

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

**F. No. 7/33/2023-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**

Date: 29.06.2024

INITIATION NOTIFICATION

Case No. SSR-14/2023

Subject: Initiation of Sunset Review Investigation concerning imports of “Purified Terephthalic Acid” originating in or exported from the Republic of Korea and Thailand

F. No. 7/33/2023-DGTR- Having regards to 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 also referred to as the "AD Rules, 1995"), M/s Reliance Industries Ltd. and M/s MCPI Pvt. Ltd. (hereinafter referred to as the “applicants”), has filed an application before the Designated Authority (hereinafter referred to as the “Authority”) seeking initiation of sunset review investigation and the continuation of extant anti-dumping duties on imports of purified terephthalic acid (hereinafter referred to as the “subject goods”, or “the product under consideration”), originating in or exported from the Republic of Korea and Thailand (hereinafter referred to as the “subject countries”)

2. In terms of Section 9A, (5) of the Act, the anti-dumping duty 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 whether the expiry of 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 a duly substantiated request made by or on behalf of the domestic industry as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

A. BACKGROUND OF PREVIOUS INVESTIGATIONS

3. The original anti-dumping investigation concerning imports of the subject goods from the China PR, European Union, Korea PR and Thailand was initiated by the Authority on October 8, 2013. The preliminary findings was issued on June 19, 2014 recommending imposition of provisional anti-dumping duties on the imports of the subject goods originating in or exported from the concerned subject countries. The

aforesaid recommendation was accepted by the Central Government and vide notification no. 36/2014-Customs (ADD) dated 25th July 2014, provisional anti-dumping duties were imposed on the subject goods originating in or exported from China PR, European Union, Korea RP and Thailand.

4. The preliminary findings were confirmed only against Korea RP and Thailand whereas European Union and China PR were excluded from the purview of anti-dumping duties as the volume of imports from the two countries was below de minimis level. Thus, through its final findings (Notification No. 14/7/2013-DGAD) dated 7th April 2015, the Authority recommended imposition of anti-dumping duties only against Korea RP and Thailand which were subsequently imposed by the Central Government vide notification no. 23/2015-Customs (ADD) dated 27th May, 2015.
5. The Authority initiated the first sunset review investigation vide Notification F. No. 7/36/2018-DGTR dated 31st October 2018. Through its final findings dated 28th June 2019¹, the Authority recommended continuation of the existing anti-dumping duties for another prospective period of 5 years which was subsequently accepted by the Central Government and duties were continued vide notification no. 28/2019-Customs (ADD) dated 24th July 2019 for a period of 5 years, i.e. upto 24th July, 2024. However, these duties were rescinded by the Central Government vide no. 03/2020-Customs (ADD) dated February 2, 2020.
6. Reliance Industries Limited, which was part of the domestic industry in the previous investigation, challenged the rescission notification before the Hon'ble High Court of Gujarat in SCA 9909 of 2020. While quashing the rescission notification, the Hon'ble High Court observed as under:
“93
 - i. *The Notification No.3/2020-Customs (ADD) dated February 2, 2020 issued by respondent no.1 rescinding the anti-dumping duty on subject goods is hereby quashed and set aside.*
 - ii. *Respondent no.2 shall immediately proceed to initiate Sunset review process in relation to the continuance or otherwise of the ADD already levied as per Notification No.28/2019 – Customs(ADD) dated 24th July, 2019. So far as Notification No.28/2016- Customs(ADD) dated 5th July, 2016, the period of five years is over during the pendency of this petition.*
 - iii.
 - iv. *As the No.3/2020-Customs (ADD) dated February 2, 2020 is set aside, the original Notification No.28/2019 – Customs(ADD) dated 24th July, 2019 shall revive and ADD shall become leviable on the product in question.*

¹ Sunset review anti-dumping investigation concerning imports of Purified Terephthalic Acid, originating in or exported from Korea RP and Thailand.

...”

7. Accordingly, the applicants have brought before this Authority an application to seek initiation of an anti-dumping investigation concerning imports of purified terephthalic acid imported from Korea RP and Thailand.

B. PRODUCT UNDER CONSIDERATION

8. The product under consideration is same as defined in the original and previous review investigation which is as follows:

“The product under consideration in the present investigation, as defined by the Authority in the initiation notification is Purified Terephthalic Acid (PTA), including its variants - Medium Quality Terephthalic Acid (MTA) and Qualified Terephthalic Acid (QTA). The PUC is a white, free flowing crystalline powder, free from any visual contamination. Terephthalic Acid is an organic compound whose chemical formula is $C_6H_4(COOH)_2$. It sublimates at $402^{\circ}C$ and is poorly soluble in water and alcohol. PTA is primary raw material in the manufacture of polyester chips which in turn is used in a number of applications in textile, packaging, furnishings, consumer goods, resins and coatings. Since QTA, MTA and PTA are chemically the same product and further since they are interchangeably used, the scope of the product under consideration covers QTA and MTA as well. The product under consideration is classified under subheading 2917 36 00 of the Customs Tariff Act. However, the customs classification is indicative only and in no way it is binding on the scope of the present investigation.”

9. As the present application is for initiation of a sunset review investigation, the scope of the PUC remains as defined in the original investigation.

C. LIKE ARTICLE

10. The applicants have claimed that there is no significant difference in the product produced by the domestic industry and the one exported from the subject countries. The product produced by the domestic industry and imported from the subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, specifications, pricing, distribution and marketing, and tariff classification of the goods. The two are technically and commercially substitutable and are used by consumers interchangeably. Further, the

present application pertains to sunset review for the continued imposition of anti-dumping duties. The issue of like article has already been examined by the Authority in the original investigation as well as the previous sunset review investigation. The product produced by the domestic industry is like article to the product under consideration produced and imported from the subject countries.

D. DOMESTIC INDUSTRY AND STANDING

11. Rule 2(b) defines domestic industry as follows:

"domestic industry' means the domestic producers as a whole of the like article or domestic producers whose collective output of the said article constitutes a major proportion of the total domestic production of that article, except when such producers are related to the exporters or importers of the alleged dumped article, or are themselves importers thereof, in which case such producers shall be deemed not to form part of domestic industry "

12. The application has been filed by M/s MCPI Pvt. Ltd. and Reliance Industries Limited. Apart from the applicants there is one another producer, Indian Oil Corporation Limited. The two applicants constitute 'major proportion' in terms of Rule 2(b) of the AD Rules, 1995. Reliance Industries Limited as well as a related party of M/s MCPI Pvt. Ltd., has imported the subject goods from the subject countries during the POI. It is noted that the volume of imports made by Reliance Industries Limited and M/s MCPI Pvt. Ltd., is less than 1 percent of the Indian demand as well as production.
13. In view of the same, and based on information available on record, the Authority is satisfied that the applicant constitutes domestic industry within the meaning of Rule 2(b) and the application has been made 'by or on behalf of the domestic industry'.
14. As per evidence available on record, the production of these producer accounts for a major proportion in the domestic production of the like article in India. Further, the application also satisfies the requirements of standing in terms of Rule 5(3), even though the requirements of Rule 5(3) are not applicable in sunset review investigation.

E. SUBJECT COUNTRIES

15. The subject countries in the present investigation are Korea RP and Thailand.

F. BASIS OF DUMPING

i. Normal value

16. The applicants have stated in their application that information regarding prices of the subject goods is not available in the public domain. Moreover, the PUC does not have a dedicated customs classification code, therefore, export price for subject goods to third countries from the subject countries could also not be relied upon for determination of

the normal value. For the purpose of initiation, the Authority has considered normal value for the subject countries based on the price payable in India based on the cost of production in India and after addition for selling, general & administrative expenses and reasonable profits.

ii. Export Price

17. The applicants have claimed CIF export price based on market intelligence. The Authority has considered import price based on DG Systems data. Adjustments on account of freight, insurance, commission, port expenses and bank charges were made to arrive at ex-factory export price.

iii. 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 with respect to the product under consideration imported from the subject countries. Thus, there is sufficient *prima facie* evidence that the product under consideration from the subject countries is being dumped in the domestic market by the exporters from the subject countries.
19. Based on the normal value and the export price as computed, it is seen that the dumping margin is positive. Since the present investigation is a sunset review investigation, the Authority shall also determine likelihood of dumping after receipt of information and evidence from the interested parties.

G. INJURY AND THE LIKELIHOOD OF CONTINUATION/RECURRENCE OF DUMPING AND INJURY

20. The volume of imports from the subject countries have increased in absolute as well as relative terms in the POI. The market share of the applicants has declined in the POI as compared to base year despite an increase in demand. Price undercutting from the subject countries is positive. Further, the subject goods from the subject countries have depressed/suppressed the prices of the applicants. There has been a decline in profits of the applicants.
21. The applicants have provided information on surplus capacities in the subject countries, further freely disposable capacities and export orientation of the producers in the subject countries, attractiveness of Indian market, imposition of trade remedial measures by other nations and likely injury due to these exports as basis to establish the likelihood of injury.
22. The information provided by the applicant, *prima facie*, shows recurrence of dumping from the subject countries and the likelihood of injury to the domestic industry in case of cessation of the anti-dumping duties.

H. INITIATION OF SUNSET REVIEW INVESTIGATION

23. On the basis of the duly substantiated application of the applicants, and having satisfied itself on the basis of the *prima facie* evidence submitted by the applicant, substantiating the likelihood of continuation/ recurrence of dumping and injury, and in accordance with Section 9A(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 such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

I. PERIOD OF INVESTIGATION (POI)

24. The period of investigation (POI) for the present investigation is 1st April 2023 to 31st March 2024 (12 months). The injury period for the investigation will cover the periods FY 2020–21, FY 2021-22, FY 2022-2023 and the period of investigation.

J. PROCEDURE

25. The sunset review investigation will cover all aspects of the final findings published vide F.No. 7/36/2018-DGTR dated 31st October 2018 recommending the imposition of anti-dumping duties on the imports of the subject goods originating in or exported from the subject countries.
26. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 of the AD Rules, 1995 shall be *mutatis mutandis* applicable in this review.

K. SUBMISSION OF INFORMATION

27. All communication should be sent to the Designated Authority via email at email addresses jd12-dgtr@gov.in and ad12-dgtr@gov.in with a copy to adv11-dgtr@gov.in and consultant-dgtr@govcontractor.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.
28. The known producers/exporters in the subject countries, the governments of the subject countries through their embassies in India, 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 AD Rules, 1995 and the applicable trade notices issued by the Authority.

29. Any other interested party may also make submission relevant to the present 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 this initiation notification.
30. 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.
31. Interested parties are further directed to keep 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 further processes related to the investigation.

L. TIME LIMIT

32. Any information relating to the present investigation should be sent to the Authority via email at email address jd12-dgtr@gov.in and ad12-dgtr@gov.in with a copy to adv11-dgtr@gov.in and consultant-dgtr@govcontractor.in within 30 days from the date on which the non-confidential version of the application is circulated by the Authority as per Rule 6(4) of the AD Rules, 1995. 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 AD Rules, 1995.
33. 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.

M. SUBMISSION OF INFORMATION ON CONFIDENTIAL BASIS

34. 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, 1995 and in accordance with the relevant trade notices issued by the Authority in this regard.
35. 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.
36. 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.

37. 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, 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.
38. The interested parties can offer their comments on the issues of confidentiality claimed by the other interested parties within 7 days of the receipt of the non-confidential version of the documents.
39. 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, 1995 and appropriate trade notices issued by the Authority, on the confidentiality claim shall not be taken on record by the Authority.
40. 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.

N. INSPECTION OF PUBLIC FILE

41. 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 to all other interested parties. Failure to circulate non-confidential version of submissions/response/information might lead to consideration of an interested party as non-cooperative.

O. NON-COOPERATION

42. 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 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 deemed fit.


(Anant Swarup)
Designated Authority