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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 10th February, 2020

INITIATION NOTIFICATION

Case No. SSR 02/2020

Subject: Sunset Review of Anti-Dumping duty imposed on imports of ‘Float Glass’ originating in or exported from China PR.

1. M/s Saint-Gobain India Pvt. Ltd., M/s Sisecam Flat Glass India Ltd., M/s Gold Plus Glass Industry Ltd, & M/s. Asahi India Glass Ltd., (hereinafter also referred to as “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 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”), for Sunset Review of Anti-Dumping investigation concerning imports of Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes” (hereinafter also referred to as the “subject goods” or “product under consideration” or “PUC”) from China PR (herein after also referred to as subject country).
2. The Applicants have alleged likelihood of continuation or recurrence of dumping of subject goods, originating and exported from China PR and consequent injury to the Domestic Industry and have requested for sunset review and continuation of the anti-dumping duty imposed on the imports of subject goods, originating in or exported from China PR.

Background

3. The original investigation concerning imports of the subject goods from the China PR and Indonesia was initiated by the Authority vide Notification No. 14/19/2002-DGAD dated 05th July, 2002. The Final Findings Notification was issued by the Authority vide notification No. 14/19/2002-DGAD dated 22nd August, 2003, recommending imposition of definitive duties. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 165/2003-Customs dated 12th November, 2003 on the import of the subject goods, originating in or exported from the China PR and Indonesia.

4. The first Sunset Review was initiated by the Authority vide Notification No. 15/01/2007-DGAD dated 13th December 2007 and the final findings recommending continued imposition of anti-dumping duties on the imports of the subject goods from the China PR and Indonesia was issued by the Authority vide final findings Notification No. 15/01/2007-DGAD dated 02nd December 2008. The continued imposition of definitive anti-dumping duties on the imports of the subject goods from the China PR and Indonesia was notified by the Central Government vide Custom's Notification No.04/2009-Customs dated 06th January 2009, amended by Custom's Notification No.51/2009-Customs dated 22nd May 2009.
5. The Authority initiated 2nd sunset-review investigation vide Notification No.15/24/2013-DGAD dated 3rd January 2014 against China PR and Indonesia, and the final findings recommending continued imposition of anti-dumping duties on the imports of the subject goods from the China PR was issued by the Authority vide final findings Notification No. 15/24/2013-DGAD dated 2nd July 2015. The Designated Authority also recommended withdrawal of anti-dumping duty against Indonesia. The continued imposition of definitive anti-dumping duties on the imports of the subject goods from the China PR was notified by the Central Government vide Custom's Notification No.47/2015-Customs (ADD) dated 8th September, 2015. The current duties are applicable up-to 7th September 2020.

Product Under Consideration and Like Article

6. The product under consideration in the present application, as defined in the original investigation as well as the in the subsequent sunset review investigations, is "Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes". The Authority notes that "reflective glass" was excluded from the definition of the product under consideration by Customs Notification No. 47/2015-Customs dated 8th September 2015.
7. The product under consideration is classified under the category ““Glass and Glassware” in Chapter 70 of the Customs Tariff Act, 1975 and further under 7005 as per Customs Classification. However, Customs classification is indicative only and not binding on the scope of the investigation.
8. The Applicants have claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the Domestic Industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the Applicants. 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 Domestic Industry in India are being treated as 'Like Article' to the product under consideration being imported from China PR.

Domestic Industry

9. The application for the sunset review has been filed by M/s Saint-Gobain India Pvt. Ltd., M/s Sisecam Flat Glass India Ltd., M/s Gold Plus Glass Industry Ltd, & M/s. Asahi India Glass Ltd., on behalf of the domestic industry. As claimed by Applicants, their share account for around 88% of the total domestic production. It is also noted

that one of the applicant industries namely M/S Saint Gobain India Pvt. Ltd., has imported the subject goods of meagre quantity (less than 0.2% of their sales) from China PR for internal quality and testing purpose. Considering the small volume of imports by the M/s Saint-Gobain India Pvt. Ltd, the Authority has considered M/s Saint-Gobain India Pvt. Ltd as eligible domestic industry within the meaning of Rule 2(b). None of the other Applicants has imported the subject goods from China PR. The Applicants have claimed not to be related to any importers or exporters from China PR. In view thereof, Applicants constitute the domestic industry within the meaning of the Rules. On the basis of the information available, the Authority notes that the application has been made by or on behalf of the domestic industry in terms of the provisions contained in Rule 2 (b) and Rule 5 (3) of the Rules.

Basis of likelihood of continuation or recurrence of Dumping

10. The Applicants have claimed that China PR should be treated as non-market economy country, as China PR has been considered as a non-market economy country by various authorities world over including the Designated Authority. The Applicants have also claimed that since the Designated Authority has considered China PR as a non-market economy in the recent investigations, and therefore, it needs to be considered as non-market economy in terms of paragraph 8 (2) of Annexure I of the Rules. In this context, the Domestic Industry suggested Germany as an appropriate market economy third country for China PR in terms of paragraph 7 of Annexure I of the Rules. While proposing Germany as surrogate country, Domestic Industry has submitted that both China PR and Germany are export-centric and their effective domestic demand cannot absorb the excess production. Further, Germany is the fourth largest exporter of the subject goods. Germany is the second largest producer, after China, of the subject goods. Therefore, the level of development of Float Glass in terms of local consumption, competition, export-orientation, etc. is largely similar. Since the Applicants were not able to get the prevailing prices in Germany, they have claimed normal value for China PR, based on import prices in Germany (source: ITC Trade Map). The same is proposed to be considered for the purpose of this initiation. A final decision regarding consideration of Germany or any other market economy country as the surrogate country for China PR will be taken after receiving comments from all interested parties during the course of the investigation.
11. The Applicants have claimed export prices on the basis of Directorate General of Commercial Intelligence and Statistics (DGCIS) transaction-wise import data. Price adjustments have been made for ocean freight, marine insurance and port handling expenses, inland freight, VAT adjustment and credit cost.
12. Considering the estimates of normal value and export price, dumping margin has been determined for the purpose of this initiation for China PR. The resultant dumping margin is positive and significant and much above de-minimis limit. There is *prima facie* evidence that the proposed normal value of the subject goods in China PR is significantly higher than the net export price, indicating that the subject goods originating in or exported from China PR are being exported at dumped prices. Further, the data provided by the petitioner on the capacity and export orientation of producers/exporters in China PR, also *prima facie* indicates the continued likelihood of dumping so as to justify the initiation of the investigation.

Likelihood of continuation or recurrence of Injury and Casual Link

13. The Authority notes that there is *prima facie* evidence of dumping and consequential injury to the domestic industry on account of volume effect i.e. decline in production, sales and capacity utilization as compared to immediately preceding year and increase in inventory and due to price effect as reflected from the decline in selling prices, positive price suppression, losses in POI and negative return on capital employed (ROCE). The above facts are indicative of continuation of injury to domestic industry. Further, the data provided by the Applicants on the capacity and export orientation of producers/exporters in China PR also *prima facie* indicates a likelihood of dumping and consequential injury to the Domestic Industry in the event of cessation of the anti-dumping duties.

Initiation of Sunset Review

14. In view of the duly substantiated written application by the Domestic Industry, and having satisfied itself, on the basis of the *prima facie* evidence, about the likelihood of continuation or recurrence of dumping and injury to the Domestic Industry, and in accordance with Section 9 A (5) of the Act, read with Rule 23(1B) of the Rules, the Authority, hereby, initiates an investigation to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from China PR and to examine whether the expiry of existing duties are likely to lead to continuation or recurrence of dumping and consequent injury to the Domestic Industry.

Countries involved

15. The country involved in the subject investigation is China PR.

Period of Investigation

16. The Period of Investigation (POI) for the purpose of the present review is from 1st October 2018 to 30th September 2019 (12 months). However, The injury period shall cover the periods 1st April 2016 to 31st March 2017, 1st April 2017 to 31st March 2018, 1st April 2018 to 31st March 2019 and the period of investigation.

Procedure

17. The present sunset review covers all aspects of the final findings related to sunset review investigation issued vide Notification No. 15/24/2013-DGAD dated 2nd July 2015, in respect of China PR.
18. 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

19. The known exporters in the subject country and their Government through their Embassy in India, 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.
20. 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.

21. The information/ submission may be submitted to:

The Designated Authority
Directorate General of Trade Remedies
Ministry of Commerce & Industry
Department of Commerce
Government of India
4th Floor, Jeevan Tara Building, 5, Parliament Street
New Delhi-110001

Time Limit

22. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above within thirty days from the date of receipt of the notice as per Rule 6(4) of the 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 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.
23. 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

24. 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.
25. The parties making any submission (including Appendices / Annexures attached thereto), before the Authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:
- one set marked as Confidential (with title, number of pages, index, etc.), and
 - the other set marked as Non-Confidential (with title, number of pages, index, etc.).
26. 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. Soft copies of both the versions will also be required to be submitted, along with the hard copies in four (4) sets of each.
27. 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 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.

28. 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 summarised 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 as to why such summarization is not possible must be provided to the satisfaction of the Authority.
29. 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.
30. 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.
31. 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

32. 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.

Non-cooperation

33. 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.

(Bhupinder S. Bhalla)
Additional Secretary & Designated Authority