price for the subject goods has been computed based on the transaction-wise import data obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI & S). Appropriate price adjustments have been carried out to make the prices at ex-factory levels so that they become comparable with normal value.

Dumping Margin

18. The normal value and the export price have been compared at the ex-factory level, which *prima facie* establishes that the dumping margin is above the *de minimis* level and is significant with respect to the product under consideration from the subject country. Thus, there is sufficient *prima facie* evidence that the product under consideration from the subject country is being dumped in the domestic market of India by the exporters from the subject country.

I. Likelihood *vis-a-vis* Injury and Causal Link

19. The quantity of imports of the subject goods from the subject country has remained high despite the existence of anti-dumping duties on the imports of the subject goods from the subject country. In view of the same, the Authority has examined the *prima facie* likelihood of dumping or recurrence of injury in the event of cessation of the existing anti-dumping duty. The Authority has also *prima facie* examined the continuation of existing duties based on the grounds alleged in the application.

20. The applicant has claimed that while the domestic industry has not suffered continued injury, the non-remunerative dumped and subsidized imports from other countries halted the recovery process, and hence cessation and continuation of anti-dumping duties will likely result in injury to the domestic industry. Furthermore, the applicant has claimed the likelihood of injury based on factors such as the positive dumping and injury margins, the history of dumping, capacities available in the subject country and capacity expansion, the lack of domestic demand in the subject country, and the likely impact of recurrence of dumping on the domestic industry in the event of cessation of duties. There is *prima facie* evidence regarding the likelihood of dumping and injury to the domestic industry in the event of cessation of anti-dumping duty.

J. Initiation of Sunset Review Investigation

21. On the basis of the duly substantiated application by the domestic industry, and having satisfied itself, on the basis of *prima facie* evidence submitted by the applicant substantiating likelihood of dumping and consequent injury to the domestic industry, and in accordance with Rule

23(1B) of the Rules, the Authority hereby initiates the present investigation to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject country, and to examine whether the expiry of existing anti-dumping duty is likely to lead continuation or recurrence of dumping and consequent injury to the domestic industry.

K. Submission of Information

22. All communication should be sent to the Designated Authority via email at email addresses dd11-dgtr@gov.in and ddl6-dgtr@gov.in with a copy to adg14-dgtr@gov.in and adv13-dgtr@gov.in. It must be ensured that the narrative part of the submission is in searchable PDF/MS-Word format and data files are in MS-Excel format.

23. The known producers/exporters in the subject country, the Government of the subject country through its Embassy in India, and the importers and users in India who are known to be associated with the subject goods are being informed separately to enable them to file all the relevant information within the time limits mentioned in this initiation notification. All such information must be filed in the form and manner as prescribed by this initiation notification, the Rules, and the applicable trade notices issued by the Authority.

24. Any other interested party may also make a submission relevant to the present investigation in the form and manner as prescribed by this initiation notification, the Rules, and the applicable trade notices issued by the Authority within the time limits mentioned in this initiation notification.

25. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other interested parties.

26. Interested parties are further directed to regularly visit the official website of the Directorate General of Trade Remedies (<https://www.dgtr.gov.in/>) to stay updated and apprised with the information as well as further processes related to the investigation.

L. Time Limit

27. Any information relating to the present investigation should be sent to the Designated Authority via email at email address dd11-dgtr@gov.in and ddl6-dgtr@gov.in with a copy to adg14-dgtr@gov.in and adv13-dgtr@gov.in within 30 days from the date on which the non-confidential version of the application filed by the domestic industry would be circulated by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country as per Rule 6(4) of the Rules. If no information is received within the stipulated time limit or the information received is incomplete, the Authority may record its findings based on the facts available on record and in accordance with the Rules.

28. 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 as stipulated in this notification.

29. Where an interested party seeks additional time for filing of submissions, it must demonstrate sufficient cause for such extension in terms of Rule 6(4) of the AD Rules, 1995 and such request must come within the time stipulated in this notification.

M. Submission of Information on Confidential Basis

30. Where any party to the present investigation makes confidential submissions or provides information on a confidential basis before the Authority, such party is required to simultaneously submit a non-confidential version of such information in terms of Rule 7(2) of the Rules and in accordance with the relevant trade notices issued by the Authority in this regard.

31. Such submissions must be clearly marked as “confidential” or “non-confidential” at the top of each page. Any submission that has been made to the Authority without such markings shall be treated as “non-confidential” information by the Authority, and the Authority shall be at liberty to allow other interested parties to inspect such submissions.

32. 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 the information which is 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.

33. The non-confidential version of the information filed by the interested parties should be a replica of the confidential version with the confidential information preferably indexed or blanked out (where indexation is not possible) and such information must be appropriately and adequately summarized depending upon the information on which confidentiality is claimed.

34. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on a 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 containing a sufficient and adequate explanation in terms of Rule 7 of the Rules, 1995, and appropriate trade notices issued by the Authority, as to why such summarization is not possible, must be provided to the satisfaction of the Authority.

35. The interested parties can offer their comments on the issues of confidentiality claimed by the domestic industry within 7 days from the date of circulation of the non-confidential version of the application as indicated in paragraph 27 of this initiation notification.

36. Any submission made without a meaningful non-confidential version thereof or a sufficient and adequate cause statement in terms of Rule 7 of the Rules, and appropriate trade notices issued by the Authority, on the confidentiality claim shall not be taken on record by the Authority.

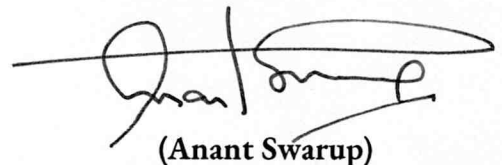
37. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.

38. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorisation of the party providing such information.

39. A list of registered interested parties will be uploaded on the DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions and other information to all other interested parties.

N. Non-Cooperation

40. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period or within the time stipulated by the Authority in this initiation notification or subsequently time period provided through separate communication, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and record its findings based on the facts available and make such recommendations to the Central Government as it deems fit.

A handwritten signature in black ink, appearing to read 'Anant Swarup', with a long horizontal stroke extending to the left.

(Anant Swarup)

Designated Authority