

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

**Case No. O.I. 6/2018
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara Building
5 Parliament Street, New Delhi - 110001**

Dated: 4th April, 2018

INITIATION NOTIFICATION

Subject: Initiation of Anti-Dumping Investigation concerning imports of “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module” from China PR, Malaysia, Saudi Arabia, South Korea and Thailand.

F.No.6/9/2018-DGAD: M/s RenewSys India Private Limited (hereinafter also referred to as the Petitioner or Applicant) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) 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 also referred to as the Rules) for imposition of Anti-dumping duty on imports of “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module” (hereinafter also referred to as the subject goods or PUC) from China PR, Malaysia, Saudi Arabia, South Korea and Thailand.

PRODUCT UNDER CONSIDERATION

2. The product under consideration for the purpose of present investigation is “Ethylene Vinyl Acetate (EVA) Sheet for Solar Module”. It is the polymer based component used in the manufacturing of solar PV (Photo Voltaic) modules. EVA sheet is used for encapsulation of solar PV cells performing adhesion and cushioning functions. This is one of the most essential component which keeps glass, cell and backsheet integrated and support the module mechanically during its service life time
3. The EVA sheet falls in the category of plastic sheeting and films made using extrusion technology. It is a thermoplastic material, a copolymer of Polyethylene, polymerized using tubular or autoclave process mainly.
4. The petitioner has claimed that they can produce all the widths and all the thicknesses of the EVA sheets as required by the module manufacturers.

5. The unit of measurement for the PUC in the present investigation is weight in MT. The product under consideration is generally imported under HS code 3901, 3920 and 3921. However, import can also take place under other HS codes, therefore, it is clarified that the HS codes are only indicative and the product description shall prevail in all circumstances.

LIKE ARTICLE

6. Rule 2(d) with regard to like article provides as under: -

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

7. The petitioner has submitted that subject goods produced by the petitioner company and the subject goods imported from the subject countries are like articles. There is no known difference between the subject goods exported from subject countries and that produced by the petitioner. The subject goods produced by the petitioner company and imported from subject countries are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable, and hence, should be treated as 'like article' under the Rules.
8. Therefore, for the purpose of the present investigation, the subject goods produced by the petitioner in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

DOMESTIC INDUSTRY & STANDING

9. The petition has been filed by M/s RenewSys India Private Limited, who is the largest producer of the subject goods in India. The petitioner has also submitted support letters from M/s Vishakha Renewables Pvt. Ltd and M/s Allied Glasses Pvt. Ltd who are the producers of the subject goods. There is one more producer of the subject goods in India, namely M/s Brij Foot Care. They have not imported the PUC from the subject countries and are not related either to any exporter or producer of the PUC in the subject countries or any importer of the PUC in India.
10. The Authority, therefore, determines that the petitioner who presently holds a "major proportion" of the total domestic production, constitutes an eligible domestic industry in terms of Rule 2 (b) and also satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

COUNTRIES INVOLVED

11. The countries involved in the present investigation are China PR, Malaysia, Saudi Arabia, South Korea and Thailand.

NORMAL VALUE

12. The petitioner has claimed that China PR should be treated as a non-market economy and normal value in case of China should be determined in accordance with para-7 of Annexure I of the Rules. The petitioner has claimed normal value on the basis of cost of production in India, duly adjusted.
13. However, while submitting the questionnaire response producers/exporters may have to demonstrate prevalence of market condition related to manufacturing, production, and sales of subject good in the domestic market and in export to India and other countries. For this purpose, the producer/exporter, may clarify and provide sufficient information on the following:
 - a. Decision in regard to price, cost, input including raw material, cost of technology and labour, output, sales and investment, are without significant state interference and whether cost of major inputs substantially reflect market value.
 - b. Production costs and financial situation does not suffer for any distortion.
 - c. The producer/exporter are subject to bankruptcy and property law which guarantees legal certainty and stability for the operation of the firms.
 - d. Exchange rate conversions are carried out at the market rate
14. Further, the petitioner has also constructed the normal values for Malaysia, Saudi Arabia, South Korea, and Thailand as they were neither able to get any documentary evidence from published sources nor reliable information with regard to domestic prices of the subject goods in the said countries.
15. The Authority has, therefore, for the purpose of the initiation, decides to proceed with the normal value as constructed by the petitioner.

EXPORT PRICE

16. Petitioner has determined export price using DGCI&S data to assess the volume and value of imports in India. Price adjustments have been claimed on account of Ocean Freight, Marine insurance and port handling expenses, inland freight, credit cost, commission and vat (in case of China only). However, the Authority would like to rely on data of exporter in case the same are furnished and verified.

DUMPING MARGIN

17. The normal value and the export price have been compared at ex-factory level, which shows positive dumping margin in respect of the subject goods from the subject countries. There is sufficient prima facie evidence that the normal value of the subject goods in the subject countries is higher than the ex-factory export price, indicating, prima facie, that the subject goods are being dumped into the Indian market by the exporters from the subject countries. The dumping margin is estimated to be above de minimus for all the subject countries.

INJURY AND CAUSAL LINK

18. Information furnished by the petitioner has been considered for assessment of injury to the domestic industry. The petitioner 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 suppression, price underselling. There is sufficient prima facie evidence of the 'injury' being suffered by the domestic industry caused by dumped imports from subject countries to justify initiation of an antidumping investigation.

INITIATION OF ANTI-DUMPING INVESTIGATION

19. And whereas, the Authority prima facie finds that sufficient evidence of dumping of the subject goods, originating in or exported from the subject countries; injury to the domestic industry and causal link between the alleged dumping and injury exist to justify initiation of an anti-dumping investigation, the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of Rule 5 of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the 'injury' to the domestic industry.

PERIOD OF INVESTIGATION (POI)

20. The period of investigation (POI) is from 1st October 2016 to 30th September 2017. However, for the purpose of analyzing injury, the data of previous three years, i.e. Apr'14-Mar'15, Apr'15-Mar'16, Apr'16-Mar'17 and the period of investigation will be considered.

SUBMISSION OF INFORMATION

21. The known exporters in the subject countries, the Government of the subject countries 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 and to make their views known to the Authority at the following address:

**The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Ministry of Commerce & Industry, Department of Commerce
4th Floor, Jeevan Tara Building, 5 Parliament Street,
New Delhi -110001.**

22. 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. 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.

TIME LIMIT

23. Any information relating to the present investigation and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of publication of this Notification. 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 Anti-dumping Rules.
24. 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 and offer their comments to the Domestic Industry's application regarding the need to continue or otherwise the Anti-dumping measures within 40 days from the date of initiation of this investigation.

SUBMISSION OF INFORMATION ON CONFIDENTIAL BASIS

25. In case confidentiality is claimed on any part of the questionnaire response/ submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non- Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either "confidential" or "non-confidential" at the top of each page and accompanied with soft copies.
26. Information supplied without any confidential marking shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies of the confidential version and two (2) copies of the non-confidential version must be submitted by all the interested parties.

27. For information claimed as confidential, 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 and/or why summarization of such information is not possible.
28. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out /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, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why 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 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 a good cause statement on the confidentiality claim may not be taken on record by the Authority. 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

31. In terms of rule 6(7) of the Rules, any interested party may inspect the public file containing non-confidential version of the evidences submitted by other interested parties.

NON-COOPERATION

32. 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.

(Sunil Kumar)
Additional Secretary & Designated Authority