

To be published in Part-I Section I of the Gazette of India Extraordinary

**F. No. 7/18/2020-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi – 110001**

Case No- AD-SSR 08/2020

INITIATION NOTIFICATION

Dated: 30th September, 2020

Subject: - Initiation of Sunset Review investigation concerning imports of Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250mm of non bonafide usage originating in and exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA

1. M/s Jindal Stainless Limited, M/s Jindal Stainless (Hisar) Limited and M/s Jindal Stainless Steelway Ltd. (hereinafter referred to as the “applicants”) have 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 to 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 as the Rules), for Sunset Review of Anti-Dumping duty imposed on imports of “Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250mm of non bonafide usage” (hereinafter also referred as the “subject goods” or “product under consideration” or “PUC”) from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA (hereinafter also referred to as the “subject countries”).
2. The Applicants have alleged likelihood of continuation or recurrence of dumping of subject goods, originating and exported from the subject countries and consequent injury to the domestic industry and has requested for review and continuation of the anti-dumping duty imposed on the imports of subject goods, originating in or exported from the subject countries.

Background

3. Antidumping investigation was initiated on imports of Cold Rolled Flat Product of Stainless Steel of width 600 mm to 1250 mm vide Notification dated 25/11/2008. Provisional duties were recommended vide Notification No. 14/6/2008-DGAD dated 27th March, 2009 which were imposed by the Ministry of Finance vide Notification dated 22nd April, 2009. Definitive anti-dumping duties were recommended vide Notification No. 14/6/2008-DGAD dated 24th November 2009 and Ministry of Finance imposed the duties vide Notifications No. 14/2010-Customs, dated 20th February, 2010.

4. A Mid term review investigation was conducted and the Authority vide its final findings dated 8th June 2011, pursuant to which tolerances of +30mm for mill edge and 4 mm for trim edge was specified for the product under consideration. These clarifications were accepted and notified by Ministry of Finance vide Customs Notification No. 86/2011 dated 6.9.2011.
5. Pursuant to sunset review investigation conducted on the subject goods from subject countries, anti-dumping duties were extended by Ministry of Finance vide Custom Notification 61/2015 dated 11th December, 2015.
6. An anti-circumvention investigation was conducted and the Authority recommended extension of anti-dumping duties on imports of Cold Rolled Flat products of width more than 1250 mm vide Notification No 14/1/2014-DGAD dated 18th August, 2017. The duty was implemented by the Ministry of Finance vide Notification No 52/2017-Customs (ADD) dated 24th October, 2017.
7. Further, since the duties were imposed prospectively, the applicants approached the CESTAT and requested for imposition of duty retrospectively. CESTAT, vide order no order No. 51204-51205/2019 dated 12th September, 2019 remanded back the matter only for the purpose of deciding whether the duty can be imposed retrospectively. The final findings are awaited.

Product under Consideration

8. Present investigation is for review of existing ADD. Thus, product under consideration is the product as is attracting ADD at present, including the product on which ADD was originally imposed and the product on which ADD was extended through anti-circumvention investigation. Therefore, the product under consideration in the present investigation is as follows:

“Cold-rolled Flat products of stainless steel of width 600 mm to 1250 mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged) and of width above 1250 mm for non bonafide uses; of all series not further worked than Cold rolled (cold reduced); with a thickness of up to 4mm; excluding the following:

- a. *Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;*
- b. *Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).”*
- c. *Further, the product under consideration excludes the following:*
 - i. *an importer who imports the subject goods for end use in the same form without slitting; or*
 - ii. *slitted it into 2 or more subject goods i.e. sizes above 1250 mm (for example a 2600 mm piece slitted into two 1300 mm size pieces),*
Provided that the importer followed the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017

Product control numbers (PCN)

9. Applicants have proposed a product control number (PCN). In parallel anti-dumping investigation concerning imports of Flat Rolled Products of Stainless Steel initiated vide Notification 6/12/2019-DGTR dated 03.07.2019, the Authority has adopted a PCN Methodology based on certain factors viz. product type, grade of the product, form of the product, width of the product, thickness and finish of the product. The same has been considered by the Authority in the anti-subsidy being undertaken on the subject goods. The PCN methodology as published vide notification 6/12/2019-DGTR dated 14/08/2019 is proposed to be adopted in this investigation to the extent it concerns with the present product under consideration. Further, any comments with regard to the proposed PCN may be filed within 14 days from the date of initiation of this investigation.

Like Article

10. The applicants have claimed that the goods produced by the domestic industry are like article to the subject goods originating in or exported from the subject countries. It has been stated that there is no significant difference in the subject goods produced by the applicants and those exported from subject countries. The applicants claim that the two are technically and commercially substitutable and hence should be treated as 'like article' under the Rules. Therefore, 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

11. The application has been filed by M/s Jindal Stainless Limited (JSL), M/s Jindal Stainless (Hisar) Limited (JSHL) and Jindal Stainless Steelway Limited (JSSL) on behalf of the domestic industry. The applicants have claimed that they have neither imported the subject goods from the subject countries nor are they related to any exporter or producer of the subject goods in the subject countries or to an importer of the subject goods in India. As per the evidence available on record, the production of Ms Jindal Stainless Limited and M/s Jindal Stainless (Hisar) Limited accounts for a major proportion in the total domestic production of the like article. Ms Jindal Stainless Limited and M/s Jindal Stainless (Hisar) Limited thus constitute eligible domestic industry within the meaning of Rule 2 (b) of the Anti-dumping Rules and satisfy the criteria of standing in terms of Rule 5 (3) of the Rules.

Subject Countries

12. The subject countries involved in the present sunset review investigation are China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA.

Basis of likelihood of continuation or recurrence of dumping

i. Normal Value

Normal Value for China

13. The Applicants have 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 applicants have claimed normal value for China on the basis of the price actually payable in India by considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits and the same have been considered appropriate at this stage.

Normal value for Normal Value- Taiwan, EU, USA, Korea PR, Thailand and South Africa

14. Applicants have submitted that there are no publicly available information/evidence of transaction price or quotations of producers or indicative price of subject goods in the domestic market of subject countries. However, evidence of prices prevailing in domestic market of Taiwan, EU, USA and Korea PR is available as per the MEPS Stainless Steel Review publication which reports domestic steel pricing data for flat and long products and have been claimed accordingly. For Thailand and South Africa normal value has been claimed based on estimates of cost of production in these countries. The Authority, for the purpose of initiation has determined the normal value for all the subject countries on the basis of cost of production in the subject countries by considering cost of production in India duly adjusted for selling, general & administrative expenses and reasonable profits.

ii. Export Price

15. The Applicants have determined export prices on the basis of DGCI&S transaction wise import data. Price adjustments have been allowed on account of ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and non-refundable VAT (for China) to arrive at the net export price.

iii. Dumping Margin

16. Considering the estimates of normal value and export price, dumping margin has been determined for the product under consideration. The resultant dumping margin for China PR, Taiwan, EU, USA and South Africa are positive and significant, while the same are negative for Thailand and Korea. The applicants claim has been considered for likelihood of recurrence of dumping from these countries. The information submitted by the applicants, prima-facie, shows likelihood of continuation or recurrence of dumping from the subject countries in the event of cessation of duties

Likelihood of continuation or recurrence of Injury

17. The volume of imports declined after anti-circumvention investigation on subject goods. However, the volume has increased again over the injury period. It has been claimed by the Applicants that the domestic industry is recovering from past ill effects of dumping and its performance improved in 2017-18, but deteriorated in 2018-19. Performance has improved again in the POI. However, the level of profits and ROI continues to remain below reasonable level. The domestic industry still remains vulnerable to injury. Applicants have provided information with regard to existing surplus capacities, capacity expansion, export orientation, capacity utilisation with the subject exporters, decline in demand, trade remedial measures by other countries etc as factors establishing likelihood of continuation or recurrence of injury. The information provided by the applicants, prima facie, shows likelihood of dumping and injury to domestic industry in case of cessation of the ADD.

Initiation of Sunset Review Investigation

18. On the basis of the duly substantiated 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 the likelihood of continuation or recurrence of dumping and injury to the domestic industry, in accordance with Section 9 A (5) of the Act, read with Rule 23(1B) of the Rules, the Authority, hereby, initiates a Sunset review 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 countries and to examine whether the expiry of existing ADD duties are likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.

Period of Investigation

19. The period of investigation (POI) for the present investigation is April 2019-March 2020 and the injury investigation period will cover the periods 2016–2017, 2017-2018, 2018-19 and the POI. The authority would also examine the post POI data of 6 months of the petitioner and other interested parties to examine whether the expiry of existing ADD duties are likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.

Procedure

20. The review investigation will cover all aspects of the final findings published vide Notification No. 15/04/2014-DGAD dated 12th October, 2015 recommending extension of anti-dumping duty on imports of subject goods from subject countries. The Authority will also undertake likelihood analysis of dumping and injury as required.
21. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules supra shall be mutatis mutandis applicable in this review.

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 the email addresses adg11-dgtr@gov.in, adv12-dgtr@gov.in, dd16-dgtr@gov.in, and ac11-dgtr@gov.in.
23. The known producers/exporters in the subject countries, their governments through their embassies in India, the importers and users in India known to be connected 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 below.
24. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within in the time limit set out below.
25. 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

26. In view of the special circumstances arising out of COVID-19 pandemic, any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg11-dgtr@gov.in, adv12-dgtr@gov.in, dd16-dgtr@gov.in, and ac11-dgtr@gov.in within 30 days from the date of the 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 be 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. if no information is received within the prescribed time limit or the information received is incomplete, the authority may record its finding on the basis of the facts available on records 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 response 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 a 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 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.
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 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.



(B. B. Swain)

Special Secretary & Designated Authority