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File No. 07/22/2020-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi – 110001

Dated: 19th June, 2020

INITIATION NOTIFICATION

Case No. ADD-AC - 03/2020

Subject: Initiation of Anti-Circumvention investigation concerning alleged circumvention of (i) anti-dumping duty imposed on imports of “Polytetrafluoroethylene” (PTFE) originating in or exported from Russia by imports of “Polytetrafluoroethylene” (PTFE) exported from Korea RP and (ii) anti-dumping duty imposed on imports of “Polytetrafluoroethylene” products (PTFE products) originating in or exported from China PR.

1. M/s Gujarat Fluorochemicals Limited (hereinafter referred to as the “Applicant”) has filed an application before the Designated Authority (hereinafter also referred to as the “Authority”), on behalf of the domestic industry, 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”), alleging that these anti-dumping duties imposed on imports of Polytetrafluoroethylene (PTFE) (hereinafter also referred to as “product under consideration” or “PUC” or “subject goods”), originating in or exported from Russia and China (hereinafter also referred to as the “subject countries”) are being circumvented by way of; (i) imports of PTFE produced and exported from Korea RP [hereinafter also referred to as “Product Under Investigation-I” or (“PUI-I”)] and (ii) PTFE products viz. Rod, Sheet, Tape, Tube, Thread seal tape (TST) [hereinafter referred to as ‘PTFE Products’ or “Product under investigation-II” or (“PUI-II”)].

Background

- (a) Anti-dumping duty on PTFE from Russia**
2. The Designated Authority notified final findings recommending definitive anti-dumping duty on import of Polytetrafluoroethylene (PTFE) vide Notification Number 21/1/1998

dated 13th October, 1999, originating in or exported from Russia which was imposed vide Customs Notification No. 141/99-Customs dated 30th December 1999.

3. The Authority recommended continued imposition of the anti-dumping duty as under:
 - i. Pursuant to the first sunset review investigation vide Notification No. 15/6/2003-DGAD dated the 7th October, 2004 imposed by the central Government vide Notification No.110/ 2004- Customs dated 18th Nov, 2004.
 - ii. Pursuant to the second sunset review investigation vide Notification No. 15/30/2008-DGAD dated the 26th February, 2010 imposed by the Central Government vide Notification No.57 /2010-Customs dated 3rd May, 2010.
 - iii. Pursuant to the third sunset review investigation vide Notification No.15/2/2015-dated 12th April, 2016 which was imposed by the Central Government vide Notification No.23/2016-Customs dated 6th June, 2016 and later amended by Notification No. 22/2017 dated 16th May 2017, in accordance with CESTAT's Order No. 53592/2016 dated 16.09.2016.

(b) Anti-dumping duty on PTFE from China.

4. The Designated Authority notified final findings recommending definitive anti-dumping duty on import of Polytetrafluoroethylene (PTFE) vide Notification Number 14/25/2003 dated 25th July, 2005, originating in or exported from China PR which was imposed vide Customs Notification No. 91/2005-Customs dated 17th October 2005.
5. The Authority had imposed anti-dumping duty on imports Polytetrafluoroethylene from China vide Notification No. 91/2005 -Customs dated 17.10.2005 based on Authority's final finding dated 25/7/2005. Thereafter, a Mid-Term Review of the said definitive anti-dumping duty was conducted and the form of anti-dumping duty modified was implemented vide Notification No. 42/2010 dated 05.04.2010. The duties so revised and imposed were continued pursuant to first sunset review vide Notification No. 81/2011-Customs dated 24.08.2011. Thereafter, 2nd sunset review investigation was conducted and accordingly, the duties was extended vide Notification No. 36/2017-Cus (ADD), dated 28.07.2017.

Products under consideration

6. The products under consideration in the present investigation, as defined in the earlier investigations (original and review) is "Polytetrafluoroethylene (also referred to as 'PTFE' or 'product under consideration' or PUC or Subject goods). (The AD duty on imports of PUC from Russia and China PR is in force till 5th May, 2021 and 27th July 2022 respectively).
7. PTFE is produced in various grades, such as moulding, fine powder, aqueous dispersion and compound. It is primarily used in electrical, electronic, mechanical and chemical

industries for their unique characteristics which are chemical inertness, electrical and thermal insulation, low coefficient of friction, nontoxic, non-flammable, resistance to radiation, low level of static and dynamic friction and outstanding electrical properties over a wide frequency range.

Products under Investigation

8. The Products under Investigation which allegedly circumventing the anti-dumping duty in force on imports of subject goods from Russia and China PR are (i) Polytetrafluoroethylene (PTFE) exported from South Korea also referred to as “Product Under Investigation-I” or “PUI-I” classified under subheading no 39046100 of the Customs Tariff Act. (ii) PTFE products exported from China PR also referred to as “Product Under Investigation-II” or “PUI-II” and classified under subheading no. 3904,3907,3910,3916,3917,3918,3919,3920,3921,3922,3923,3924,3925 and 3926 under the Customs Tariff Act. However, Customs classifications are indicative only and, in no way, binding on the scope of the investigations.

Domestic Industry

9. The application has been filed by M/s Gujarat Fluorochemicals Ltd. The Applicant is a major producer in India accounting for more than 99% of the total production of the subject goods in India. The Applicant has claimed that it is not related to any exporter or producer of the subject goods in the subject country or any importer of the PUC or PUI-I or PUI-II in India. The other company, namely, Hindustan Fluorocarbons Ltd., which also produces the subject goods has production less than 1% of the total production. On the basis of the information available, the Authority is satisfied that the application has been made ‘by or on behalf of the domestic industry’ in terms of Rule 2 (b) and Rule 5(3) of the Rules.

Existing Measures being Circumvented:

(a) Imports from Russia.

10. The existing anti-dumping measure on imports of subject goods from Russia was recommended by the Designated Authority vide Notification No.15/2/2015-dated 12th April, 2016 and imposed by the Central Government vide Notification No.23/2016-Customs dated 6th June, 2016 (amended vide Notification No. 22/2017 dated 16th May 2017), pursuant to the third sunset review investigation, is allegedly being circumvented by PUI-I. The existing measure on PUC from Russia is in force till 5th May 2021.

(b) On imports from China PR.

11. The existing anti-dumping measure was recommended by the Designated Authority vide Notification No.15/11/2016-DGAD dated 23rd June 2017 and imposed by the Central

Government vide Notification No.36/2017-Customs dated 28th July, 2017 pursuant to the second sunset review investigation is allegedly being circumvented by the PUI-II. The existing AD measure on PTFE imported from China PR is in force till 27th July 2022.

A. Grounds for Alleged Circumvention:

12. The application for anti-circumvention investigation has been filed seeking extension of the aforesaid existing anti-dumping duty levied on (i) product under consideration vide Notification No. 23/2016-Customs dated 6th June, 2016 (Amended by Notification No. 22/2017 dated 16th May 2017) extended to the Product under investigation-I alleged to be circumventing the above stated existing anti-dumping duty and (ii) product under consideration vide Notification No. 36/2017-Customs dated 28th July 2017 extended to the Product under Investigation-II alleged to be circumventing the above stated existing anti-dumping on account of the following reasons:
 - a) There is significant change in the pattern of trade whereby 2012 imports of PUI-I from Korea RP since 2018 and import of PUI-II from China since have increased significantly without any due cause or justification other than the AD duty in force.
 - b) There is no known producer in Korea undertaking full-fledged production activities. The exports of PTFE consigned from Korea RP are substantially produced in Russia and thereafter processed in Korea and then exported to India claimed as goods originating in Korea. There is evidence of existence of a warehouse in Korea, which is apparently owned by an entity related to the Russian producer.
 - c) The imports of PTFE from Korea are at dumped prices and are undercutting the prices of the domestic industry and consequently adversely impacting the domestic industry by undermining the remedial effects of the existing anti-dumping measure.
 - d) The production of PUI-II from PUC entails a value addition of less than 35%.
 - e) The imports of PUI II from China PR are dumped and undermine the remedial effects of exiting AD measure on PUC from China thus adversely impacting the Domestic Industry.
13. The Applicant has requested retrospective imposition of AD duty circumventing products i.e. PUI-I and PUI-II from the date of initiation of investigation.
14. The Authority on the basis on the prima facie evidence provided by the Applicant notes that; (i) there is a change in the pattern of trade wherein imports of PTFE from Korea have increased to a significant level since 2018 without any sufficient cause or economic justification and known full-fledged production activity thereby undermining the remedial effects of the existing anti-dumping measure on PUC from Russia.
 - (ii) There is a change in the pattern of trade were in the imports (of PTFE products produced from PTFE have increased from China PR since 2012 by conversion to products with not much value addition thereby undermining the existing AD on PTFE.

Initiation

15. On the basis of the duly substantiated application by the Applicant regarding imports from South Korea and China PR and having satisfied itself on the change in pattern of trade, value addition involved in imports of PTFE products from China PR undermining of the remedial effect of the existing AD measure, the Authority hereby initiates an Anti-Circumvention investigation in accordance with Section 9A (1A) of the Act and Rules 25 & 26 of the Rules to consider; (i) Extension of existing anti-dumping duty on Imports from Russia to the PUI-I imported from South Korea. (ii) Extension of the measure on imports PUI-II from China PR from the date of initiation of this investigation in accordance with the Rule 27 (3) of the Rules. The Authority therefore recommends provisional assessment on all imports of the PUI-I i.e. PTFE from South Korea and PUI-II i.e. PTFE products from China PR till the completion of this review.

Period of Investigation:

16. The period of investigation (POI) for the present investigation is April 2019- December 2019 (9 Months) and the injury period will cover the periods April 2016 - March 2017, April 2017 - March 2018, April 2018 - March 2019 and the POI. The Authority notes the sub rule 22 (3) of AD rules and considers the POI of 9 months keeping in view that the AD duty on subject goods from Russia is in existence only till June 2021.

Circumventing Countries

17. The countries involved in the circumvention are Republic of Korea (Korea RP) and China PR.

Submission of Information

18. The exporters in the subject country, the Government of the subject country through its embassy in India, the importers and users in India known to be concerned with the product are being addressed separately to submit relevant information in the form and manner prescribed within the time limit set out below.
19. 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.
20. The information/submission may be submitted to:

**The Designated Authority
Directorate General of Trade Remedies
Ministry of Commerce & Industry
Department of Commerce
4th Floor, Jeevan Tara Building,**

5 Parliament Street New Delhi – 110001

21. Any party making any confidential submission before the Authority is required to submit a non-confidential version of the same to be made available to the other parties.

Submission of Information

22. In view of the special circumstances arising out of COVID-19 pandemic, all communication should be sent to the Designated Authority via email at email address adg11-dgtr@gov.in and dir13-dgtr@gov.in. It should 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 exporters, their Government through their Embassy 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.
24. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time-limit set out below on the email address mentioned above.
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 parties.

Time Limit

26. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg11-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.
27. 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

28. 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.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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.
34. 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.

35. 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

36. 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

37. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and 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