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File No. 6/17/2022-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 29th March, 2023

INITIATION NOTIFICATION

Case No. OI - 17/2022

Subject: Initiation of an Anti-dumping investigation concerning imports of Flexible Slabstock Polyol originating in or exported from China PR and Thailand.

1. **File No. 6/17/2022-DGTR:** Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as AD Rules).
2. M/s Manali Petrochemicals Ltd., has filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (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 from time to time (hereinafter referred to as the “AD Rules”) for the initiation of an anti-dumping investigation concerning imports of Flexible Slabstock Polyol (hereinafter also referred to as the “subject goods”) originating in or exported from China PR and Thailand (hereinafter referred to as the “subject countries”).

A. Product under consideration (PUC)

3. The product under consideration in the present investigation is Flexible Slabstock Polyol (hereinafter also referred to as “FSP”). It is a clear viscous liquid polymer of molecular weight 3000-4000, manufactured by polymerization of propylene oxide and ethylene oxide with a triol chain starter. It is a polyether and on reaction with catalysts and additives yields polyurethane foams that are used in upholstery, mattresses, pillows, bolsters, transport seating and packaging. It is transported in tankers or stored in steel drums.
4. The PUC does not have a dedicated classification code under the Customs Tariff Act, 1975. It is imported under Chapter Heading 39 “Plastics and Articles” and its classification at the

4-digit level is 3907. At the six-digit level, the subject goods are being classified and imported under various sub-headings like 3907 20, 3907 29, 3907 99 of Schedule-I of the Customs Tariff Act, 1975. The customs classification code is indicative only and is not binding on the scope of the PUC as the imports of the PUC may be reported under various other subheadings.

5. All interested parties to the investigation may provide their proposal for construction of PCNs, if any, within 20 days from the issue of this notification

B. Like Article

6. The applicant has claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no known differences between the subject goods exported from China PR and Thailand and the goods produced by the applicant. The goods produced by the domestic industry and originating in or exported from China PR and Thailand into the domestic market of India are comparable in terms of essential product characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The consumers have used and are using the two products interchangeably. For the purpose of the present investigation, the goods produced by the domestic industry are being treated as 'like article' to the subject goods imported from the subject countries.

C. Domestic Industry and Standing

7. The application has been filed by M/s. Manali Petrochemicals Ltd on behalf of the domestic industry. The applicant has claimed that it is the sole domestic producer of the like article in India and therefore, accounts for 100 % share of the total domestic production. The applicant has submitted that they do not have any related party in China PR and Thailand nor have they imported the subject goods during the POI from the subject countries. Accordingly, as per the available information, it is held that the applicant constitutes domestic industry within the meaning of the Rule 2 (b) of the AD Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the AD Rules.

D. Subject countries

8. The application has been filed in respect of the alleged dumping of the product under consideration from China PR and Thailand (hereinafter referred to as the 'subject countries').

E. Period of Investigation

9. The period of investigation (POI) for the purpose of present investigation is 1st January 2022 to 31st December, 2022 (12 months). For the purpose of analyzing injury, the periods 2019-20, 2020-21, 2021-22 and the period of investigation (POI) have been considered.

F. Basis of Alleged Dumping

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i. Normal Value for China PR

10. The applicant has claimed that in terms of Article 15(a)(i) of China's Accession Protocol and para 7 of the Annexure I to the AD Rules, the normal value of producers from China PR may be determined based on the cost or domestic selling price prevailing in China PR only if the responding producers from the subject country demonstrate that their cost and price information are based on market driven principles and allow for fair comparison in terms of paras 1 to 6 of Annexure I to the AD Rules, failing which, normal value for the producers from the subject country must be determined in accordance with paras 7 and 8 of Annexure I to the AD Rules.
11. The applicant has submitted that the data relating to cost or price in a market economy third country or recourse other alternative methods is not available at this stage. The applicant has submitted that it has not been able to ascertain any surrogate country for China PR at this stage. Further, the import volume of the subject goods from a non-dumping third country/country to India is negligible. The normal value has been, therefore, constructed based on the best estimates of the cost of production of the subject goods as per the best information available after duly adjusting the selling, general and administrative expenses with reasonable profit margin. The normal value has been computed based on the cost of production of the domestic industry after duly the selling, general and administrative expenses with reasonable profit margin.

ii. Normal Value for Thailand

12. With respect to Thailand, the applicant has submitted that it had made efforts to acquire information regarding prices of the subject goods in the domestic market of Thailand. The applicant also attempted to obtain price list of the exporters or price evidence for the export to other countries from Thailand but was not able to find any accurate and reliable information as there is no dedicated HS code for the subject goods. Further, the import volume of the subject goods from a non-dumping third country/country to India is negligible. The normal value has been, therefore, constructed based on the best estimates of the cost of production of the subject goods as per the best information available after duly adjusting the selling, general and administrative expenses with reasonable profit margin. The normal value has been computed based on the cost of production of the domestic industry after duly the selling, general and administrative expenses with reasonable profit margin.

iii. Export Price

13. The applicant has claimed export price of the subject goods by considering the CIF reported in the secondary source data. The price adjustments have been made on account of ocean freight, marine insurance, inland transportation, port handling and clearance charges, commission, credit cost and bank charges. In case of exports from China PR VAT has also been adjusted.

G. Dumping Margin

14. The normal value and the export price, have been compared at ex-factory level which *prima facie* establishes a dumping margin above the *de-minimis* level in respect of the subject goods from the subject countries. Thus, there is sufficient *prima facie* evidence, that the subject

goods are being dumped into the domestic market of India by the producers/exporters from the subject countries.

H. Injury and Causal Link

15. Information furnished by the applicant has been considered for assessment of injury to the domestic industry. The applicant has 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, price undercutting, price suppression, decline in market share of the domestic industry, profitability, cash profits and return on capital employed. The Authority, based on the information submitted by the applicant, is of the view that there is sufficient *prima facie* evidence of the injury being suffered by the domestic industry caused by dumped imports from the subject countries to justify initiation of an anti-dumping investigation.

I. Initiation of Anti-Dumping Investigation

16. On the basis of a duly substantiated written application filed by the domestic industry, and having reached a *prima facie* satisfaction, based on the *prima facie* evidence submitted by the domestic industry concerning the dumping of the product under consideration originating in or exported from the subject countries and the consequential injury to the domestic industry as a result of the dumping of the subject goods, and in accordance with Section 9A of the Act read with Rule 5 of the AD Rules, the Authority, hereby, initiates an investigation to determine the existence, degree and effect of the alleged dumping with respect to the product under consideration originating in or exported from the subject countries and to recommend the appropriate amount of anti-dumping duties, which if levied, would be adequate to remove the injury to the domestic industry.

J. Procedure

17. The principles as stipulated under Rule 6 of the AD Rules, 1995 shall be followed in the present investigation.

K. Submission of information

18. All communications should be sent to the Designated Authority via email at jd12-dgtr@gov.in, and ad12-dgtr@gov.in with a copy to adg13-dgtr@gov.in, and adv13-dgtr@gov.in. It must be ensured that the narrative part of the submissions is in searchable PDF / MS word format only and data files are in MS Excel format only.
19. The known producers/exporters in the subject countries, the governments of the subject countries through their Embassies in India, the importers and users of the subject goods 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 Section L of this Initiation Notification or timelines established by the Authority during the investigation. All such information must be filed in the form and manner as prescribed by this Initiation Notification, the AD Rules and the applicable trade notices issued by the Authority.

20. Any other interested party may also make its submissions that are relevant to the investigation in the form and manner as prescribed by this Initiation Notification, the AD Rules, 1995 and the applicable trade notices issued by the Authority within the time limits mentioned in Section L of this Initiation Notification or timelines established by the Authority during the investigation.
21. Any party making any confidential submission before the Authority is required to submit a non-confidential version of the same which will be made available to the other parties. Failure to do so would lead to determination in accordance with Section O of this Initiation Notification.
22. Interested parties are further directed to regularly visit the website of Directorate General of Trade Remedies (<https://dgtr.gov.in/>) to stay apprised with further developments in the subject investigation and remain informed regarding notices that may be issued from time to time regarding questionnaire formats, PCN methodology, PCN discussion/meeting schedule, notice of oral hearing, corrigendum, amendment notifications, timelines and other such information. This will ensure that all interested parties to the subject investigation remain well aware of the progress and information pertaining to the subject investigation. Specific non-intimation of information to any party shall not be a ground to invalidate the information updated on the website.

L. Time Limit for Registration of Interested Parties and Filing of Responses/Submissions/Information

23. Any response/submission/information pertaining to the present investigation and any request for hearing should be sent to the Designated Authority via email at the email addresses jd12-dgtr@gov.in, and ad12-dgtr@gov.in with a copy to adg13-dgtr@gov.in, and adv13-dgtr@gov.in, within thirty days (30 Days) from the date of receipt of the notice as per Rule 6(4) of the AD Rules, or publication on such notice at the Directorate General of Trade Remedy's (hereinafter referred to as DGTR) website, whichever is later. 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 countries or on its publication on the DGTR website, whichever is later. If no information is received within the prescribed time-limit or if the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with Section O of this Initiation Notification.
24. All interested parties are hereby advised to intimate their interest (including the nature of interest) in the present matter and file their questionnaire responses within the time limit stipulated above or timelines established separately by the Authority during the investigation.
25. Where an interested party seeks additional time for filing of responses/submissions/information, it must demonstrate sufficient cause for such extension in terms of Rule 6 (4) of the AD Rules and such request must come within the time stipulated in this Initiation Notification or timelines established separately by the Authority during the investigation.

M. Submission of information on confidential basis

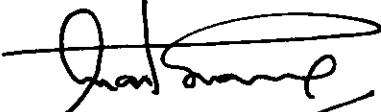
26. Where any party to the present investigation makes confidential submissions or provides information on a confidential basis before the Authority, it is required to simultaneously submit a non-confidential version of such information in terms of Rule 7(2) of the AD Rules and in accordance with the relevant trade notices issued by the Authority in this regard. Failure to adhere to the above may lead to rejection of the response / submissions.
27. Such submissions must be clearly marked as "confidential" or "non-confidential" at the top of each page. Any submission which 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.
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. With respect to 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 sufficient and adequate cause statement along with the supplied information as to why such information cannot be disclosed.
29. The non-confidential version of the information filed by the interested parties should essentially 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.
30. 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 containing a sufficient and adequate explanation in terms of Rule 7 of the AD Rules 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. The other interested parties can offer their comments on the confidentially claimed within 7 days of receiving the non-confidential version of the document.
31. 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 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.
32. Any submission made without a meaningful non-confidential version thereof or without a sufficient and adequate cause statement in terms of Rule 7 of the AD Rules and appropriate trade notices issued by the Authority, on the confidentiality claim shall not be taken on record by the Authority.
33. The Authority on being satisfied with sufficient and adequate reasons regarding the confidential nature of the information/submission/response may accept the need for confidentiality of the information provided, and shall not disclose it to any party without specific authorization of the party providing such information.

N. Inspection of Public File

34. 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/response/information to all other interested parties. Failure to circulate non – confidential version of submissions/response/information might lead to action under Section O of this Initiation Notification

O. Non-cooperation

35. 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.



(Anant Swarup)
Joint Secretary & Designated Authority